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CURTAILING BASE EROSION AND PROFIT SHIFTING: THE PROGRESS AND CHALLENGES OF IMPLEMENTING PROVISIONS TO ENABLE INTERNATIONAL EXCHANGE OF INFORMATION IN TAX MATTERS IN AFRICA

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Summary

International cooperation through exchange of information in tax matters is a powerful tool that can enable tax administrations to get information about taxpayers' offshore transactions in order to curtail "base erosion and profit shifting". The UN has historically sought to ensure that measures that foster exchange of information are beneficial to developing countries as they normally struggle to get developed countries to share information with them. However, over the last decades the development of measures that can enable exchange of information has been mainly spearheaded by the OECD Global Forum, whose initiatives are endorsed by the UN. The OECD Global Forum developed standards for exchange of information in tax matters and a Peer Review framework for monitoring the implementation of domestic and international legal frameworks to enable exchange of information. Several African countries have joined the OECD Global Forum and committed to adopt its standards. Exchange of information is essential for revenue mobilisation in Africa so as to achieve the UN Sustainable Goals (SDGs) which call for strong global partnerships and cooperation in SDG 17. African countries have committed to achieve the SDGs as reiterated in the African Union "Common African Position on the post-2015 Development Agenda and the African Union Agenda 2063. This policy brief considers the progress made and challenges faced by African countries in implementing exchange of information provisions. It also highlights the capacity building measures that African countries can access in order to benefit from exchange of information in tax matters. Recommendations are also provided on how to ensure that political dynamics to do not hinder exchange of information initiatives at domestic and regional level.

Key words: Africa, international cooperation, exchange of information, SDG17, taxation

Introduction – Exchange of Information

In order to lower their global tax exposure, taxpayers (particularly multinational enterprises - MNEs) often engage in "base erosion and profit shifting" (BEPS) schemes which are essentially tax avoidance[1] practices that manipulate gaps in the interaction of different tax systems to artificially reduce taxable income and shift profits to low-tax jurisdictions in which, little or no economic activity is performed.[2] International cooperation through exchange of information in tax matters, plays a big role by exposing taxpayers' BEPS practices

1 Tax avoidance involves using ostensibly legal methods of arranging one's affairs so as to pay less tax. A Rapakko *Base Company Taxation* (1989, Kluwer Law and Taxation Publishers, Deventer Boston) at 39.

2 OECD, *Action Plan on Base Erosion and Profit Shifting* (2013, OECD: Paris) at 49.

as well as downright tax evasion.[3] This enables countries' tax administrations to get information about the international transactions of taxpayers which can result in increased revenue collection and the protection of countries' tax bases.[4]

Historically, countries have always sought to exchange information in order to prevent tax avoidance and evasion. The OECD Model Tax Convention (MTC) which was first drafted in 1963[5] and finalised in 1977[6] has always contained article 26 which deals with "exchange of information". Since the OECD MTC largely favoured developed countries, the "UN Ad Hoc Group of Experts on Tax Treaties between Developed and Developing Countries" (UN Ad Hoc Group of Experts) which had been established in 1968,[7] expressed scepticism in a 1969 report,[8] that developing countries may not fully benefit from exchange of information in tax treaties as there was no strong obligation at that time for tax administrations to exchange such information.

Developing countries struggled to get developed countries to share with them information regarding their residents that invest in developed countries. Consequently, in 1969, the UN Ad Hoc Group of Experts demanded stronger wording of the article on exchange of information in the OECD MTC.[9] In a further UN report of 1970, UN Ad Hoc Group of Experts noted that "exchanges of information between tax administrations through the application of tax agreements, could not be regarded as a very effective method of putting an end to the flight of capital, and that more comprehensive international co-operation was required".[10]

Move Towards International Cooperation

UN Ad Hoc Group of Experts

The UN Ad Hoc Group of Experts called for a strong obligation to be placed on competent authorities to fully implement exchange of information.[11] In 1971, the UN Ad Hoc Group of Experts tabled "automatic exchange of information" as a means to deal with the obstacles created by banking

3 Tax evasion refers to the non-compliance with countries' tax laws by deliberately refusing to pay taxes or by falsifying tax returns and books of account. D Meyerowitz *Meyerowitz on Income Tax* (2009, Taxpayer CC: Cape Town) para 29.1

4 Diane M Ring, *Transparency and Disclosure* in United Nations Handbook on Selected Issues in Protecting the Tax Base of Developing Countries, 2nd ed (UN, 2017) at 574.

5 OECD *Draft Double Taxation Convention on Income and on Capital: Report of the OECD Fiscal Committee* (1963).

6 This was followed by revisions in 1992, 1994, 1995, 1997, 2000, 2002, 2005, 2008, 2010, 2014 and 2017. See OECD Model Tax Convention on Income and on Capital (2017, OECD: Paris) in para 11.2 of the Introduction: Historical Background.

7 Pursuant to UN ECOSOC resolution 1273(XLIII) of 4 August 1967

8 UN *Tax Treaties between Developed and Developing Countries* (1969, New York: United Nations).

9 UN *Tax Treaties between Developed and Developing Countries* (1969, New York: United Nations).

10 UN *Tax Treaties between Developed and Developing Countries: Second Report* (1970, New York: United Nations) at 19.

11 S S Surrey "United Nations Group of Experts and the Guidelines for Tax Treaties between Developed and Developing Countries" (1978) 19(1) *Harvard International Law Journal* at 4.

secrecy laws and the use of holding companies in tax havens.[12]

In 1972, "multilateral exchange of information" was tabled as a measure to enforce international corporate transparency[13] but a further UN report published 1978 found this idea "premature".[14] To protect the interests of developing countries' in 1980, the UN came up with its own Model Convention (UN MTC)[15] which also contains article 26 on exchange of information in tax matters. Although the UN MTC was largely based on the OECD MTC, it largely favours developing countries.[16]

However, the initiatives of UN's Ad Hoc Group of Experts (which was renamed the "UN Ad Hoc Group of Experts on International Cooperation in Tax Matters" in 1980[17]) to strengthen exchange of information were dampened by lack of political will by countries, underfunding[18] and the fact that developed countries preferred to drive the international tax agenda under OECD rather than the UN.[19]

Thus, over the last few decades, the OECD has been on the forefront of fostering international co-operation in tax matters particularly after it issued the report of Harmful Tax Competition in 1998.[20] The UN has been supportive to the OECD's initiatives, noting that "in a global economy, cooperation among countries and between tax administrations has become increasingly important in the fight against tax evasion and avoidance and in protecting the integrity of tax systems."[21] This is reinforced by UN Sustainable Development Goal (SDG) 17 which calls for strong global partnerships and cooperation in order to achieve the SDGs[22] and the UN Addis Ababa Action Agenda which set out principles of international tax cooperation.[23]

Global Forum on Taxation

In 2002, the OECD set up the "Global Forum on Taxation" which developed international standards on exchange of information in tax matters.[24] Adherence to these standards required countries to be

12 UN *Tax Treaties between Developed and Developing Countries. Third Report* (1972, United Nations: New York) at 55.

13 UN *Tax Treaties between Developed and Developing Countries. Third Report* (1972, United Nations: New York) at 55.

14 UN *Tax Treaties between Developed and Developing Countries: Seventh Report* (1978, United Nations: New York) at 59

15 It was revised in 2001, 2014, 2017 and 2021. See UN *Model Tax Convention between Developed and Developing Countries* (2021, United Nations: New York).

16 MJ McIntyre "Developing Countries and International Cooperation on Income Tax Matters: A Historical View" (2015) at 6.

17 Pursuant to UN ECOSOC resolution 1980/13 of 28 April 1980 (see doc. E/1980/80)

18 K Hamdani and L Ruffing *United Nations Centre on Transnational Corporations: Corporate Conduct and the Public Interest* (2015, Routledge: London) at 133-136.

19 M Ylönen "Back from oblivion? The rise and fall of the early initiatives against corporate tax avoidance from the 1960s to the 1980s" (2017) 23(3) *Transnational Corporations* at 35.

20 OECD *Harmful Tax Competition: An Emerging Global Issue* (1998) at 67–71.

21 UN "Exchange of Information in Tax Matters". Available at https://www.un.org/development/desa/financing/what-we-do/ECOSOC/tax-committee/thematic-areas/exchange-information-tax-matters accessed 27 August 2022.

22 UN "Transforming our World: The 2030 Agenda for Sustainable Development Goals" (2015) A/RES/70/1.

23 UN, "Addis Ababa Action Agenda of the Third International Conference on Financing for Development" (2016, UN).

24 The standards require: exchange of information on request where it is

able to exchange information, they need to enact domestic legislation that permits such exchange, and they need to sign up to international tax treaties that enable exchange of information.

In 2002, OECD Global Forum developed a Model Agreement on Exchange of Information on Tax Matters,[25] which countries use as a basis for signing Tax Information Exchange Agreements (TIEAs). The method for exchange of information in the TIEAs was initially only "upon request".[26] Countries were required to first exhaust their domestic taxation procedures before making a request to the other state. The restrictions of this method meant that internationally, exchanges of information "upon request" have been relatively small and are based on reciprocity.[27]

The exchange of information standards that were developed by the Global Forum were incorporated in the OECD MTC. The "UN Ad Hoc Group of Experts on International Cooperation in Tax Matters", which was renamed the UN Committee of Experts on International Cooperation in Tax Matters in 2004,[28] considered it useful (under its Subcommittee on Exchange of Information) for developing countries to also adopted the standards in article 26 of the UN Model in 2006.[29]

The methods which can be used for exchange of information in DTAs include:

- "exchange of information upon request" (explained above), which is the default method in the MTCs;[30]
- "automatic exchange of information" which is transmitted systematically to the other state;[31] and
- "spontaneous exchange of information" which is effected by a state through its investigations by supposing that the information could be of interest to the other state.[32]

"foreseeable relevant" to the administration and enforcement of the domestic laws of a treaty partner; no restrictions on exchange of information because of banking secrecy or other domestic tax interest requirements; respect for a taxpayer's rights and strict confidential information exchange. See OECD *Implementing the Tax Transparency Standards: A Handbook for Assessors and Jurisdictions* 2nd edition (2011, Paris: OECD) at 11.

25 OECD *Model Agreement on Exchange of Information on Tax Matters* (2002, Paris: OECD).

26 Article 5 of the Model TIEAs; Article 26(1) of the OECD Model Tax Convention.

27 M Keen and JE Ligthart "Information Sharing and International Taxation: A Primer" 13 (2006) *International Tax and Public Finance* at 95.

28 Pursuant to UN ECOSOC resolution 2004/69 of 11 November 2004.

29 UN Committee of Experts on International Cooperation in Tax Matters "Report of the Ad Hoc Group of Experts Meeting on Exchange of Information (Revision of Article 26 of the United Nations Model Double Taxation Convention between Developed and Developing Countries) (2005) E/C.18/2005/10/Add.1; UN "Revision of the wording of article 26 of the United Nations Model Double Taxation Convention between Developed and Developing Countries" (8 September 2006) E/C.18/2006/6.

30 Article 5 of the Model TIEAs; Article 26(1) of the OECD Model Tax Convention.

31 Para 9 of the Commentary on article 26(1); OECD "Council Recommendation on the use of the OECD Model Memorandum of Understanding on Automatic Exchange of Information for Tax Purposes" C(2001)28/FINAL).

32 Para 9 of the Commentary on article 26(1) of the OECD Model Tax Convention.

To assess the effectiveness of countries in implementing the standards of exchange of information on tax matters, the Global Forum formed a Peer Review mechanism.[33]

Peer Review Mechanism

Due to the limitations of the format of "exchange of information upon request" (explained above), in 2013 the G20 Finance Ministers and Central Bank Governors endorsed "automatic exchange of financial account information" as the new Common Reporting Standard (CRS) to ensure effective exchange of information and maintain the integrity of their tax systems.[34]

In 2014, the OECD called on all jurisdictions to adopt the CRS by which, financial institutions (including brokers, certain collective investment vehicles and certain insurance companies) are expected to comply with due diligence standards and report information about taxpayers' bank accounts relating to investment income (such as interest, dividends and royalties) derived from shell companies, trusts or similar arrangements that could are being used to avoid taxes.[35]

In terms of the CRS, countries are expected to: enact enabling domestic legislation, ensure the confidentiality of the information received and sign up to treaties that permit automatic exchange of information, for example under the OECD and UN Model Tax Conventions or the OECD Multilateral Convention on Mutual Administrative Assistance in Tax Matters.

The latter was initially open to only members of the OECD and of the Council of Europe,[36] but was amended by a Protocol in 2010, to be aligned with the international standards on exchange of information and then it was opened to all countries.[37] With these developments, in 2015, the OECD set out a Protocol[38] amending the Model TIEA to include automatic and spontaneous exchange of information. Thus, countries may adopt the wording of the Protocol in the new TIEAs they sign. The OECD Global Forum conducted Peer reviews on

33 OECD "Global Forum on Transparency and Exchange of Information for Tax Purposes: Peer Review", available at https://www.oecd-ilibrary.org/taxation/global-forum-on-transparency-and-exchange-of-information-for-tax-purposes-peer-reviews_2219469x accessed 7 August 2022.

34 OECD "Standard for Automatic Exchange of Financial Account Information: Common Reporting Standard" (2013) in para 4.

35 Ibid in para 12.

36 OECD "Convention on Mutual Administrative Assistance in Tax Matters", Available at http://www.oecd.org/tax/exchange-of-tax-information/conventiononmutualadministrativeassistanceintaxmatters.htm (accessed on 9 August 2022).

37 OECD "Text of the Revised Explanatory Report to the Convention on Mutual Administrative Assistance in Tax Matters as Amended by Protocol" para 5 of the Introduction. Available at http://www.oecd.org/tax/exchange-of-tax-information/Explanatory_Report_ENG_%2015_04_2010.pdf accessed 31 August 2022.

38 OECD "Model Protocol for the Purpose of Allowing The Automatic Exchange and Spontaneous Exchange of Information under A TIEA" Available at http://www.oecd.org/ctp/exchange-of-tax-information/Model-Protocol-TIEA.pdf accessed on 24 August 2022; HJI Panayi "Current Trends on Automatic Exchange of Information". Available at https://www.taxacademy.sg/files/research%20papers/Current%20Trends%20on%20Automatic%2Exchange%20of%20Information.pdf accessed on 24 August 2022.

Automatic Exchange of Financial Account Information.[39]

The UN endorsed the work carried out by the OECD on automatic exchange of financial account information, and the CRS, when it issued a "Code of Conduct on cooperation in combating international tax evasion" in 2017.[40] The UN Code of Conduct, encourage all countries that have not already done so to consider becoming a party to the OECD Multilateral Convention on Mutual Administrative Assistance in Tax Matters. [41]

Progress Made by African Countries in Implementing the Exchange of Information Standards

International cooperation through exchange of information in tax matters is essential for revenue mobilisation in Africa, as indicated in pillar 6 on "finances and partnerships" in the AU "Common African Position on the post-2015 Development Agenda.[42] This further reaffirmed in the strategies to expand and maximize partnerships to achieve the African Union Agenda 2063.[43]

Several African countries have joined the OECD Global Forum and have committed to adopt its standards. As at June 2022, 32 of the 165 members of the OECD Global Forum, are African countries.[44] Considering these commitments, this policy brief considers the progress made by African countries in implementing the exchange of information standards and the challenges they face.

Regarding adopting the international standards on exchange of information in Africa, date from Global Forum Peer Review reports shows that, for Round 1 Peer Reviews which took place from 2010 to 2016, South Africa was the only African country that was rated as "compliant" with the implementation of the standards for exchange of information.[45] Fourteen other countries what under-went the Round 1 Peer Review and were rated "largely compliant" (Botswana, Burkina Faso, Cameroon, Gabon, Ghana, Kenya, Lesotho, Mauritania, Morocco, Nigeria, Senegal, Seychelles and Uganda).[46] Round 2 Peer Reviews which started from 2016 and is still undergoing, shows that only six African countries have been reviewed: Botswana, Ghana, Liberia and Seychelles were rated "partially compliant", Mauritius was rated "compliant" and Tunisia was rated "largely compliant". [47]

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39 OECD "Peer Review of Automatic Exchange of Financial Account Information" (2020)

40 UN "Code of Conduct on Cooperation in Combating International Tax Evasion" (2017) para II(c). E/RES/2017/3.

41 UN "Code of Conduct on Cooperation in Combating International Tax Evasion" op cit note 36.

42 AU *Common African Position on the Post-2015 Development Agenda* (2014) in Pillar 6.

43 AU Commission *Agenda 2063: The Africa we Want* (2015, African Union Commission) at 5.

44 OECD "Global Forum Members" (June 2022). Available at https://www.oecd.org/tax/transparency/who-we-are/members/ accessed 6 September 2022.

45 Global Forum on Transparency and Exchange of Information for Tax Purposes, "Reinforcing Multilateral Cooperation in Tax Matters for a Fair and Inclusive Recovery" (Global Forum Annual Report 2021) Annex C.

46 Global Forum Annual Report 2021 op cit note 45 in Annex C.

47 Global Forum Annual Report 2021 op cit note 45 in Annex C.

Regarding utilising the default method of “exchange of information upon request” in bilateral treaties, African countries have been mainly recipients of requests for information from other countries. This trend changed over the last few years when African countries begun to sign the OECD Convention on Mutual Administrative Assistance in Tax Matters.

Data from the 2021 Global Forum Annual Report,[48] shows that so far, this treaty has come into force in 14 African countries; which are : Botswana, Cabo Verde, Cameroon, Eswatini, Ghana, Kenya, Mauritius, Morocco, Namibia, Nigeria, Senegal, Seychelles, South Africa, Uganda and Liberia.[49] Other countries like: Benin, Burkina Faso, Rwanda, Gabon Mauritania and Togo have signed the treaty.[50] The growing number of African countries that have signed above Convention has resulted in increased exchange of information in Africa.

The year 2021 was a landmark in Africa as for the first time, African countries were net senders of requests for information, a promising signal that the culture of exchange of information is progressing on the continent.[51] The data shows that in total, 460 requests were sent out in 2020 (an increase of 21% compared to 2019) and 439 received.[52]

Eight African countries (Cameroon, Kenya, Lesotho, Nigeria, Seychelles, South Africa, Tunisia and Uganda) were net senders of exchange of information requests in 2020 compared to five countries in 2019.[53] The increase in the number of requests made by African countries has translated into additional tax revenues as a result of audits and investigations supported by “exchange of information upon request.[54]

For example Senegal collected EUR 2.7 million from 2018 to 2019 and Uganda collected EUR 25 million from 2014 to 2019, of which more than 10 million was collected in 2019.[55] Uganda issued 33 requests in 2020, identifying EUR 34.7 million of additional revenue comprising of tax, interest and penalties.[56] In total, from 2009 - 2022, “exchange of information upon request” has enabled African countries to identify over EUR 1.2 billion of additional revenues (tax, interests and penalties) through offshore tax investigations and voluntary disclosure programmes”.[57]

These improvements were augmented by the increased number of

48 Global Forum Annual Report 2021 op cit note 45 in Annex C.

49 Ibid.

50 Ibid.

51 Global Forum Transparency and Exchange of Information for Tax Matters, “Tax Transparency in Africa 2021: Africa Initiative Progress Report” (2022) at 12.

52 Global Forum on Transparency and Exchange of Information for Tax Purposes, *10 Years of Capacity Building* (Global Forum Capacity Building Project 2022) at 24.

53 Ibid.

54 Ibid.

55 Global Forum on Transparency and Exchange of Information for Tax Purposes, “Tax Transparency and Exchange of Information in Times of COVID-19” (Global Forum Annual Report 2020) at 9.

56 Global Forum Capacity Building Project 2022 op cit note 52 at 21.

57 Global Forum Capacity Building Project 2022 op cit note 52 at 24.

African countries that have a dedicated "exchange of information unit" in their tax administrations, which increased from five in 2014 to 20 in 2019.[58]

Regarding the implementing measures to enable "automatic exchange of information", significant progress has been made by many countries international. Automatic exchange of information begun in 2017 among 86 jurisdictions, which completed around 4,500 bilateral automatic exchanges of financial account information.[59] In 2018, information relating to 47 million financial accounts was exchanged globally with a combined value of around EUR 4.9 trillion.[60] In 2019, data on 84 million financial offshore accounts was exchanged globally, with a value of EUR 10 trillion.[61] In 2020, information on more than 75 million financial accounts worldwide, covering total assets of around EUR 9 trillion was exchanged automatically.[62]

Challenges Faced by African Countries on Exchange of Information

The OECD reports show there has been limited progress with respect to automatic exchange of information in Africa. Data drawn from 2021 Global Forum Annual Report shows that only five African countries have implemented provisions to enable automatic exchange of information. The data shows that the implementation of the domestic legal framework and international legal framework to enable automatic exchange of information is in place in Mauritius and South Africa; whereas in Seychelles, Ghana and Nigeria this framework is in place but needs improvement. [63]

Mauritius started exchanging information automatically in 2018 and in that year, it carried out 58 exchanges, 65 in 2019, 69 in 2020 and 74 in 2022.[64] Seychelles started automatic exchanges in 2018 and in that year, it carried out 55 exchanges, 66 in 2019, 63 in 2020 and 25 in 2021.

South Africa started automatic exchanges in 2018 and in that year, it carried out 57 exchanges, 63 in 2019, 68 in 2020 and 76 in 2021.[65] South Africa's 2018 exchanges resulted in a receipt of information on offshore accounts of South African residents worth EUR 17 billion.[66]

Ghana started automatic exchanges in 2019 and in that year, it carried out 56 exchanges; 64 in 2020 in 62 and 2022. Nigeria started automatic exchanges in 2020 and it that year it carried out 25

58 Global Forum, "Tax Transparency in Africa 2020: Africa Initiative Progress Report 2019" (2020).

59 OECD Global Forum "Automatic Exchange of Information: Implementation Report" (2018) para 21.

60 OECD, "OECD Secretary-General Tax Report G20 Leaders – June 2019", available at www.oecd.org/tax/oecdsecretary- general-tax-report-g20-leaders-june-2019.pdf accessed on 1 July 2022.

61 Global Forum Annual Report 2020 op cit note 55 at 2.

62 Global Forum Annual Report 2021 op cit note 45 at 3

63 Global Forum Annual Report 2021 op cit note 45 in Annex B.

64 Global Forum Transparency and Exchange of Information for Tax Matters, "Tax Transparency in Africa: Africa Initiative Progress Report" (2021) 12.

65 Global Forum "Africa Initiative Progress Report 2021" op cit note 51 at 12.

66 Global Forum Annual Report 2020 op cit note 55 at 12.

exchanges and 63 in 2021. A few other Africa countries have commitment to start exchanging information automatically: Morocco and Kenya committed to start exchanges in 2022.[67] Uganda committed to do so by 2023 and Rwanda by 2024. [68]

Many African countries have not committed to implement automatic exchange of information provisions, and will not benefit from it due to the following reasons:

- *Challenges associated with resource constraints.*

These include: lack human resources; institutional incapacities – such as those associated with the lack of administrative capacity to analyse and handle data efficiently;[69] and the lack of funding to put in place the necessary processes and technology infrastructure. [70]

- *Complexity of the implementation process is a challenge of its own.*

This is compounded by the fact that in general the requirements for the peer reviews are based largely on the economic strength and administrative capacity of developed countries (which are relatively similar), with little consideration for the economic and administrative challenges in developing countries. Many African countries face difficulties in: ***translating the automatic exchange of information requirements into domestic law, putting in place the administrative processes and technology infrastructure required to collect and exchange information automatically***.

- *Challenges of introducing the necessary safeguards to protect the confidentiality of taxpayer data.*

All of this requires substantial upfront capacity and investment of resources which most African countries do not have.[71] Thus, many countries are not keen to make formal commitments and be bound by specific dates to comply, when they do not have the resources to implement the provisions.[72]

- *Other concerns*

Other countries are not sure that re-directing their meagre resources from other priority concerns to investment in required infrastructure will bring a tangible return.[73]

The UN FACTI Panel reported concerns that some developed countries cherry-pick their preferred partners while developing countries are left in the dark under the "reciprocity" principle.[74]

67 Global Forum Annual Report 2020 op cit note 55 at 17.

68 Global Forum Annual Report 2021 op cit note 45 at 3.

69 Alex Meyer, "Transparency and Beneficial Ownership in the African Context: Ghana, Nigeria and South Africa" *Conference on Tax and Good Conference in Africa* (26-28 April 2017) Abuja, Nigeria.

70 Global Forum on Transparency and Exchange of Information for Tax Purposes "Global Forum's Plan of Action for Developing Countries Participation in AEOI" (November 2017) para 17.

71 Global Forum's Plan of Action for Developing Countries Participation in AEOI op cit note 70 in para 18.

72 Global Forum's Plan of Action for Developing Countries Participation in AEOI op cit note 70 in para 19.

73 Ibid.

74 UN FACTI Panel *Financial Integrity for Sustainable Development* (UN, 2021) at 17 and at 43.

Even though a number of developing countries underwent the peer reviews and were found to be "compliant," "largely compliant" or "partially compliant"; some developed countries do not trust developing countries and do not respond or out rightly refuse to exchange information with them.[75]

Current Measures to Support African Countries

Following the recognition of these challenges, several initiatives and capacity building projects have been set up to enable developing countries to participate in automatic exchange of information. These include: pilot projects,[76] Handbooks[77] and Toolkits.[78]

The ones tailored specifically for Africa are the following: In 2014, the Global Forum in conjunction with African Tax Administration Forum (ATAF) and the African Union started the "African Initiative" capacity-building programme,[79] which issues the "Tax Transparency in Africa reports"[80] that set out the progress made and challenges faced by African countries in implementing the standards of exchange of information in tax matters.

Under the umbrella of the Africa Initiative, in April 2021, the Global Forum launched the "Train the Trainer programme", a flagship initiative which helps train officials from national tax administrations across Africa.[81]

In 2020, the Global Forum and ATAF's developed a "Toolkit on Establishing and Running an Effective Exchange of Information Function" which aims to assist jurisdictions in establishing or improving their organisational structures.[82]

ATAF has also issued a "Practical Guide on Exchange of Information for Developing Countries".[83]

Observations

Even though a country's tax policy and tax administration officials may value

75 Allexandra Readhead *Preventing Tax Base Erosion in Africa: A Regional Study of Transfer Pricing Challenges in the Mining Sector* (2016, Natural Resource Governance Institute) at 53.

76 Global Forum's Plan of Action for Developing Countries Participation in AEOI op cit note 70 in para 19. Pilot project partnerships are setup between developed and developing countries to assist the latter to benefit from AEOI.

77 OECD, *Standard for Automatic Exchange of Financial Account Information in Tax Matters: Implementation Handbook* (2018). This handbook clarifies key concepts and procedures that can assist developing countries in the implementation of AEOI.

78 Global Forum, "A Toolkit for Becoming a Party to the Convention on Mutual Administrative Assistance in Tax Matters" (2020); Global Forum "A Confidentiality and Information Security Management Toolkit" (2020).

79 Global Forum Annual Report 2021 op cit note 45 at 14.

80 Global Forum Annual Report 2020 op cit note 55; Global Forum "Africa Initiative Progress Report 2021" op cit note 51.

81 Global Forum Annual Report 2021 op cit note 45 at 8.

82 Global Forum "Establishing and Running an Effective Exchange of Information Function: A Joint Global Forum and ATAF Toolkit" (2020), available at www.oecd.org/tax/transparency/documents/eoiI-unit-toolkit_en.pdf.

83 ATAF " A Practical Guide on Exchange of Information for Developing Countries". Available at http://www.oecd.org/tax/tax-global/practical_guide_exchange_of_information.pdf [Accessed 16June 2021].

automatic exchange of information and the above capacity development initiatives, this may be hampered if the politicians do not consider it a priority for devoting time and resources, if there are other challenges that need immediate attention on the government's agenda.

Politicians may also view automatic exchange of information as a sensitive matter that could undermine certain financial interests.[84] Commitment at political and senior official level is therefore critical to ensure implementation of the standards.[85]

Constructive engagement by international bodies such as the UN and the OECD Global Forum, with governments and other relevant stakeholders is necessary to obtain the commitment of key leaders in building a supportive political environment for making progress towards the implementation of automatic exchange of information in Africa.[86]

Political influence at regional level and continental level plays a big role in galvanising collective effort of the countries in the region. ATAF's work with the African Union and the Global Forum to form the African Initiative capacity-building programme is therefore commendable.[87]

Conclusion

In conclusion, this policy brief has shown that the decision taken by some African countries to implement automatic exchange of information standard is a step in the right direction, with clear benefits terms of in additional revenue collection. This should be emulated by other African countries that can take advantage of the capacity building initiatives pointed out above. At regional level, steps in the right direction are also being taken by ATAF and the AU to ensure a supportive political environment.

84 Global Forum's Plan of Action for Developing Countries Participation in AEOI op cit note 70 in para 20.

85 Global Forum Capacity Building Project 2022 op cit note 52 at 23.

86 Global Forum's Plan of Action for Developing Countries Participation in AEOI op cit note 70 in para 21.

87 Global Forum Annual Report 2021 op cit note 45 at 14.

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