

Anti-BEPs measures unpacked at tax treaty workshop

How to update tax treaties to incorporate anti-BEPS measures came under the spotlight at a workshop held in Pretoria, South Africa, from 8 to 12 April 2019. The workshop was organised to assist countries that are contemplating updating their tax treaties to adopt all or some of the treaty-related BEPS measures through bilateral protocols and/or the Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting (the MLI).

At least 41 delegates from 23 ATAF member countries attended the workshop. The countries participating are: Angola, Benin, Burkina Faso, Cameroon, Chad, China, India, Kenya, Liberia, Lesotho, The Gambia, Madagascar, Namibia, Nigeria, Morocco, Mauritius, Rwanda, South Africa, Seychelles, Uganda, Tanzania, Zambia and Zimbabwe.

The lead facilitator was Maikel Evers, from the OECD Secretariat, supported by Marta Alvarez from Ireland, Oshna Maharaj from the South African Revenue Service, and ATAF tax treaty expert Ron van der Merwe.

The MLI is a novel mechanism to modify rapidly a large number of the more than 3 000 bilateral tax treaties currently in existence. Jurisdictions that sign the MLI are required to indicate which provisions they wish to adopt and to fulfil other administrative requirements, such as documenting notifications and reservations.

The workshop provided an invaluable opportunity to assist with those decisions and to clarify any uncertainties that jurisdictions may have regarding the treaty-related BEPS recommendations and the MLI. Workshop participants had the opportunity to understand and discuss the measures developed through the work on BEPS that were included in the MLI and that have been incorporated in the 2017 update of the OECD Model Tax Convention (the OECD Model).

The workshop will also covered the mechanical provisions of the MLI and the related processes for signing and implementing the MLI to enable policy makers to make an informed decision about the possibility of joining the MLI.

The workshop focused on the tax treaty-related



ATAF Director of Tax Programmes Ms Mary Baine addresses the participants of a workshop on the Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting (the MLI) in Pretoria, South Africa.

standards and measures developed in the course of the BEPS Project and on the MLI as a means to introduce these measures. Much time was spent on a detailed examination of Parts I to V of the MLI, the provisions that introduce the tax treaty-related BEPS measures into existing bilateral treaties.

For each provision, the facilitators explained the practical application of the tax treaty-related measure, its operation and any related options. They also discussed the reservations permitted by the provision and explained how jurisdictions document their positions through the use of the standardised MLI template for reservations and notifications using the positions of African countries that have already joined the MLI as an example.

Separate sessions focused on Part VI of the MLI on mandatory binding arbitration and Part VII on its final provisions.

Participants were invited to exchange views on how their jurisdictions will ratify the MLI and how they will implement it their domestic laws. Further discussions focused on the application of the MLI and on those tools that jurisdictions may want to develop to facilitate the understanding

of the instrument for their stakeholders.

The final sessions introduced the BEPS Action 6 peer review process on treaty abuse to explain how this process helps to protect the tax base of source countries.

More about the MLI

Tax avoidance through Base Erosion and Profit Shifting (BEPS) is a global problem that requires global solutions. Working together on an equal footing in the context of the BEPS Project, a large and diverse group of jurisdictions developed a comprehensive package of measures against BEPS.

Over 120 jurisdictions have embraced the comprehensive BEPS package, including four minimum standards to counter BEPS. Following the G20 Finance Ministers' endorsement of the BEPS Package in October 2015, an ad hoc group of more than 100 countries and jurisdictions developed a multilateral instrument to modify bilateral tax treaties to ensure the timely, coordinated and consistent implementation of the tax treaty-related BEPS standards and measures.

Media urged to help promote understanding of tax matters

The media had the power to change public perceptions about tax and could help set the agenda for promoting domestic resources mobilisation in African countries. They could influence the policy trajectory of governments and set the priorities for the public discourse if they empowered themselves with knowledge about the key tax issues of the day.

That was the message from special guest speaker Dr Pheny Butale, a member of Botswana and Pan African Parliament, and a former journalist himself, to over 70 tax officials and journalists from 22 African countries who had gathered together in Nyamata, Rwanda, for a three-day workshop on the role the media can play in promoting an understanding of the link between tax and development.

The workshop, organised by the African Tax Administration Forum (ATAF) from 6-8 March and hosted by the Rwanda Revenue Authority, provided a fruitful platform to discuss a range of burning issues on the global tax agenda. The workshop was opened by Mr Aimable Habiyambere, the Commissioner for Domestic Taxes at the Rwanda Revenue Authority.

Dr Butale acknowledged the important role the media played in holding governments accountable for the optimal use of resources paid for by taxpayer funds. But he urged journalists also educate citizens about the relationship between paying taxes and social and economic development.

He also said it was important that journalists did not write about tax in an abstract and theoretical way. They should always endeavour to “put a human face” on tax issues by showing the impact they have on the lives of ordinary people.

ATAF’s Director of Tax Programmes, Ms Mary Baine, said ATAF welcome this second media engagement and training workshop – the first engagement was held in Johannesburg last year.



From left: Rwanda Revenue Authority Deputy Commissioner Ms Drocelle Mukashyaka, guest speaker Dr Pheny Butale, Director of Tax Programmes Ms Mary Baine and Legal Officer, Ms Leila Kituyi, both from the ATAF Secretariat, discuss the citizens’ role in development.

“It brings us together to discuss and deliberate, and exchange ideas on how the media can work with revenue administrations to assist them on delivering on their key mandate of mobilising domestic revenue to fund the development of their countries.

“ATAF recognises the fact that the media plays a key role in educating the public about tax matters and would therefore like to strengthen its relationship with the media and also the relationships between the media and individual revenue administrations on the continent,” she added.

The workshop focused on the following key issues:

- The current debates on the challenges that informs the current global tax landscape and

the role of the media in educating the public.

- The portrayal of tax matters in the news and its impact on compliance and domestic resource mobilisation.
- The understanding of the social compact around tax between the tax administration, the government and citizens.
- Whether the contracts between government and business and concessions given such as tax incentives achieve what they set out to do or are an unwarranted drain on the fiscus?
- The complexities associated with taxing the digital economy and whether African countries are ready for the impact this is having on their revenue bases and can implement the measures to safeguard them.



Members of the interim task force of the African Tax Media Network

Network set up to foster cooperation

One of the key outcomes from the workshop was the establishment of an African Tax Media Network to help foster constructive collaboration between the media and tax administrations.

Membership of the network would be voluntary and open to all members of the media in African countries who report on tax matters and to tax officials, particularly communication officials from tax administrations.

Participants nominated officials from the media and member tax administrations to form an interim task force which will oversee the work required

to set up the network such as drafting its terms of reference and develop an action plan.

An 11-person interim task force was nominated and was tasked with drafting the terms of reference and action plans for the network, with the cooperation and guidance of the ATAF Secretariat.

It is envisaged that the terms of reference will be presented to the ATAF Council for its input and endorsement before being formally launched at the International Conference on Tax in African (ICTA) and ATAF’s tenth anniversary celebrations in Uganda, in November 2019.



Officials who participated in the ATAF Exchange of Information Technical Committee meeting in Ezulwini, Eswatini.

Committee urged to make Exchange of Information a reality on the African continent

The ATAF Technical Committee on Exchange of Information (EOI) met in Ezulwini, Eswatini, on 14 and 15 March to set the broad parameters of the committee's work over the next two years.

Although the ATAF Technical Committee on EOI was formed in 2017, this new committee was constituted only at the end of October 2018 and is mandated to execute its work by 2020. ATAF member countries serving on the committee are Uganda, Kenya, Senegal, Togo, Cameroon, Mauritius and Eswatini which chairs the committee. Officials from the Global Forum on Tax Transparency and Exchange of Information for Tax Purposes, Her Majesty's Revenue and Customs and GIZ also attended the meeting.

Held at the newly completed offices of the Eswatini Revenue Authority, the meetings were officially opened by the Eswatini Commissioner-General Mr Dumisani Masilela. Mr Masilela underscored the important role that the exchange of information can play in detecting tax abuse and boosting revenue collection and called for cooperation amongst African countries in this area.

He urged the committee to ensure that EOI becomes a reality on the African continent.

One of the key challenges that had to be overcome was the high costs of IT infrastructure without which EOI cannot be fully implemented. Developing home-grown IT solutions/software may be the way forward, he recommended.

During the session on strategy, committee members agreed that at the policy level, there is still lack of commitment to EOI among ATAF member countries which needed to be addressed.

It was noted that some ATAF member countries are yet to embark on an EOI/Automatic Exchange of Information programme and that many African countries face challenges related to capacity gaps, IT and financial constraints.

The committee agreed that ATAF would draft a comprehensive EOI strategy document which would provide member countries with a firm guide to implementing an EOI programme in their tax administrations. It was agreed that the document be completed by the middle of June 2019 to be presented to the Competent Authority meeting for their inputs and approval.

During a discussion on the legal requirements for the implementation of the Automatic Exchange of Information (AEOI), the roadmap followed by the Uganda Revenue Authority was held up as an example that could be emulated by other African countries.

The process involves finalisation of secondary legislation, a policy brief for the Cabinet, software development and technical support. The meeting however also heard about the challenges being faced such as policy support, budget constraints and adequate personnel to support the migration to AEOI.

Mr Ervice Tchouata, a policy advisor at the Global Forum Secretariat, highlighted some of the targets the organisation was focused on in the implementation of EOI/AEOI in African countries.

These include the following:

- The establishment of fully-fledged adequately resourced EOI units within all tax administrations;
- The transfer of competent authority from Ministries of Finance to tax administrations;
- Encouraging African countries to sign multilateral conventions which would widen the network of EOI partners; and
- Measuring the impact of EOI by monitoring the additional revenue gained from requests submitted.
- The EOI Technical Committee will meet again on the sidelines of the Competent Authority meeting scheduled to take place in Ghana in June 2019.

Sad loss of a valued colleague

Exchange for Information expert and ATAF technical advisor Dr Ralf Uhl sadly passed way on 17 December 2018. His sudden death on the eve of his retirement and at the end of his service at the organisation came as a shock to staff at the ATAF Secretariat in Pretoria where he had been a valued and respected member since 2016.

The contribution Ralf made to the

work of ATAF, and in particular to the technical committee on Exchange of Information, was immense and his expertise, commitment and dedication to his work is sorely missed.

At an ATAF memorial service for Ralf he was described as a gentle giant, whose love for his family and respect for the ideas defined him as a colleague and friend.



Dr Ralf Uhl

Meet the members



ATAF CHAIRMAN: MR WILLIAM BABATUNDE FOWLER
Executive Chairperson: Federal Inland Revenue Service (FIRS), Nigeria

The 5th ATAF General Assembly expressed its confidence in the leadership of Mr Tunde Fowler when it re-elected him for a second term as Chairperson of the ATAF Council.

Mr Fowler first made his mark in tax administration in 2004 as the Permanent Secretary/Executive Chairman of the Lagos State Internal Revenue Service (LIRS). Revenue collection grew seven-fold during his tenure and this remarkable achievement led to him being appointed as Executive Chairman of the Federal Inland Revenue Service and Chairman Joint Tax Board in August 2015.

There has been significant progress in the performance of FIRS since Mr Fowler's appointment. Higher revenue collections, an increase in the registration of corporate taxpayers and the introduction of several ICT driven initiatives such as On-line filing, has revolutionised tax administration in Nigeria.

Mr Fowler's working career began in the United States with Avon Products Inc in New York and Johnson and Johnson in New Jersey from where he transferred to Johnson and Johnson Nigeria. He then made a career change from international finance and marketing to banking where he had a distinguished career of over 20 years before joining LIRS.

Due to his commitment and performance in tax administration, the United Nations appointed him as one of the 25 members of the International Experts Committee on Tax Matters in August 2017. He serves as the committee's second vice chairman.



ATAF VICE CHAIRMAN: MR SUDHAMO LAL
Director-General: Mauritius Revenue Authority (MRA)

Also re-elected at the ATAF 5th General Assembly was Mr Sudhamo Lal. Mr Lal has extensive

knowledge of tax administration and tax reforms and has served the MRA since 2006.

Before joining the MRA Mr Lal had a long and fruitful career in direct tax administration in Pakistan, where he has served as commissioner of income tax and wealth tax and director-general (withholding taxes) before becoming a member (tax policy and administration) of the Central Board of Revenue in Islamabad.

In this capacity, he was entrusted the responsibility for leading a US\$150 million World Bank-funded tax administration reform programme and interacted with the European Union, Asian Development Bank, International Monetary Fund and other international finance institutions.

Mr Lal has served as the president of the Commonwealth Association of Tax Administrators (CATA) from 2009 to 2011 and in that capacity presided over the annual CATA conferences in Malawi, Nigeria and Sri Lanka. He also acted as vice chairman for the World Customs Organisation's Eastern and Southern African Region.

He is a regular speaker at international seminars and conferences.

ATAF held its General Assembly meeting in Gaborone, Botswana, in October 2018 when members elected a new ATAF Council for a period of two years. The following member countries were elected to serve on the ATAF Council: Nigeria, Mauritius, South Africa (permanent member), Angola, Burundi, Morocco, Rwanda, Eswatini, Togo and Uganda. ATAF Executive Secretary Logan Wort is an ex-officio member of the ATAF Council.



DR SILVIO BURITY
Chair of the Board/ Presidente do Conselho de Administração Geral Tributária (AGT), Angola

Dr Silvio Burity was appointed as the Chairman of the Board of Directors of the General Tax Administration of Angola in 2016. His appointment came after a long period of service in the public service of Angola in various roles, the most significant being his period as national Director of Customs and Excise from 2001 to 2013.

Before that Dr Burity served as an advisor to the Minister of Finance in 2000. He also served as an economic advisor in Ministry of Economics and Health from 1997 to 1999 and as Director of Technical Office in Ministry of External Commerce in 1988.

In 1987 he participated in the working party on the Review of Commercial Practices and Foreign Trade Companies within the scope of the Financial and Economic Reorganisation Program (SEF).

Dr Burity obtained a degree in Economics (planning) from the University of Agostinho Neto in Luanda in 1983. He began his career in the Business Information and Market Research Department of Mecanang, UEE, before being promoted to the position of Manager of Importation of Light Equipment Department in 1984 and Assistant General Director in 1987.

In addition to Portuguese, Dr Burity speaks English, French and Spanish.



MR AUDACE NIYONZIMA
Commissioner-General: Office Burundais des Recettes (OBR), Burundi

Mr Audace Niyonzima was appointed as Commissioner-General of the Office Burundais des Recettes in April 2017. Mr Niyonzima chairs the ATAF Council's Finance and Audit Committee.

Before taking up his current position, Mr Niyonzima held several positions at the Bank of the Republic of Burundi (BRB). He served as Director of Economic Studies and Statistics from 2016 until his appointment as head of the OBR. Mr Niyonzima was the BRB's Head of the Studies and Statistics Department from 2010 to 2015, Deputy Head of the Monetary and Financial Market Department from 2009 to 2010 and Economist in the Studies and Statistics Department from 2003 to 2008.

During his professional career, Mr Niyonzima actively contributed to the work of establishing a monetary union of the East African Community (EAC) and the Common Market of East and Southern African States (COMESA). He was a member of the EAC Expert Team responsible for conducting the

Study on the Establishment of the Monetary Union of the EAC and has served respectively as Chairman of the EAC Sub-Committee on Economic Affairs in the Monetary Affairs Committee and Chairman of the High Level Committee to negotiate the Protocol on the Monetary Union of the EAC and Head of the Burundian Delegation. He was also member of the COMESA Expert Team to validate the Multilateral Budget Monitoring Study of the Monetary Union of COMESA.

From 2009 to 2017, Mr Niyonzima served as a member of the National Committee charged with elaborating the Financial Market Development Plan in Burundi.

Mr Niyonzima obtained a Master's degree in Economics from the University of Yaoundé II in 2000 and also holds a Diploma of Advanced Studies, specialising in Applied Macroeconomics in Public Finance from the same university in 2002.



MR PASCAL RUGANINTWALI
Commissioner-General: Rwanda Revenue Authority (RRA)

Mr Pascal Ruganintwali was appointed as the Commissioner-General for Rwanda Revenue Authority in October 2018. Before that he served as the Deputy

Commissioner General and Commissioner for Corporate Services from March 2014.

Prior joining RRA, Mr Ruganintwali was the Permanent Secretary and Deputy Attorney General in the Ministry of Justice from May 2011 to March 2014, a position he occupied after serving as the Deputy Executive Secretary of the Rwanda's National Electoral Commission in charge of Legal Affairs for six years since 2000.

Mr Ruganintwali holds LLB and LLM (Business law) from the University of Rwanda, a diploma in legal practice and DES in Administration of Elections from Panthéon-Assas University. He is also the state attorney for RRA.

He has extensive experience in the legal field. After completing a one-year internship at a law firm in December 1999 he was appointed as the Acting Head of Human Rights division in the Ministry of Justice.

Mr Ruganintwali has served as board member of the cement processing industry (CIMERWA LTD), representing Government interests.

He has also acted as Chairperson of the National Independent Review Panel on Public Procurement, Gasabo District Commission in charge of abandoned properties, and the Ad hoc Committee in Charge of Legal Framework on Capital Market in Rwanda. He is a member of the Rwanda Bar Association.