2022 Annual Retreat For The Tax Justice Alliance Uganda

Beneficiary Information **Entity:** **Location:** **Name and title of the contact person:**	Southern and Eastern Africa Trade Information Negotiations Institute
Title of the Workshop	2022 Annual Retreat For The Tax Justice Alliance Uganda
Dates of the workshop	1st-2nd December 2022
Target country	Uganda
Final beneficiaries and/or Target Groups	CSOs under the Tax Justice Alliance-Uganda

Assessment of the workshop's discussions and results

i. Introduction and background

The Tax Justice Alliance Uganda was started in 2014 to promote tax justice and social accountability in Uganda. The loose coalition which has since grown to 50 members, had a series of activities implemented throughout the year 2022 at both national and subnational level. As plans were being drawn for 2023, it was important for members of the alliance to meet and share lessons and experiences that could be of help during the next year. More still, following a capacity gaps analysis that was conducted during the month of June 2022, the topic on Double Taxation Agreements (DTAs) was identified as one of the areas of the interest for capacity building. This was so that Members of the Alliance could expound there in expounding their understanding on Double Taxation Agreements and further lay strategies for effective engagement to ensure that Government enters agreements that protect the country's interests.

Upon this background, on 1st-2nd December 2022, SEATINI Uganda in partnership with East Africa Tax and Governance Network (EATGN) and Oxfam in Uganda organized an annual retreat for the Tax Justice Alliance- Uganda. The two-day retreat which was held at Sir Jose Hotel in Kampala brought together alliance members working at the national and subnational level to take stock of 2022 and plan for 2023. The retreat further provided a platform for a capacity building session on Double Taxation Agreements and a broader discussion Tax Justice within the East African Community (EAC).

ii. Workshop objectives and Expected Outputs

The objectives of the workshop were to:

- Enhance the capacity of CSOs under the Tax Justice Alliance on Double Taxation Agreements.

- Take stock of 2022, identify successes, challenges and lessons learnt and plan for 2023.
- Unpack and disseminate EATGN studies on DRM and related issues in the EAC region.
- Agree on strategies to strengthen the Tax Justice Alliance and create linkages with the East Africa Tax and Governance Network.

iii. Below are the key highlights on the sessions during the retreat;

Session one: Double Taxation Agreements (DTAS) in Uganda: Ruth Namirembe- R. Namirembe & Co. Advocates

During the retreat, CSOs under the Tax Justice Alliance were able to participate in a capacity building session on Double Taxation Agreements. The session was facilitated by Ms. Ruth Namirembe, a renowned tax lawyer at R. Namirembe & Co. Advocates. The topics covered during the session centered around an Overview of Double Taxation Agreements in Uganda and Understanding key articles within Double Taxation Agreements and their implications on DRM in Uganda. Specific attention was directed towards the OECD, UN and ATAF Model treaties.

Some of the frequently asked questions related to DTA include during the session included;

- *Who signs these DTAs?*
- *For whose purpose?*
- *Are they political?*
- *Are the DTA helping the day-to-day Ugandan?*

In response to the questions, Ms. Ruth noted that there are so many DTAs entered into by countries. The DTAAs are signed between two countries for the benefit of their taxpayers. Taxpayers take benefit from the existing DTA(s) signed by their countries. They only create rights and obligations for the states and not third parties; DTAs limit the taxing power of each state and involve a negotiated sharing of tax revenues by two states and DTAs also do not impose taxes but relieve them.

DTAs are in place to encourage people to do business elsewhere, especially in the global village. They also help to reduce tax liability as they reduce the rates and they do not take away the right to tax. Despite the fact that the Taxpayer is taking benefits of whatever the states agreed upon, the taxpayer cannot be held liable under a particular agreement. It is the state that is accountable to ensure that the DTAs are followed and respected.

DTA works where there is a conflict between domestic Law and an International Agreement, it is clearly stated that we shall revert to international law because we are dealing with countries not with individuals and because the international law is taken to be equitable, it might not be in your favour but it is fair for both parties. For instance, the Uganda Income Tax Act (ITA), provides for Foreign Tax Credit (FTC) showing that if you are a resident in Uganda you are required by law to declare your worldwide income, for instance, if the tax rate for Uganda is 30% but for DRC their tax rate might be 20% what will happen is that Uganda will not Tax you at 30% it will only tax you 10% because you have already paid the 20% in DRC. That is how DTA comes to help the country to collect some taxes as well as help the Taxpayer to remain with some money. DTA does not impose other new taxes but relives them. There are no new Taxes in the DTAs but they just make the tax burden relieved on the taxpayer (s).

The Right to Tax: in some of Uganda's DTAs, the priority to tax was used to be given to the resident country "Residence Rule". As a result, Uganda has started renegotiating the existing DTA because the state with the first right to tax takes more money than the second if its rates are higher.

The two Critical DTA Models are OECD and the UN model, the OECD is more on residence while the UN is more focused on the Source and Uganda applies both models making it able to tax both residence and source income and many tax systems apply the hybrid. The Double Taxation Agreements (DTAs) are based on a give-and-take basis.

Why do we sign DTAAs?

- To eliminate Double Taxation and create certainty of Tax treatment as one of the tenants of a good Tax System,
- To reduce the Tax Rates (TRs)' for instance, the majority of the DTAs Uganda signed with other states reduced the Withholding Tax rate to 10% from the standard 15%
- DTAs also lower compliance costs; for instance, as per the law, the cost of compliance and collection of a particular tax is supposed to be low. At the national level, some advocacy was done by Civil Society Organisations (CSOs) of making Taxpayer Identification (TIN) so easy for the taxpayer and URA took the proposal because the document is complex for a normal Uganda especially when it comes to filing returns.
- DTAA help in the prevention of Tax Avoidance (the Outright refusal of paying taxes),
- DTAA in preventing Tax Disputes, and the resolution of Tax disputes.
- DTA also helps in the free flow of international trade and investment and the transfer of Technology.

Other methods of avoiding double taxation.

- Double taxation can be avoided unilaterally if one of the states involved withdraws its tax claim. It operates whereby the state of residence to the extent it is not simultaneously the source state allows a credit for the tax levied in the source state up to an amount equal to its own tax charge;

- Double taxation can also be avoided unilaterally through the allowance of exemptions.

For example, Switzerland exempts income from permanent establishments and real property located abroad, and the Netherlands and Australia exempt foreign source income generated if the income is taxed in the source country.

Other questions and responses arising during the session included;

Question: Why is that Uganda has not signed DTAs with other countries?

DTAs are negotiated based on interests, for instance, if nationals of a particular country come to Uganda to do business, the country will be interested in negotiating a DTA with Uganda so that its people can easily do business. This has seen the negotiation of agreements with China, UAE and we have renegotiated with Netherlands because of Agriculture and Agricultural machineries. The need for negotiating is driven by the interest

Question: If I am a resident in a country without a DTA with another country how does it affect me as a company?

There are international rules, the UN and OECD model, the ATAF model, the transfer pricing rules, etc.…However, all these models are not binding but guidelines, and Uganda as a country has domesticated all these guidelines in the Income Tax Act (ITA).

Question: What is the relationship between Offshore and DTA?

The DTA attempts to address, for instance, a company interested in doing business in Uganda but choose to register in Mauritius because Mauritius tax rates are very low. With the start of Double Taxation, taxing of business profits was attached to the existence of a Permanent Establishment (PE) which was supposed to have a physical existence. What the company would do is to have nothing on the ground but continue to do business. ***Scenario one;*** *party* ***A*** *and Party* ***B****, party* ***A*** *has goods in the UK and wants to sell those goods to Party B but in the middle, there is someone who is exempted from paying taxes. What they do is that Party* ***A*** *will sell the goods to party B but he will declare the import of the good as the exempt person. This will make party* ***B*** *earn money without paying taxes on the imported goods because they have built a conduit*.

Session Two: Double Taxation Agreements in the context of the East African Community: Examining Regional Harmonization of the EAC DTA

Mr. Leonard Wanyama- Coordinator East Africa Tax and Governance Network (EATGN)

In the context of the East African Community, Mr. Leonard Wanyama the Coordinator of the East Africa Tax and Governance Network facilitated a session on DTAs within the East African Community: Examining regional harmonization of the EAC DTA. He later delved deeper into a discussion on "*Looking beyond DTAs to enhance DRM in the Uganda and the East African Community.*"

> *"If we are a society or block that is rule-based, those rules are supposed to work for us."*
>
> *Leonard Wanyama, Coordinator EATGN*

In regards to **International Financial Centres (IFCs)**, Mr. Wanyama noted that **so** far, there are two in existence within the EAC; one in Rwanda and another in Kenya. In terms of describing their operation, Mr. Leonard provided an example as follows; if *Uganda charges a corporate income tax at 30% a financial district is set up where the Ugandans can only excess a lower tax if they register in that so call financial center or district paying 15% instead of 30% CIT and to access it, you are supposed to have a high amount of capital thus making it difficult for the citizen to access it.*

IFCs are more a preserve for Foreign companies that are given special rights, including the movement of capital, and getting passports faster and much easier than the citizens, tax holidays/exemptions.

There is need to figure out the impact of contentious clauses within DTAs as well as the existence of Financial Centres on DRM in East African Countries. The Revenue Authorities might be having the data but they do not have the voices because citizens are not aware.

During this session, Mr. Leonard presented the findings from a studies on the EAC Model treaty and Tax avoidance in the East African Community.

Session Three: Delving deeper: Looking beyond DTAs to enhance DRM in the Uganda and the East African Community

Mr. Leonard Wanyama- Coordinator East Africa Tax and Governance Network (EATGN)

During this session, Mr. Wanyama shared more about the East Africa Tax and Governance Network. He noted that founded in 2011, the East African Tax and Governance Network (EATGN) is a civil society collaborative initiative of individuals and non-state actor institutions in the East Africa Community (EAC) that share the understanding that taxation is fundamental in achieving social justice and development goals.

EATGN champions for tax justice in governance, through public policy advocacy, research, and capacity building to create links between various constituencies in the region to improve tax policy while deepening democratic governance.

He noted that through using research, communication plus dissemination of research findings, building capacity of country networks to grasp tax justice matters, regional and in-country networking as well as advocating for researched based issues, EATGN intends to raise citizen awareness, encourage citizen involvement and ownership of the issues.

EATGN coordinates and collaborates with partners to have citizen led collective actions that highlight the structural or systemic causes and consequences of unfair tax policies to be addressed by relevant stakeholders, mostly governments, to achieve fair systems and tax practices.

He further shared highlights on EATGN's strategic plan, previous studies on Tax and Human Rights as well as the Link between Tax Justice and debt.

Key recommendations arising from the sessions on Day one included:

- Undertake mapping of all the Double Taxation Agreements in the East African Community; this will be the first step toward understanding the impact of DTAs, looking at how many DTAs we have in EAC and the countries with which they have been signed, the revenue lost due to DTAs. This will help build knowledge on the link between those DTAs and tax havens networks, as they have continued to facilitate the pre-prices, corruption, and Tax Avoidance.
- Continuously build the capacity of CSOs to understand DTAs and advocated for fair clauses.
- The Tax Justice Alliance Uganda (TJAU) should work towards becoming a think tank on Tax and Related matters. TJAU should give space to the government of Uganda to create another think tank for Uganda on Tax issues. As it started of shaping Domestic Resource Mobilisation for Uganda, TJAU should take advantage to serve as a think tank for Uganda to define the direction and development path for Uganda and Africa, in general on Domestic Resource Mobilisation and Tax, in particular.
- CSO should not lose hope in engaging the government on fiscal policy because there is some recognition of the work CSOs do.
- Uganda should improve on its Double Taxation Agreements negation skills as other countries like Ghana and Nigeria, etc.
- CSO should identify the tax champions among the Members of Parliament who can front the need for fair DTAs

DAY TWO

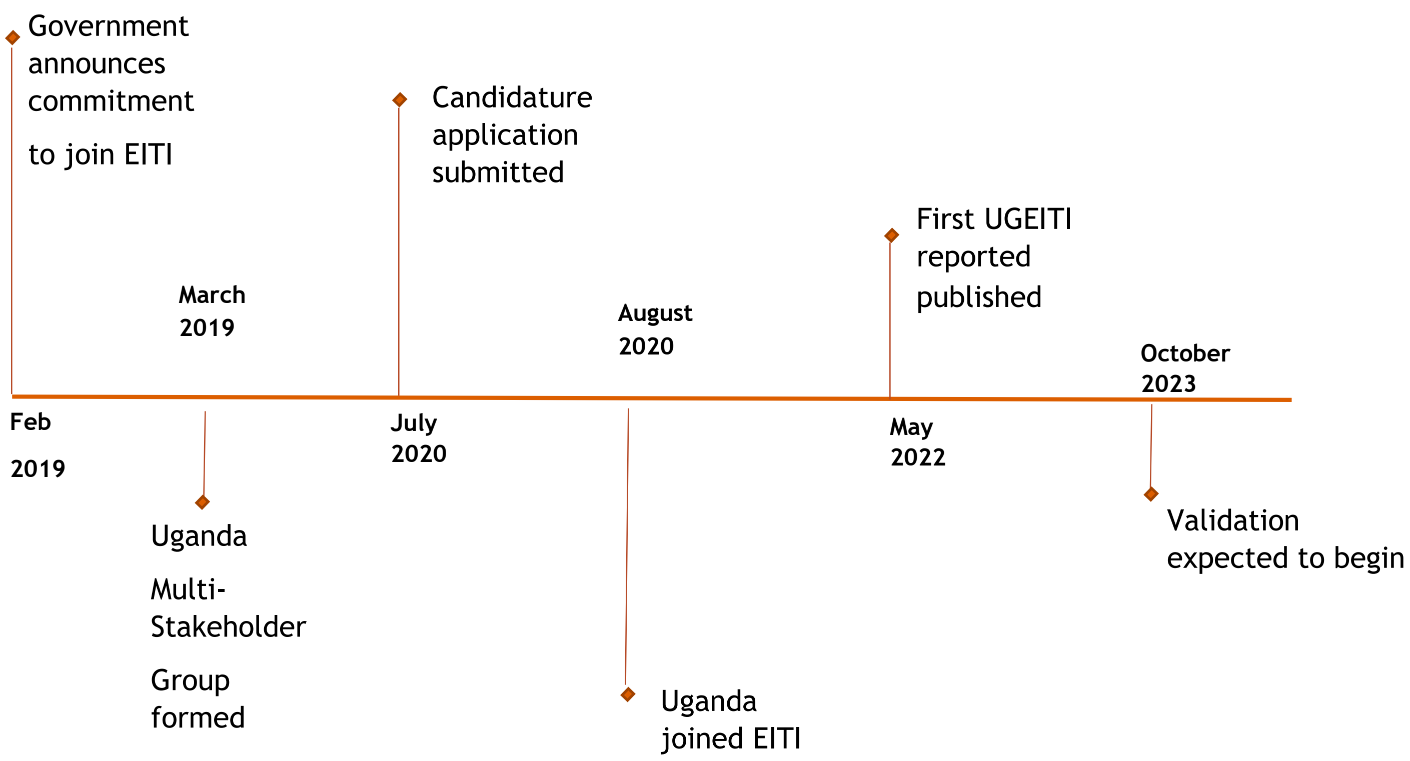
Session four: Bird's eye View: State of the Economy

This session was aimed at laying ground to strategize and plan for 2023. During this session presentation were made and discussions were held to identify key issues for engagement during the year. This session featured tow presentations;

Presentation One:
UGANDA'S EITI JOURNEY| EITI REPORT FOR FY 2019/20
By Dan Denis Agaba-UGEITI Secretariat

This session featured a presentation of Uganda's latest report to the Extractives Industries Transparency Initiative.

Below is a diagrammatic representation of the journey so far:



Details of the report can be accessed at: https://eiti.org/documents/uganda-2019-2020-eiti-report

Presentation Two:
CONTEMPORARY TAX POLICY AND ADMINISTRATION ISSUES
By Mr. Robert Ssuuna, Tax, Trade and Investment Consultant

Below is a summary of the key issues raised during the presentation:

Global /International Level	Regional/Continental Level	Country/National Level
• Taxation of the Digitalized Economy • Curbing Illicit Financial Flows and	• The Nexus between African Continental Free Trade Area & Domestic Resource Mobilization	• Tax apathy amongst citizens and Fairness of the Tax system

Related Tax malpractices • Digitalization of tax administration • International Collaboration on Tax Matters • Gender, inequality, and Tax • Resilience of Tax systems amidst multiple crises (pandemics, debt, geopolitics)	• Nexus between Double Taxation Agreements and Bilateral Investment Treaties • Africa's Role in setting Global Rules Governing Taxation	• Deepening integration in the EAC • Public Debt • Capacity of Revenue Administration • Political economy of Taxation • Role of International Financial Institutions WB/IMF • Taxation of Extractives Sector • Taxation of the Informal Sector

Session five: Areas of Intervention for 2023

During this session, participants were split into groups to respond to the questions below:

- What are the new emerging issues in revenue mobilisation at all levels?
- What needs to be done?
- Cross cutting issues

(Identifying key areas/priorities for 2023)

A feedback session was held during which participants were able to share the key highlights from the different groups. These are highlighted below:

Tax and Accountability

Issue	**Concerns/Reasons**	**Interventions**	**Success factors/resources**
A. Global	Background Rationale behind the international financial architecture We have an international finance architecture that	Fair Finance project: Campaigns for better financing mechanism from the financial institution	Role of government responsiveness Regional CSOs accepting to work together (joint programmed advocacy) Afcfta

	has been crafted by the trans-Atlantic alliance that uses clearing houses. For dollar transactions, this happens through the USA. And for Euro's this happens through Switzerland All other currencies are subject to the US dollar through the swift system So countries become indebted because they do not have dollars to pay to the Americans Americans hinged their currency, the dollar onto the petroleum commodity that's why it's called the petrodollar. By this, they gave they gave their currency superior power. This gives them the power to perpetually print their currency The UK pound is backed by precious metals like gold, silver. All the above factors therefore give the US and UK and a few other rich countries perpetual economic power. Financing mechanisms used for example for		

	resource exploitation create a net outflow of resources from the global south We are however seeing the rise of alternative financing mechanisms for example by the BRICs. They are exploring the possibility for an alternative international payments system. Foreign Direct Investment (FDI) is being pushed as the panacea to the development problems of the Global South		
B. Regional	Push for Domestic Direct Investment Push for monetary Union Limited production of key products that can support the economy Resource Backed Loans being pushed by creditors Climate financing; • Limited commitments are by the Global North have not been fulfilled • Unclear guidelines for accessing it	More campaigns with the view of minimizing FDI Regional contract frameworks with strict provisions	

	• Risk of being more of the loans • Facilitate corruption through projects Domestication of the AFCFTA Pandemics being used as economic weapons ie vaccines, they're also used as economic sab-tools		
C. National	Public Debt • Loan corruption i.e. commissions for the officers • Resource Backed Loans • Non-performing Loans • Need for a binding law on public debt management i.e. the Public Debt Management Framework is not binding and that's why sometimes the loans are miss used.		

International Financial Architecture

Issue	Concern	Intervention	Success factors	Resources
Global	• DTAS • Exchange of Information	• Regional and collective negotiations and		

	• Illicit financial flows • Geopolitics • Bilateral and Multi-lateral treaties	harmonization of tax systems • Participation of civil society in negotiations • Strengthening regional negotiation bodies (Capacity building) • Laws in place on beneficial ownership transparency. • Enhanced automatic exchange of Information		
Regional	• Non-Tariff barriers • Single currency • Conflicts and Political instability • Unharmonised policies • Participation in Negotiations of treaties • Weak anti-corruption efforts and bodies at regional level.	• Improve standards and monitoring compliance • Harmonizes tax and fosters trade while fostering regional • Strengthening negotiations and harmonized peace treaties. • Adopt to Regional standards, including state party planning. • Signing treaties and adopting communing anti-corruption positions.		
National	• Limited will to fight corruption • Analog operations • Middlemen in revenue collection • Gaps in administration/ understaffing affecting collection and accountability • Incentives (Tax holidays, exemptions, free zones)	• Automation and digitalization • Centralize revenue collection and eliminate middlemen • Advocate for more staffing for Revenue collection agency • Establish guidelines on provision of incentives. • Create a comprehensive central database • Provide/operationalize laws to regulate actors such as brokers • Tax education	• Digitilisation of tax system adopted • Use of bank and mobile money payments • Number of recruitments and new revenue offices established. • Persons sensitized.	

	• Taxation of the informal sector • Absence of comprehensive data • Bureaucracy • Unregulated sectors such as brokers • Ignorance			

Tax Gender and Inequality

a) The Ugandan tax system of Uganda is regressive in nature.
b) Its imposed on the domestic products used by women
c) The ones that consume them have burdened thus inequality, the investors and the rich are not taxed.
d) The tax policies in Uganda are gender-blind.
e) The tax policy has various impacts on both men and women however women are more affected.
f) Majority of the youths are affected; in terms of transacting business they rely mostly on mobile money, in terms of education they need internet all of which a tax is imposed

Issues	Interventions	Concern	Success
Global	1. OECD promotes gender inequality i.e. it favors western interests hence increased liberalization, IFFs, less transparency, accountability, etc. 2. IMF and world e.g. SAPs. Austerity, Heavy taxation 3. IMF and World Bank gender strategies lacking	• Follow up on the implementation of the UN resolution • Call for a review of the problematic strategies	
	1. Investment protocol, AfCFTA. -Protocol doesn't address gender challenges within the investment	1. Benchmark on ATAF 2. Generate gender-disaggregated data for engagement	
	Working around pre-proposed tax proposals that aren't	• Tax justice network should generate more in-	

	comprehensive on gender equality. 2. Weak and shallow tax proposals. 3. Austerity, Tax burdens. 4. EITI framework does not provide for tracking outflows and encourages IFFs hence increasing the domestic tax burden that affects the marginalized more 5. Regressive tax systems affecting marginalized groups more 6. Illicit financial flows	depth gender-responsive proposals • Benchmark on ATAF • Generate gender-disaggregated data for engagement • More emphasis on gender-responsive budgeting and taxation	

Wrap Up and Strategy Session: Building a movement to jointly influence Equitable DRM in in Uganda and East Africa
Mr. Leonard Wanyama

During this session, Mr. Wanyama was able to share about the possibility of CSOs under the Tax Justice Alliance joining EATGN.

Participants agreed that they would read through the MoU and append signatures upon approval from the heads of various organizations.

iv. **What did your organization or any actor involved learn from the meeting and how has this learning been utilized and disseminated?**

Achievements/Accomplishments

- Increased capacity among CSOs under the Tax Justice Alliance on Double Taxation Agreements.
- A draft strategy of key issues for consideration and engagement in 2023
- The Tax Justice Alliance Uganda was able to bring on board East Africa Tax Governance Network (EATGN) to share their experience on taxation work.

Lessons

- With the rapid changes in tax matters, continuous capacity building for Tax Justice Alliance members is needed.
- More experience sharing on Tax related matters is needed at sub-national, national, and EAC CSOs on the work they do in line with Governance and Taxation

Challenges

- Due to limited resources, not all the Tax Justice Uganda members were brought on board, therefore, there is a need to organize future engagements on DTAs.

Follow up actions

- Concretize on the issues identified during the group session to ensure active engagement of the Alliance members.

v. **Participants Summary**

- A total of 47 participants; 27 males and 20 female took part in the retreat.

vi. **Stakeholder representation**

The retreat was attended by CSOs under the Tax Justice Alliance- Uganda. This included representatives from the national and subnational level.

vii. Gallery

Please provide visual material on the event. You can add pictures here and attach other documents as annex.

Mr. Leonard Wanyama regional Coordinator East African Tax and Governance Network (EATGN) making a presentation on DTAs in the EAC context

Ms. Ruth Namirembe from R. Namirembe & Co. Advocates making a presentation on DTAAs

SEATINI
Strengthening Africa in World Trade

TAX JUSTICE ALLIANCE Uganda

EATGN

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Mr. Dan Denis Agaba UGEITI Secretariat presenting the EITI Report 2019/20

Mr. Ssuuna Robert presenting on the Contemporary Tax Policies and Administration