

## JOINT STATEMENT OF WEST AFRICA REGIONAL TAX POLICY DIALOGUE

*A statement adopted at the West Africa Regional Policy Dialogue on Tax Incentives, Tax Agreements and Sustainable Development held on November 28-30, 2018 in Dakar, Senegal. Parliamentarians, officials of Ministries of Finance and national revenue authorities from Burkina Faso, Ghana, Liberia, Niger, Nigeria, Sierra Leone and Senegal, and representatives of academia, civil society and regional inter-governmental institutions – ECOWAS Commission, African Development Bank and the World Bank participated in the dialogue.*

The financing needs of West Africa to tackle poverty and promote broad-based sustainable development is huge. To achieve the [2030 Sustainable Development Goals](#), Africa needs between US\$200 billion and US\$1.2 trillion each year. This amounts to about 10 to more than 50 per cent of the continent's total GDP.<sup>1</sup>

Domestic Resource Mobilisation (DRM) is critical to towards closing the sustainable development financing gap. Taxation as the key component of DRM, remains the most reliable source of financing inclusive and sustainable development for many countries.

Foreign Direct Investments (FDIs) are widely considered critical to economic growth and sustainable development through creation of jobs, generation of revenue for the state, transfer of technology and poverty reduction.

Consequently, many countries including those in West Africa have put in place various mechanisms aimed at encouraging investment, particularly FDIs to the vast extractive sector as well as other key sectors such as telecommunications, rails, roads, hospitals and factories. Indeed, tax incentives and Double Tax Agreements (DTAs) are frequently used as the quickest and easiest policy tools for attracting FDIs.

However, the use of tax incentives and tax treaties often make governments more vulnerable to tax base erosion and profit shifting practices. These tools provide additional motivation for investors to engage in shifting profits out of the economies where they make the wealth, and when this happens

---

<sup>1</sup> UNECA, *High quality data crucial for success of SDGs in Africa, says ECA's Ilbouda at HLPD 2018, July 12, 2018.*  
<https://www.uneca.org/stories/high-quality-data-crucial-success-sdgs-africa-says-eca%E2%80%99s-ilboudo-hlpd-2018>



it negatively affects broad-based socio-economic development. Even with the perceived role in stimulating economic growth, arbitrary, uncoordinated and unverified use of tax incentives and tax agreements to create a conducive environment to attract such investments is misplaced.

The Regional Tax Policy Dialogue held in Dakar, Senegal between 28-30 November 2018 sought to demystify policy issues around the use of tax incentives and tax agreements as tools for attracting FDI and the desire to raise tax revenues to underpin West Africa's socio-economic development. The tax dialogue involved various stakeholders namely parliamentarians, Ministry of Finance and national revenue officials from Burkina Faso, Ghana, Liberia, Niger, Nigeria, Sierra Leone and Senegal along with representatives from major inter-governmental institutions including the ECOWAS Commission, African Development Bank (AfDB), World Bank, West Africa Tax Administrators Forum (WATAF), academia, CSOs and independent experts from the across the region.

#### **THE DIALOGUE UNDERScoreD THE FOLLOWING:**

##### **On Tax Incentives**

1. THAT, the use of tax incentives has significantly contributed to the race-to-the-bottom phenomenon which has diluted countries' tax base;
2. THAT, there is lack of transparency on how tax incentives are awarded;
3. THAT, tax incentives should be considered as government expenditure;
4. THAT, the use of profit-based tax incentives provides an opportunity for tax avoidance and tax evasion;
5. THAT, there is lack of ex-ante and ex-post cost-benefit analysis and that these incentives are often granted without clear timelines;
6. THAT, tax incentives are generally discretionary and therefore open to abuse;
7. THAT, most incentives include stabilisation clauses which limit countries from reviewing harmful incentives;
8. THAT, there is lack of co-ordination between relevant inter-governmental agencies and ministries;
9. THAT, most often there is lack of oversight, monitoring and evaluation mechanisms and where they may exist they are woefully inadequate;
10. THAT, there is lack of adoption of qualitative and quantitative methodologies/instruments like financial modelling in the design, evaluation of the effectiveness and efficiency of tax incentives;

11. THAT, tax incentives are one of the least reasons investors consider in making their investment decisions. Investors consider factors such as the quality of infrastructure, labour skills, political and economic stability as far more critical to their decision-making.

#### **On Tax Agreements**

12. THAT, tax agreements especially those signed with low tax jurisdictions have encouraged abuse through treaty shopping, denying West African countries significant tax revenues;
13. THAT, most countries lack tax agreement negotiation models adapted to national contexts, this has seen most countries in West Africa rely on UN and Organisation for Economic Cooperation and Development (OECD) models which do not adequately capture interests of developing countries;
14. THAT, tax treaty negotiators from the region have inadequate capacity to negotiate better deals for their countries;
15. THAT, most tax agreements, especially those signed with low tax jurisdictions have facilitated round tripping and subsequently tax avoidance and tax evasion;
16. THAT, most countries sign tax treaties with other countries even where there are no significant economic activities between the two countries;
17. THAT most countries in the region have not put in place policy frameworks which should provide the bare minimum criteria on which tax agreements should be developed.

#### **KEY POLICY RECOMMENDATIONS**

***Based on the forgoing, the following policy proposals were made during the Regional Tax Policy Dialogue.***

#### **On Tax Incentives**

**While taking cognisance that tax incentive may have positive spill overs, it is hereby noted:**

1. THAT, tax incentives should be regulated by law. For example. countries may consider using *exit tax* to mitigate the abuse of tax incentives, tax holidays where companies often wind up upon expiration of tax exemption period to re-open operation in a different or new name;
2. THAT, to curb tax incentive abuses there is need to make Beneficial Ownership declaration compulsory for all the beneficiaries of a given tax incentive regime;
3. THAT, countries should put in place policies and mechanisms to ensure that tax incentives are well monitored, evaluated and targeted with clear benefits, costs and timelines;

4. THAT, there is need to recognise the harmful tax practices, tax evasion and avoidance as the major drivers of Illicit Financial Flows;
5. THAT, any tax incentives regime that a country enters into should be subject to approval and deliberation by parliament or national assembly and other relevant stakeholders;
6. THAT, for tax incentives and tax agreement to be instituted, governments should carry out a cost-benefit analysis to measure the social impact needs ex ante and ex-post.
7. THAT, there is need to adopt and use objective quantitative and qualitative instruments or models to assess if tax incentives are necessary or not. This will help in judging the effectiveness of tax incentive regimes that the State intends to put in place;
8. THAT, there is need for legislative oversight over the award of all tax incentives. Thus, tax incentives should be considered a government expenditure, as such they should be subjected to parliamentary review like any other government expenditure.

#### **On Tax Agreements**

9. THAT, tax agreements should include limitation of benefit clauses to mitigate against abuse through treaty shopping. This will equally promote disclosure of beneficial owners where threshold will be met to enjoy the benefits;
10. THAT, there is need for participatory policy formulation where all stakeholders are consulted regarding the proposed tax agreement and incentives regime;
11. THAT, any signing of tax agreement should be driven by national interests. Thus, due diligence needs to be done to ensure that there are justifying economic conditions to allow for further negotiations;
12. THAT, countries should put in place domestic policy frameworks to guide the negotiation of tax agreements;
13. THAT, West African countries should invest resources toward building and sharpening capacities of tax agreement negotiators to minimize the imbalance in negotiations with more wealthy and powerful countries.

#### ***Regional level.***

1. THAT, ECOWAS member states should accelerate efforts towards tax harmonisation, including streamlining tax exemptions and all corporate tax incentives;
2. THAT, ECOWAS states should coordinate their tax incentives regime with a 'Code of Conduct' and institute arrangements in which finance ministers in the region will meet before their

budget proposals and speeches to dissuade each other from adopting new tax incentives and other harmful tax practices;

3. THAT, the region should harmonise rules on Double Taxation and rules for tax assistance and adopt a regional mechanism to guide treaty negotiations;
4. THAT, there is need for regional harmonisation of taxes on natural resources, including development of a Mining Taxation Code;
5. THAT, ECOWAS should facilitate the implementation of regionally adopted directives on taxation, especially on tax harmonisation at the national level.
6. THAT, ECOWAS states should set their tax policies in the context of a broader national development strategy;
7. THAT, there is need for ECOWAS countries to analyze the potential '*spillover*' effects of existing tax regimes on other countries;
8. THAT, West African countries should agree on a common framework for reporting of tax incentives and information exchange to encourage mutual learning;
9. THAT, ECOWAS Governments need to seek regional as well as global coordination against tax competition.

**© Adopted on 30<sup>th</sup> November 2018.**