

# THE 7<sup>TH</sup> ANNUAL TAX SUMMIT REPORT



# 2021

REDEFINING THE TAXATION LANDSCAPE:  
GLOBAL TRENDS, DEVELOPMENTS & IMPACT

NAIROBI, KENYA  
13TH – 14TH OCTOBER, 2021

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# Acronyms

ACRONYM	DEFINITION
AfCFTA	African Continental Free Trade Area
ADR	Alternative Dispute Resolution
ATAF	African Tax Administration Forum
ATS	Annual Tax Summit
BEPS	Base Erosion and Profit Shifting
CAS	Chief Administrative Secretary
CBTC	Cross Border Technical Committee
CG	Commissioner General
CIAT	Centre for Inter-American Tax
COVID-19	Coronavirus Disease-2019
CSO	Civil Society Organization
CUP	Comparable Uncontrolled Price
DCI	Directorate of Criminal Investigations
DPP	Director of Public Prosecutions
DRM	Domestic Resource Mobilization
DST	Digital Service Tax
EU	European Union
EAC	East African Community
EACC	Ethics and Anti-Corruption Commission
EBIT	Earnings Before Interest and Tax
EPZ	Export Processing Zone
FAD	Fiscal Affairs Department
FTA	Free Trade Agreement
GDP	Gross Domestic Product
GNI	Gross National Income
GST	Goods and Services Tax
ICMS	Integrated Customs Management System
ICT	Information and Communications Technology
IF	Inclusive Framework
IHRM	Institute of Human Resource Management
IIR	Income Inclusion Rule

ACRONYM	DEFINITION
KRA	Kenya Revenue Authority
MAP	Mutual Agreement Procedure
MDGs	Millennium Development Goals
MLI	Multilateral Instrument
MNC	Multinational Corporation
NTB	Non-Tariff Barriers
NTP	National Tax Policy
OECD	Organization for Economic Cooperation and Development
OSBP	One Stop Border Post
PAYE	Pay As You Earn
PE	Permanent Establishment
PSC	Public Service Commission
REC	Regional Economic Communities
RRA	Rwanda Revenue Authority
ROO	Rules Of Origin
SACU	South Africa Customs Union
SARS	South Africa Revenue Service
SDG	Sustainable Development Goals
SEP	Significant Economic Presence
SEZ	Special Economic Zones
SLA	Service Level Agreements
SMEs	Small and Medium Enterprises
STTR	Subject To Tax rule
UK	United Kingdom
URA	Uganda Revenue Authority
USD	US Dollar
TADAT	Tax Administration Diagnostic Assessment Tool
TAT	Tax Appeals Tribunal
VAT	Value Added Tax
VTDP	Voluntary Tax Disclosure Programme
WHT	Withholding Tax
WTO	World Trade Organisation

# Foreword

## Foreword by the Commissioner General Kenya Revenue Authority



It gives me great pleasure to give this foreword to the report of the 7<sup>th</sup> Annual Tax Summit which was convened between 13<sup>th</sup> and 14<sup>th</sup> October, 2021. This event is a main stay in the Authority's calendar, building on the success of previous summits and the subsequent gains accrued. This year's summit-by all accounts-was a resounding success.

The timeliness of this event cannot be overstated. With the economy steadily on the ascendancy following the debilitating effects of the pandemic, we are presented with a set of both unique challenges and boundless opportunities in our path to full recovery.

Now more than ever before, the Authority's achievement of improved revenue mobilisation and trade facilitation, remains our utmost priority. The illuminating and enriching engagement achieved during this summit will continue to shape transformation of tax administration globally.

In line with our 8<sup>th</sup> Corporate Plan which runs under the theme **'Revenue mobilisation through tax simplification, technology-driven compliance and tax base expansion'** we are deliberate in simplification of tax processes to bring services closer to our stakeholders and reduce the cost of compliance. The plan which runs through 2021/22 – 2023/24, is customer-centric and intentionally seeks to address the evolving needs of our customers.

KRA endeavours to deepen engagements with our stakeholders, to continually align our strategies and actions to meet and surpass their expectations.

KRA remains committed to continue playing our leading role of reshaping Tax administration at the global stage. As members of the All Inclusive Framework, we shall continue championing taxation roles and practices that promote fair allocation of taxing rights, stable and transparent processes that will stand the test of time.

Effective use of data and technology in addressing emerging issues shall remain our centre of focus as we continue to implement our Corporate Plan & Strategy.

We continue to demonstrate the need to identify, adopt, and implement innovative ideas around tax mobilisation whilst calling for increased compliance from our stakeholders. It is incumbent upon us to work towards further simplifying the tax processes to foster compliance. Ultimately, the resilience of our people and the tenacity we have exemplified offers bright prospects for the future ahead.

With the culmination of the 7<sup>th</sup> edition of the Annual Tax Summit, we set our sights on the 8<sup>th</sup> edition to be held in 2022. We look forward to a more engaging and informative discourse illuminating the facilitative role KRA plays in tax administration and revenue mobilisation. We are confident that the 8<sup>th</sup> Annual Tax Summit shall be one to share our collective milestones and progress.

See you then!

“

*The needs of our esteemed stakeholders lie at the heart of everything we do. We therefore endeavour to deepen stakeholder engagements by going beyond our call to listen to their needs and actively share our responses and approaches to resolving their emerging tax administration issues and challenges.*

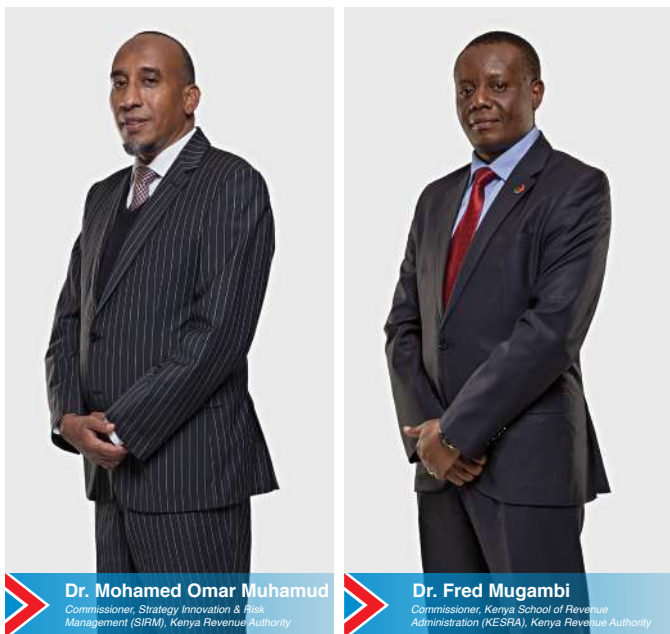
FCPA Githii Mburu, MGH, CBS

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# Preface

## Preface By Dr. Mohamed Omar, Commissioner, Strategy, Innovation & Risk Management and Dr. Fred Mugambi, Commissioner, Kenya School of Revenue Administration.



**Dr. Mohamed Omar Muhamud**  
Commissioner, Strategy Innovation & Risk Management (SIRM), Kenya Revenue Authority

**Dr. Fred Mugambi**  
Commissioner, Kenya School of Revenue Administration (KESRA), Kenya Revenue Authority

This Report contains highlights, discussions and recommendations from the 7th Annual Tax Summit convened by the Kenya Revenue Authority (KRA) on the 13th and 14th October 2021. This year's Summit brought together over 1,500 participants from across the world drawing from tax professionals, tax policy experts and bureaucrats, government officials, private sector bodies, industry captains, political figures, academics, civil society actors, international multilateral organizations, international development agencies, influencers, students, and KRA staff. The Summit, themed "Redefining the Taxation and Landscape: Global Trends, Developments and Impact" highlighted tax administration challenges, experiences and prospects and their implications for Kenya and other developing countries, especially in Africa.

The report commences focus on Kenya's perspectives on the international taxation debate around the OECD Inclusive Framework and its impact on Tax Administration in the developing countries. It expresses Kenya's bold concerns around the two-pillar solution to taxation of the digital economy and proposes key recommendations for progressing international taxation in an integrative way that protects revenue bases of developing countries.

The Summit's second plenary shed light on various countries' experiences with enhancing staff human resources management and business processes amidst the COVID-19 pandemic. Discussions interrogated institutional arrangements tax administrations put in place to better support their staff through the pandemic, including reskilling of staff for new ways of work, digitizing taxpayer engagement, and enhancing staff health and safety. Another key discussion area was around the service delivery agenda in modern tax administration. Kenya and other tax administrations exchanged ideas on the best approaches to improving customer experience in delivery of tax services. Countries were challenged to prioritize a shift from generic customer satisfaction to customer obsession.

The Summit also weighed in on the role of taxation in enhancing economic diversification and growth, projecting Singapore as a best-practice case study in operationalization of an inclusive and integrative National Tax Policy. Also featuring prominently at the Summit was the

global problem of Illicit Financial Flows (IFFs) and how tax administration can come in to combat the vice and stem tax evasion. Stakeholders encouraged active international cooperation, exchange of information among tax jurisdictions, and technical capacity building as promising inaugural steps to effectively deal with IFFs. The Summit wound down with highlights on the readiness of Kenya and the East African Community (EAC) for implementation of the Africa Continental Free Trade Area (AfCFTA), calling on African countries to industrialize for value addition to enhance quality of exports.

This report therefore presents twenty-nine (29) high-level recommendations proposed to respond to the challenges discussed. We will report on KRA's progress with implementation of these recommendations and purpose to continuously engage our stakeholders to ensure their concerns are adequately addressed and issues resolved.

We wish you a happy reading of the 7th Annual Tax Summit Report.

“  
*Another key discussion area was around the service delivery agenda in modern tax administration*  
”  
*Dr. Mohamed Omar Muhamud*

## Why the Tax Summit?

The purpose of the Summit is to bring together actors from various Tax Administrations, as well as other key stakeholders (private sector, policy experts, think tanks, academia, media, and civil society) to deliberate on solutions to various policy, institutional, legal, and administrative challenges facing tax administrations in Africa.

The Summit is also a public participation platform aimed at enhancing discussions with stakeholders and providing feedback on the status of implementation of interventions, solutions, and ideas to resolve challenges and improve tax and customs administration practice.

### The objectives of the Tax Summit:

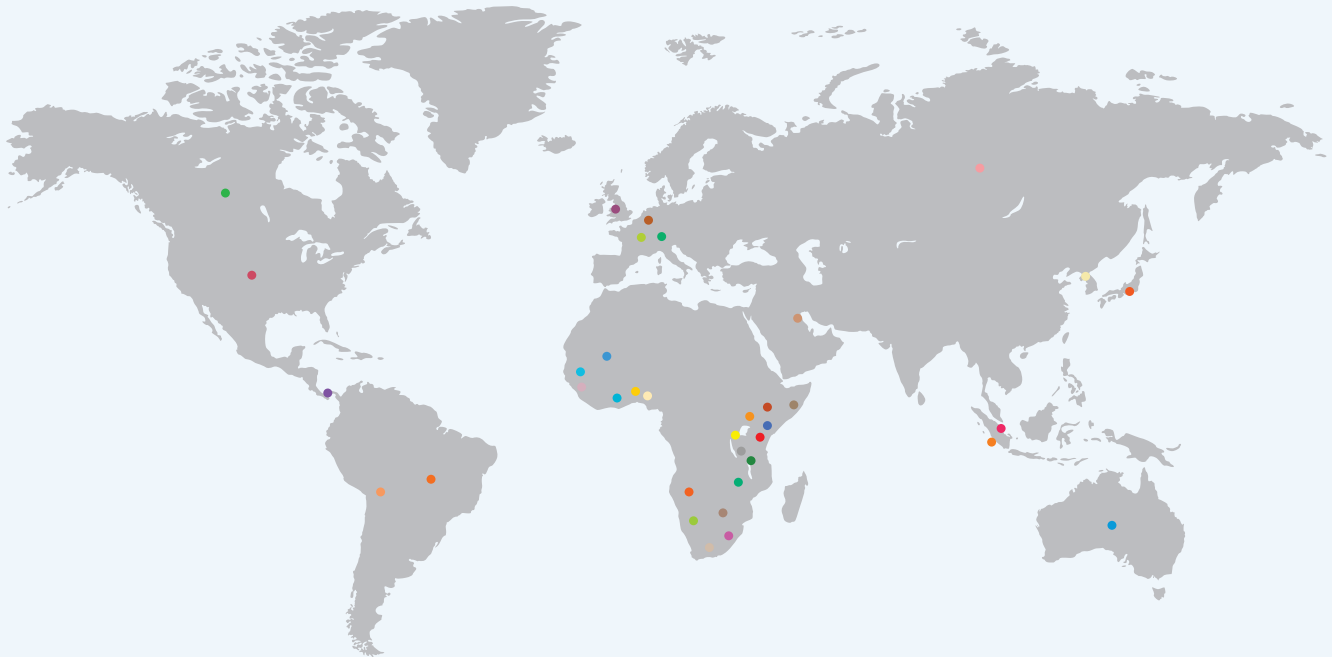
- i. To improve African tax systems by sharing ideas, innovations and strategies successfully implemented in other jurisdictions.
- ii. To enhance the capacity of tax officials on the continent by interactions through networking, knowledge exchange and collaboration.
- iii. To create a platform for tax policymakers and tax administration officials on the continent to collaborate on improving tax policy decisions that will positively enhance Domestic Revenue mobilisation.
- iv. To establish a continental cooperative framework for addressing tax challenges and pursue more taxing rights for African countries, including taxing of the digital economy and BEPS.

# Participants to the Tax Summit

The summit was attended by more than 1570 delegates; with a virtual audience from over 40 countries across the globe represented.



## COUNTRIES AT THE SUMMIT



- |              |                |            |
|--------------|----------------|------------|
| ● Nigeria    | ● Somalia      | ● Gambia   |
| ● Japan      | ● South Africa | ● Brazil   |
| ● Uganda     | ● South Korea  | ● Lesotho  |
| ● Tanzania   | ● Ghana        | ● Namibia  |
| ● Rwanda     | ● Togo         | ● Germany  |
| ● Australia  | ● Russia       | ● Malawi   |
| ● France     | ● UK           | ● Ethiopia |
| ● USA        | ● Malaysia     | ● Kuwait   |
| ● Singapore  | ● Mauritania   | ● Zimbabwe |
| ● Luxembourg | ● Mali         | ● Bolivia  |
| ● Angola     | ● Rwanda       | ● Panama   |
| ● Botswana   | ● Canada       | ● Kenya    |



# Opening Ceremony

## Hon. Eric Simiyu Wafukho, Chief Administrative Secretary, The National Treasury & National Planning.

**Technology and Digitization:** Technology & Digitization: With the advent of the pandemic, many of the measures put in place undermined capacities of economies to sustain revenue mobilization, driving governments to call upon tax administrators to leverage on technology. This has enhanced service delivery, sealed corruption and tax evasion loopholes hence boosting tax compliance levels.

**COVID-19:** The pandemic has brought an urgent need for effective ways of building economic resilience for future emergencies and supporting sustainable economic recovery critical for revenue growth.

**Taxation:** The National Treasury assures KRA of their support in making tax administration processes among the best in the region and the world at large. The Treasury will continuously implement tax policies geared towards expanding the tax base in addition to promoting a friendly operating environment for all taxpayers.

## Amb. Dr. Francis Muthaura, MBS, EGH, Board Chairman, Kenya Revenue Authority

**Digitization -** Digitization has helped tax administration around the world rethink their tax mobilization strategies to fit within the ever-changing world of technology thus setting stage for a National Tax Policy.

**National Tax Policy (NTP):** Upon its finalization, the NTP will provide a set of stable guidelines and rules for taxation in the country. The Summit

provides a good platform to deliberate on other tax topics that would bring forth better tax concepts. He believed that through these ideas tax administration would be simplified.

## FCPA Githii Mburu, MGH, CBS, Commissioner General, Kenya Revenue Authority.

**Revenue Collection:** In Q1 FY 2021/22, the Authority surpassed revenue collection by Kshs. 15 Billion, which was unprecedented. The remarkable revenue performance since last year is attributed to taxpayer

engagement, knowledgeable and service-driven staff, commitment, leveraging on technology, reliance on intelligence networks to curb tax evasion, and collaborating with other government agencies.



### KSHS. 15 BILLION

The amount surpassing KRA target in FY 2021-2022, Quarter One (Jul-Sept)



### 3.7%

The percentile of GDP that Africa loses to Illicit Financial Flows every year

“

*The Authority surpassed revenue collection by Kshs. 15 Billion, which was unprecedented.*

*FCPA Githii Mburu, MGH, CBS  
Commissioner  
General, Kenya Revenue Authority*

”

“

*Digitization has helped tax administration around the world rethink their tax mobilization strategies*

*Amb. Dr. Francis Muthaura, MBS, EGH*

”

# Plenary One

## Plenary Session One: The OECD Inclusive Framework & its Impact on Africa: Opportunities for Developing Countries

### Keynote Speakers

Márcio F. Verdi CIAT: Executive Secretary Inter-American Centre of Tax Administrations

### Discussants

1. Dr. Terra Saidimu, Commissioner Intelligence & Strategic Operations, Kenya Revenue Authority
2. Pascal Saint-Amman, Director of the OECD Centre for Tax Policy and Administration
3. Mr. Anthony Munanda, Technical Advisor, African Tax Administration Forum (ATAF)
4. Mr. Mathew Gbonjubola, Group Lead, Special Tax Operations Group Federal Inland Service Nigeria

### Preamble

The Organisation for Economic Co-operation and Development (OECD) Inclusive Framework (IF) was established to make sure that interested jurisdictions (developed and developing) participate on an equal footing to tackle tax avoidance, improve the coherence of international Tax rules and ensure more transparent environment. Multinational Enterprises (MNEs), whose operations have grown with an ever more integrated global economy, comprise a large proportion of global GDP. The main

concern addressed by the Inclusive Framework relates to Base Erosion and Profit Shifting (BEPS), which refers to strategies by MNEs that exploit tax gaps and mismatches in tax rules to artificially shift profits to jurisdictions with low or no tax rates and no/little value creating economic activity.

The OECD Inclusive framework (IF), which has a membership of 140 countries as of August 2021, issued a Statement establishing a new international tax reform framework, in July 2021, where at least 136 countries joined in. As part of implementation of the OECD Two Pillar proposal, members of the IF who join the statement are obliged to withdraw their unilateral measures such as digital services tax and similar measures imposed on non-resident companies which do not have physical presence in the market jurisdiction.

Some countries had anticipated the challenges of taxing the digital economy and had already imposed, through their domestic legislations, unilateral measures, such as digital services tax and equalization levy. Kenya was among the countries (Nigeria, Sri Lanka & Pakistan) that did not join the statement for various reasons.

The OECD Inclusive framework proposed Two-Pillar solution for the taxation of digital economy:

Pillar 1	To ensure fair distribution of profits and allocate taxing rights to market jurisdictions with respect to the largest and the most profitable multinational enterprises (MNEs) including digital companies with global turnover above EUR 20 billion and profitability above 10%. This reallocates taxing rights from residence jurisdictions to source jurisdictions, with or without a permanent establishment (PE).
Pillar 2	To provide a global minimum corporate tax rate (proposed 15%) that countries can adopt to ensure their tax bases are protected from unfair tax competition.

The plenary focused on how to fundamentally reshape the international tax architecture within the ongoing IF discussions, how an agreed global minimum tax will affect developing countries, and finally what the appropriate domestic tax policy response should be adopted for these countries.

### KEY HIGHLIGHTS

1. The all-inclusive framework by OECD has proposed a multilateral approach (two-pillar global tax system) to addressing the challenges of taxing the digital economy in a Statement (based on BEPS Action 1).
2. 136 out of 137 members of the OECD G20 Inclusive Framework have signed the agreement with two Africa members with Kenya and Nigeria yet to sign.
3. The OECD's Pillar One changes enable market jurisdictions to charge income tax on a portion of the profits of large multinational enterprises (MNEs) operating within their borders.
4. Pillar One and Amount A will apply to MNEs with sales over EUR 20 billion that generate a net profit above 10% (profit before tax/turnover).
5. Amount A is set at 25% of an MNE's residual profit (i.e., profit in excess of 10% of revenue).
6. This will be allocated to market jurisdictions with sufficient nexus, using a revenue-based allocation key – being a revenue of at least EUR 1 million from that jurisdiction (or at least EUR 250,000 for jurisdictions with a GDP of less than EUR 40 billion).
7. Pillar Two proposes a new network of rules that will reallocate taxing rights according to a new global minimum tax regime of 15% – aimed at ensuring a minimum effective net tax rate across all jurisdictions. It will apply to all enterprises generating a revenue above EUR 750 million.
8. Countries will sign into the new Multilateral Convention (MLC) in mid-2022 to enable implementation of the new rule in 2023 and the affected MNEs will pay the tax in 2024.

# Plenary One

## Keynote address by Mr. Márcio F. Verdi

More than 20% of the members of the all-inclusive framework are African countries. With the adoption of BEPS, countries have made great achievements in the area of operations, exchange of information, and elimination of bank secrecy as well as the fight for identification of beneficiaries and illicit flow of funds, money laundering, and tax crime.

Being part of the inclusive framework provides resources and capacity for developing countries to deal with BEPS. Consequently, BEPS needs to be pitched as a tax administration agenda at the political level. The proposed measures need to be evaluated with great consideration for each country's particular situation and economic context. Every country must define a strategy and concentrate on what is important to them.

Action 1 of the BEPS program has huge potential for Africa and the world because it is related to activities done by a company without a permanent establishment (PE) in their market jurisdiction. This action focuses on two main taxes: Consumption Tax (VAT and Excise) and Income Tax.

In terms of Consumption Tax, there are international guidelines from OECD, CIAT, ATAF, etc, which provide a basis for taxing companies without PE. Instead of waiting for new guidelines and definitions, countries should tax these companies in alignment with their domestic tax legislation. For Income Tax, there have been many strides to improve the international taxation laws. It will be difficult to implement new standards until 2023.

Countries need to be prepared by focusing on other BEPS actions that are key to the achievement of Action 1.



*In conclusion, the inclusive framework provides a great opportunity, but also poses a challenge. If countries do not have a global vision of the process, they will minimize the results they can realize using BEPS in its complexity.*

Mr. Márcio F. Verdi



For instance, Action 14 on Mutual Agreement Procedures (MAP) and mechanisms for resolving tax disputes with developed countries; Action 11, which is important to evaluate the impact of BEPS in our countries; and Action 12, on Mandatory Disclosure Rules. These actions are more preventive than reactive and they provide many benefits. But countries must be prepared to administer these benefits by building institutional capacity to analyse taxpayer activities. Action 2 on Hybrid Regulations is proving difficult for developing countries to implement (e.g., Malibu and Costa Rica adopted these regulations but still struggle with their application two years on) and may require more time.

In conclusion, the inclusive framework provides a great opportunity, but also poses a challenge. If countries do not have a global vision of the process, they will minimize the results they can realize using BEPS in its complexity. Moreover, BEPS is part of the bigger stake, providing a holistic vision for tax administration.

## Discourse

### Opportunities for developing countries with the Inclusive Framework

The OECD Inclusive Framework has contributed to the development of the tax landscape in Africa in various ways. Under the OECD Two Pillar proposal, developing countries stand to benefit under several circumstances.

- For instance, countries with a Gross Domestic Product (GDP) lower than EUR 40 billion (USD 45 Billion), which become market jurisdictions, will have nexus when an in-scope MNE derives EUR 250,000 (USD 280,000) from the market jurisdiction. When nexus is established in the market jurisdiction, Amount A (new taxing rights) is allocated to it for taxation by that State. This thus allows smaller jurisdictions a chance to obtain tax from the activities of in scope MNEs operating in their jurisdictions.
- For economies with a GDP greater than EUR 40 billion (Kenya is included), Amount A will be allocated to these jurisdictions if the in-scope MNE derives at least EUR 1 million from a particular jurisdiction.
- There is a new proposal to be inserted in tax treaties of Article 12B of the United Nations Model Double Taxation Convention for Developed and Developing countries (UN Model) approved in April 2021 by the UN Committee of Experts. The provision applies to cross-border payments from Automated Digital Services (ADS). The Article provides source states (the market jurisdictions), with an opportunity to obtain revenue from withholding tax on payments that qualify such as royalties or fees for technical services.

The challenge with digitization has been with the tax policies: In the past 30 years, there has been globalization without updates on tax. This has resulted in tax sovereignties taking advantage of globalization without tax regulation, mainly to attract investments or profits. This crisis of identity in international tax resulted in the adoption of initiatives such as Exchange of Information, Mutual Administrative Assistance in Tax Matters, BEPS, etc. The second project began with BEPS to update international tax principles. Kenya, in 2016, joined the efforts to put an end to treaty shopping, to stop hybrid mismatches, update the definition of permanent establishment, and try to introduce the updates of transfer pricing (TP). The mission was not accomplished hence the nexus, fair distribution of tax and minimum rate of 15%.

The permanent establishment (PE) definition is not good enough for a country to be able to tax MNCs (especially tech companies) and compensate for the downsides of TP models, while securing part of the rent of winners of globalization. PE definition requires physical presence which is not applicable to modern digital business models. This has led

# Plenary One

to a global discussion under BEPS Action 1 to introduce a two-pillar solution to the taxation of the effect of digitalization and globalization.

Under Pillar One, a total of USD 500 billion of excess return shall be reallocated to market jurisdictions. The excess return, representing 25% of the residual profits of the largest (EUR 20B turnover) and most profitable (over 10% profit before tax) MNEs shall be reallocated based on a new nexus (EUR 1M worth of sales in a country with GDP of EUR 40B or EUR 250,000 worth of sales in a country with GDP of below EUR 40B). This reallocation is Amount A.

Pillar Two establishes a global minimum effective tax rate of 15% which will ensure that MNCs can no longer plan in a way that could reduce their tax burden in the country to below 15%.

Africa, through the African Tax and Administration Forum (ATAF), played a key role in defining the features of the agreement: Pillar One, for instance, initially proposed a 10% profit after tax, but now this is 25%. The consultation also provided for tax certainty, and mandatory and binding dispute resolution mechanism. The Inclusive Framework, especially BEPS, has provided many opportunities which have been leveraged by African countries e.g., change of domestic laws, revision of tax treaties and tapping into a wide range of technical capacity.

Through ATAF and as part of the Cross Border Technical Committee (CBTC), African countries have had the opportunities to participate in shaping agreements and influencing discussions largely led by developed nations. This has been aimed at achieving a coordinated global solution which will ensure stability in the international tax system.



*Kenya, in 2016, joined the efforts to put an end to treaty shopping, to stop hybrid mismatches, update the definition of permanent establishment, and try to introduce the updates of transfer pricing.*

*Dr. Terra Saidimu, EBS*



Pillar One has registered some successes to this end;

- Broadening of the Scope – Pillar One initially focused on Automated Digital Services (ADS) companies i.e., highly digitalized, consumer facing businesses. This was a narrow scope. Currently, there is a wider scope capturing all businesses - as long as they meet the threshold of being large and profitable. This eliminates the complexity of determining which companies are in or out of scope.
- Having Nexus Rules – Initial nexus rules required for countries eligible for allocation of Amount A to have at least EUR 5 million of sales of the multinationals in scope. This has since reduced to 1 million Euros. For countries with GDP lower than EUR 40B, the threshold will be

EUR 250,000. This will benefit most developing countries.

- Exclusion of Extractive Industries – This will benefit most resource rich countries in Africa.
- Elective Binding Resolution Mechanism – This enables most African countries to avoid a more costly and rigorous process of mandatory binding resolution for issues relating to Amount A, while also recognizing the sovereignty of the countries and their judicial systems.

Pillar Two also registered some success for African countries;

- Subject To Tax Rule (STTR) as a Minimum Standard – This rule accords taxing rights to the resident jurisdiction for any income lowly taxed in the source jurisdiction. This will help compensate for weaknesses in tax treaties so that any base eroding payments between connected parties not effectively taxed in the other jurisdiction can be taxed back by reinforcing gap treaties. E.g., if the treaty had reduced a WHT on interest or royalty to 0% or 5% then it can be raised back to the minimum of 9%. As a high-level political agreement, there is a range of implementation instruments that countries need to design together thus providing an opportunity for countries to participate in designing the Multilateral Convention (MAC) for implementing Amount A and Multilateral Instrument (MLI) for implementation of STTR and other domestic rules which may be important to implement global rules.

The agreement is not the end of the global tax debate. There still needs to be a significant change in the global tax rules, especially in allocation of taxing rights between source and resident states.

Currently, the unilateral options for taxation and countries that practice them include;

- Significant Economic Presence (SEP) – Based on factors that create a nexus from a purposeful and sustained interaction with a jurisdiction's economy e.g., Nigeria.
- Withholding Tax (WHT) – Deduction of tax at point of payment, which is common globally.
- Equalization Levy – Imposed on gross revenue and works like WHT e.g., in India.
- Digital Service Tax (DST) – Imposed on revenues of a company that provides digital services e.g., Hungary, Kenya, UK, France, etc.

### Why the Kenya position and its impact in Tax Administration

Kenya is a member of the OECD/G20 Inclusive Framework (IF) on BEPS and has been actively participating and engaging with the OECD on matters pertaining to the challenges of taxation of the digital economy. However, Kenya did not join the consensus in the July 2021 Statement, citing a variety of concerns.

- i. The proposal by Kenya to reduce the revenue threshold from EUR 20 billion to EUR 750 million, to bring more companies in scope was not adopted. This and a profitability above 10% automatically reduced the number of in-scope companies to just about 100 MNEs. As it is, there is no clarity on the tax collections and MNEs that would be in scope in Kenya. In Kenya, 89 companies are compliant in as far as filing of DST is concerned. Out-of-scope companies will however not be included in the tax brackets of market jurisdictions even though they participate in the economic life of these jurisdictions. Out-of-scope companies with physical presence in a market jurisdiction might be motivated to structure their operations and operate without a permanent establishment thereby not paying their fair share of taxation from operations in a market jurisdiction like Kenya leading to BEPS. This goes against the principles of fairness and equity in

# Plenary One

Positives of Unilateral and Multilateral Approaches	
Unilateral	Multilateral
Assertion of tax Sovereignty	Measured and targeted rules that promote innovation
Flexibility	Global acceptability leading to improved voluntary compliance
Speed	Creates a more favourable environment for investment and economic growth worldwide
Tailored Policies	Elimination of double taxation
Simple to Administer	Tax certainty and reduced tax disputes
	Reduced retaliatory trade wars
	Eliminates tax competition

treatment of taxpayers.

- ii. Joining the consensus means that the IF member will implement the OECD Two Pillar proposal which requires the withdrawal of all unilateral measures and other relevant measures. Kenya has already adopted the Digital Service Tax, which it would have to forego, hence eroding its revenue base. OECD statistics also indicate that Pillar One will re-allocate taxing rights of approximately USD 100 billion to countries, without clarity on Kenya's allocation from the same.
- iii. Kenya and other developing countries may not have the capacity to participate in the mandatory dispute resolution in relation to Amount A. Additionally, transfer pricing disputes may be included within the mandatory binding dispute resolution because adjustments made in a transfer pricing audit may affect Amount A. Kenya would thus lose the ability to resolve transfer pricing disputes under the proposals. Moreover, Kenya already has an Alternative Dispute Resolution (ADR) in place, which works for the country.
- iv. Moreover, the unilateral approach provides certain opportunities for developing countries.
  - For developing countries without a Digital Services Tax or other similar regime, the OECD Two Pillar proposal represents a new taxing right. However, the allocation of between 20-30% of residual profits to market jurisdictions is significantly low given that the parent jurisdiction will obtain the routine profits of 10% and the remainder of the residual profits, whereas the MNE derives significant profits from the market jurisdictions.
  - With unilateral measures in place there is certainty of revenue mobilization. It is easy for a tax administration to re-structure its domestic legislation to ensure minimal compliance burden for the taxpayer.
  - It is possible for MNE's with a growing global turnover to re-structure and adjust their profitability to avoid being in scope of the new tax rules. As a result, these rules could be subject to abuse. Each jurisdiction is however able to monitor and apply its anti-abuse provisions while administering unilateral measures.
- v. The Inclusive Framework was envisioned to give an equal footing to all members. Kenya is pursuing consensus with regards to any proposed taxing rules. This will ensure major concerns are addressed and result in a stronger global tax system.

## The Nigeria Position: A Business Case & Impact on Tax Administration

Nigeria was among the African countries that did not join the Statement for various reasons;

- i. The expansive definition given to the unilateral measure dilutes the criticality of traditional approaches of taxing rights by Nigeria and undermine some benefits of unilateral approaches e.g., assertion of tax sovereignty, flexibility in tax administration, speed in making necessary tax law amendments, tailored tax policies to the peculiar economies and simplicity in tax administration.
- ii. There was no consensus or fair deal in the published agreement for most African countries and other developing countries, a challenge anticipated in multilateral arrangements.
- iii. Most developing countries felt short-changed by the agreement and are cautious in their approach to multilateral negotiations for fear of repression by developed jurisdictions.
- iv. The Nigerian Constitution does not allow for the country to enter a mandatory binding dispute resolution. This concern was ignored in establishing.
- v. The provision for revenue turnover of EUR 20 billion and a profitability above 10% accounting profit Earnings before Interest and Tax (EBIT) automatically reduces the number of in scope companies to only 6 in Nigeria, hence substantially reduced revenue for the country.
- vi. The Minimum Standard should be applicable to every country. The STTR only applies between developing countries and some countries that are deemed to have an effective tax rate that is less than the minimum tax. It does not include countries in Europe, US or other larger countries - This therefore does not qualify to be a minimum standard. This needs to be addressed.

## Way Forward for Developing Countries

Kenya and Nigeria are committed to continue engagement with the process as they sharpen capacity for tax policy and administration. To address some of the challenges (e.g., cumulative effect of past failures in modernizing tax administrations) these countries will invest in technology for tax administration and develop options suitable to developing economies on a multilateral basis.

Kenya is currently involved in a project with OECD that seeks to modernize tax administration and leverage on digitization. This focuses on moving to a new form of service based on data collection and on the direct relationship with the taxpayers – e.g., using a smart phone that will enable taxpayers to better pay their taxes and enable tax administrations to better predict data, thus providing better service to both taxpayers



# Plenary One

and government and making revenue collection faster and efficient.

Kenya has made the following proposals to OECD with regard to Pillar Two solution.

- Reduce the revenue threshold from EUR 20 billion to EUR 750 million, to bring more companies in scope within the jurisdiction.
- Developing countries to retain taxing rights on DST for out-of-scope companies.
- Allow for a non-binding arbitration process.
- For STTR, establish a minimum tax on royalties.
- Exclude financial institutions and extractive industries.
- Raise the profit share of companies from 25% to 35 - 50%.

## Quotes

*“The Inclusive Framework is a great opportunity, but it is also a great challenge. If we don’t have a global vision of the process, we will minimize the results we can have using BEPS in its complexity.”*

Márcio Verdi

*“We need to know what we are getting for us to forego what we already have.”*

Dr. Terra Saidimu

*“The equal footing spirit of the inclusive framework will manifest itself in trying to get a solution out of this stalemate.”*

Anthony Munanda.

*“Equal footing is not just equal rights to sit at the table, but equal rights to have your views considered objectively.”*

Mathew Gbonjubola.

## KEY RECOMMENDATIONS

1. Developing countries need to leverage on all other BEPS Actions as applied to their contexts as negotiations on new rules for taxing the digital economy are ongoing.
2. Kenya should consider whether the current two-pillar proposal offers any tax profits and whether the allocable profits are substantial enough to cancel out the DST.
3. Countries need to do a cost-benefit analysis of how much they would obtain from Amount A and assess other key considerations - e.g., potential trade sanctions - and countries’ broader economic perspectives.
4. In considering and implementing unilateral measures and evaluating its effectiveness in tax administration, countries should pay maximum attention to:
  - a. Registration of the taxpayer;
  - b. Enforcement;
  - c. Verification of the declarations;
  - d. How the measures may interact with tax treaties depending on their design.

Countries, especially in the developing world need to pitch BEPS as a priority political agenda and not just a tax agenda. Tax authorities should analyse each BEPs options, present and discuss with the judiciary to guarantee that they will understand and implement each measure adopted.

## Key Statistics



# 2023

Deadline for implementing the new tax rules.



# Plenary One

## Plenary One: Keynote Speaker & Panellists



# Plenary Two

## COVID-19 Recovery and Way Forward: People & Processes

### Keynote Speakers

Mr. Edward Kieswetter, Commissioner, South Africa Revenue Service (SARS)

### Discussants

1. Mr. Joseph Mucheru, E.G.H, Cabinet Secretary, Ministry of ICT, Innovation and Youth Affairs, Kenya.
2. Mr. Pascal Bizimana Ruganintwali, Commissioner General, Rwanda Revenue Authority.
3. Mr. Joseph V. Onyango, MBS, National Chairman Institute of Human Resource Management (IHRM-K).
4. Dr. David Kinuu, KRA Commissioner, Corporate Support Services.

### Preamble

The COVID-19 pandemic inevitably had repercussions on tax administration and reconfigured the role of people, business processes, and technology in tax management.

This session interrogated the approaches KRA and other tax jurisdictions such as Rwanda Revenue Authority (RRA) and South Africa Revenue Service (SARS) had taken towards aligning with modern corporate and tax management practices, and what they hold for the future of tax management. It focused on the path to recovery post-pandemic with renewed emphasis on human resources management and service delivery.

### KEY HIGHLIGHTS

1. COVID-19 transformed the taxman-taxpayer relationship to a more digital-based one, ushering the birthing of re-skilled and repurposed workforce with smarter deliverables.
2. The pandemic witnessed proliferation of online jobs and e-commerce transactions e.g., Ajira digital platform in Kenya with an estimated 1.2 million people working and transacting online.
3. Staff empowerment through adaptation to new norms and roles led human resource departments to re-evaluate job descriptions and redesign expected output and skills.
4. COVID-19 led to a renaissance of a resilient work force, responding to calls for good leadership capable of riding waves of adversity to continue offering quality customer experience to taxpayers.

### South Africa Case Study: The SARS Experience

SARS expeditiously formulated a medium and long-term strategy once it became clear that the effects of the pandemic would be far reaching and longer than initially anticipated. The leadership put in place a contingency plan that covered both medium and long-term responses in addressing the pandemic.

To create a resilient staff and better serve taxpayers, SARS had to urgently answer the following questions:

1. What is the reason for their existence?
2. What is required of them as an organization?
3. What the future portends for them?
4. What is their definition of success?

By addressing these questions, SARS significantly reduced the timeline for the implementation of their strategic plan from a projected period of five (5) years to a crash period of only a few months. SARS developed key internal messaging around this need which helped them remain connected with taxpayers.

The revenue service prioritized restructuring of the workforce to increase productivity during the turbulent times, with special emphasis on the use of technology to engage with its stakeholders. SARS selected 3.6 million of its taxpayers who were unable to file physical returns to undertake an online self-assessment, an agreeable figure would then be arrived at, and taxpayers would upload supporting documents.

Within the first 100 days of the pandemic, only 10% of SARS staff were working remotely as there was no normative movement possible. SARS

was later declared an essential service under the Disaster Management Act necessitating upgrade and digitization of services. This enabled 90% of the staff to work remotely.

Digitalization resulted in 89.9% of all filing obligations done electronically with only 10% of filing done physically. 100% of VAT declarations were filed electronically; 7.6 million electronic letters were generated and sent to taxpayers; 800,000 tax registrations were done online; and 138 million third party data in the data warehouse facilitated risk profiling and auto assessments.

Within 100 days, the revenue service intermediated more than 6 million taxpayer interactions previously done in-person to an online platform, introduced the auto assessment functionality where taxpayers would spend a maximum of 5 minutes to undertake assessments, enabled 90% of taxpayers to receive assessment outcomes in under 5 seconds of application, and enabled 8 out of 10 taxpayers to receive refunds within 72 hours of application.

A repurposed workforce, coupled with modern technological solutions like algorithms and artificial intelligence, birthed the transition from administrative and repetitive work to smarter deliverables. This resulted in motivated staff, improved revenue collection, and surpassing of revenue targets.

### Rwanda Case Study: The RRA Experience

Rwanda Revenue Authority (RRA) made deliberate efforts to support taxpayers during the pandemic by reviewing processes to ease the taxpayers' burden. The Authority had in place business continuity plans and tools at the onset of COVID-19 which enabled them to achieve and surpass set revenue targets. Through employment of acquired ICT tools, staff were able to work remotely while taxpayers could comply through online filing. There was an increase in the number of online engagements and use of technology to monitor employees and ensure utilization of data science techniques to improve productivity.

RRA prioritized compliance and investigation of tax evasion while extending the use of technology, system integration and enhanced data analytics which synthesized information from different sector players resulting in a paradigm shift in revenue administration work processes.

RRA's risk-driven approach for mapping high risk tax compliance cases and presentation to the audit desk helped improve revenue collection. However, online transactions exposed staff to more cyber risks and vulnerability to cyber-attacks. RRA therefore undertook various measures to protect their internal systems and service data, including a) Developing strong policies to timely respond to cyber security challenges; b)



## Plenary Two

Communicating the policies to the workforce; and c) Training staff on basic cyber protocols.



*KRA also upscaled and upgraded use of technology in its support centres spread throughout the country and expanded online access.*

**Dr. David Kinuu, EBS**



### Kenya Case Study: The KRA Experience

At the onset of the COVID-19 pandemic, the KRA Management sought to protect employees by reviewing service provisions available through an upgrade of staff medical cover and offering of psycho-social support among other measures. KRA also accelerated ICT uptake which necessitated re-scaling and re-tooling of employee engagement and created opportunities for training to improve technical skills of staff and taxpayers e.g., virtual training at Kenya School of Revenue Administration (KESRA).

KRA also upscaled and upgraded use of technology in its Support Centres spread throughout the country and expanded online access to its critical services, including the contact centre, emails, document scanning and online engagement platforms. These measures also enabled staff to be productive in a safer work environment, with about 30% of staff working from the office at any given time. Staff working remotely were also enabled to offer tax administration service from home through reconfiguration of working tools for better service delivery.

Despite the negative effects of COVID-19 on revenue mobilization and work processes, KRA has been a leading light in the utilization of technology in execution of revenue functions, including stakeholder and taxpayer engagements. The pandemic has also presented an opportunity for emergence of a new study stream of how a resilient workforce may ride waves of adversity to continue offering the right customer service to its citizens.

### Discourse

A sizable number of businesses moved online and embraced technology leveraging on presented efficiencies. The taxman also aligned and streamlined its operations with the aggressive use of technology to monitor the filing of returns from the business, guaranteeing the authenticity of collated data.

The Kenyan government offers about 130 government online services which allow for revenue payments and collections from across the country e.g., Ardhi Sasa which simplifies digitalization of land transactions and provides taxpayers with efficient ways of remitting levies. The pandemic has also witnessed the proliferation of online jobs: Kenya currently has an estimated 1.2 million people working online and transacting from overseas

through the Ajira Digital platform. KRA would benefit from integration with these platforms to better enhance compliance and broaden the tax base. The Kenya Ministry of ICT's contribution to KRA's functions is the provision of necessary infrastructure, connectivity, security, devices and trainings to enable the workforce achieve maximum output. Internet connectivity across Kenya is extensive down to the Sub Counties with taxpayers not having to travel far to file their tax returns. Kenya also has in place data protection laws that allow organizations to effectively manage citizens' data. Through an initiative by the First lady Margaret Kenyatta, Kenya also launched a campaign to ensure protection of minors in the cyber space by creating awareness and sending out alert messages warning parents and minors of inappropriate online content. KRA will benefit from an enhancement of such initiatives to better protect its staff and taxpayers in the course of tax administration.

Human Resource practitioners have become focused to re-evaluate jobs in terms of skills and abilities required, with traits such as honesty and integrity, deemed integral with the disruption occasioned by the pandemic. The new way of working amidst the pandemic has negatively impacted employees' behaviour and motivation and necessary precautions need to be undertaken for staff to perform at work. Tax authorities need to improve management-staff communication skills to maximize employees' trust and minimize stress and anxiety.

With the pandemic, technology came in handy deeming remote working inevitable and necessary yet still appreciating workplaces. There has been a cultural change in relation to monitoring the efficiency and effectiveness of employees at the workplace with the introduction of remote working. This has called for active and trust-driven people management with focus on productivity and results. Tax authorities should augment this with profiling of staff talent, career placement, and talent development to ensure performance and productivity with less supervision.

Externally, sharing of correct data and statistics (effects of initiatives such as tax rebates and PAYE reconfiguration) by tax authorities has led to improved public trust and motivated taxpayers to file and pay taxes honestly and on time in some jurisdictions. It is imperative for KRA to consider this active taxpayer communication to enhance taxpayer's trust in the authority and its staff, hence improving staff motivation and morale.

### KEY RECOMMENDATIONS

1. Kenya should encourage work through online platforms such as the Ajira Digital Platform in Kenya to enhance compliance and broaden the tax base.
2. Develop strong policies to respond to cyber security challenges, communicate the policies to staff and train them on responding to cyber security crime.
3. Upscale protection of tax administration employees by enhancing key services e.g., improvement of medical cover, psycho-social support among others.
4. Re-evaluate jobs in terms of skills and abilities to align with modern tax administration practices.

# Plenary Two



*With the pandemic, technology came in handy deeming remote working inevitable and necessary yet still appreciating workplaces. There has been a cultural change in relation to monitoring the efficiency and effectiveness of employees at the workplace with the introduction of remote working.*

Mr. Joseph V. Onyango, MBS



## Quotes

*"Our response to COVID-19 was also inadvertently our response to our strategic intent and our vision."*

Edward Kieswetter.

## Key Statistics



### 5 MINUTES

Maximum time taken to conduct auto assessment in South Africa



# Plenary Two

## Plenary Two: Keynote Speaker & Panellists



# Plenary Three

## Plenary Session Three: Taxation for Economic Diversification & Growth.

### Keynote Speakers

Mrs. Chia-Tern Huey Min - Deputy Commissioner Internal, Investigation and Indirect Taxes, Inland Revenue Authority of Singapore (IRAS)

### Discussants

1. Ms. Katherine Baer - Deputy Director of Fiscal Affairs Department of the International Monetary Fund.
2. Dr. Mohamed Omar Mohamud - Commissioner Strategy, Innovation and Risk Management, Kenya Revenue Authority.
3. Mr. Victor Ogalo - Deputy Chief Executive Officer in charge of Competitiveness and Operations, Kenya Private Sector Alliance (KEPSA).
4. Prof. Phillip Nying'uro - Professor of Political Science and International Relations, University of Nairobi.
5. Hon. David Mboni - Committee Member, National Finance & Planning Committee, Parliament of Kenya.

### KEY HIGHLIGHTS

1. Taxation plays a critical role in creating a stable trade environment by providing clear, coherent policies backed by fair and efficient implementation.
2. Efficiency, equity, and simplicity are key principles in developing a practical tax framework.
3. The national, regional and global variables play a role in the success of tax policies.
4. Tax authorities need to maintain the core identity while adjusting the tax policy to reflect the changing economic environment.
5. The National Tax Policy should seek to provide a predictable and consistent tax regime that would attract investors by aligning the tax administration operations with principles of taxation.
6. National Tax Policy formulation and implementation success will be dependent on the deliberations and input of key stakeholders.

### Keynote Address: A Case Study of Singapore

This focused on the significance of tax administration in the growth of Singapore's economy from the 1960s to the present, underscoring the fundamental principles that guide its tax policy framework.

Fairness, progressiveness, and pro-growth are key tenets in tax administrations. To help with this goal, Singapore's Revenue Authority (IRAS) has developed five key thrusts/objectives namely:

- i. Funding Government Spending in a Sustainable and Resilient Manner: The tax revenue base has been diversified through the years to include direct taxes and indirect taxes such as Goods & Services Tax (GST) set to increase by 2% from 7% to 9% between 2022 and 2025.
- ii. Encourage Enterprise and Growth: This is achieved by building a conducive environment for businesses at various stages of growth, building better infrastructure, promoting skills necessary for growth, and continually expanding treaty agreements which currently numbers at eighty.
- iii. Keeping Overall Tax Systems Progressive: The top 20% of Singaporean households pay 60% of the taxes and receive 10% of the benefits while the bottom 20% of households pay less than 10% of the taxes and receive 30% of the benefits.
- iv. Supporting Social Objectives: For instance, there are higher taxes and duties levied on liquor, cigarettes, motor vehicles, and tax incentives that encourage philanthropy.
- v. Ensuring Tax Certainty: Singapore ensures clarity in tax issues,

### Preamble

An ideal tax system should raise essential revenue without excessive government borrowing, discouraging economic activity, and excessive deviation from tax systems. Kenya, being a developing country, faces challenges when establishing efficient tax systems especially with the informal structure of the economy.

The need for public discourse on how to rationalize taxation in Kenya calls for an establishment of a National Tax Policy to support the government's domestic resource mobilization agenda.

The session focused on how taxation can enhance economic diversification, capital formation and pick lessons from countries that have successfully implemented a taxation regime that supports diversified economies.

guidance on tax rulings and pro-actively seeks feedback from businesses on where rules need to be amended.

In the 1960s to 1970s, Singapore's economy focused on export-led industrialization while overlooking import substitution. This informed the beginning of a tax policy that was anchored on substantive economic growth in the manufacturing sector, with focus on export promotion and job creation. The net effect of this saw an increase in manufacturing's share of the GDP from 14% to 22%.

In the 1980s to 1990s, the Singaporean economy moved to more capital and skill intensive activities, and tax incentives adjusted to move away from labor-intensive industries to support larger, high-value-added activities. This enabled Singapore to build strong clusters of industries in electronics, petrol chemicals, manufacturing of components, precision engineering, and emerging as the world-leading producer of hard disk drives.

In the 2000s, Singaporean tax policies were keen on promoting entrepreneurship, by encouraging companies to make investments in technology to raise productivity and help Singaporeans develop and master skills in new growth areas. When Singapore was faced with an economic recession in 1985, it was forced to review its fundamental policies and move towards innovation-led and knowledge-based policy. Its highly diversified economy is mainly powered by the manufacturing and services industry with manufacturing comprising of 21.5 % of Singapore's GDP.

### Discourse

For a middle-income country like Kenya, a National Tax Policy (NTP) would provide consistency and predictability in the tax regime. This would help in attracting investors and align tax administration operations with principles of taxation to create simplicity, agility, and dynamism in the tax regime.

KRA collected Kshs. 1.669 trillion in the financial year (FY) 2020/2021 against an economy of 10 trillion. This accounted for 17% of the GDP under the prevailing circumstances and a positive growth compared to the previous year. KRA has put in place various measures to enhance its tax base which include a) Taxation of the digital economy; b) Introduction of the Voluntary Tax Disclosure Program (VTDP); and c) Simplicity and leverage on third-party data analytics, among others. The National Tax Policy will offer predictability and certainty in taxation, giving confidence to investors thus promoting long-term investments. NTP will also help streamline the contradicting sectoral policies, plug revenue leakages and help KRA broaden its tax base.

A successful NTP is dependent on considerations of three major level



# Plenary Three

variables, a) National Level Variable; b) Regional Level Variable; and c) International Economic Governance system.



*“The National Tax Policy is as a long-term framework (5-10 years) that provides an institutional framework for implementation of tax laws.”*

*Dr. Mohammed Omar Muhamud*



The National Level focuses on the Kenyan economy, politics, and social variables, while the Regional Level focuses on the EAC and African dimensions e.g., East African Community (EAC) Customs Union, Africa Continental Free Trade Area, etc. The International Economic Governance system refers to the institutions that govern and influence the international economic systems that are important to Kenya. These institutions provide principles that can be used to guide national tax policies: For instance, the World Trade Organization (WTO) advocates for principles that discourage subsidies and liberalization. As such, tax policies in Kenya should appreciate that the country operates in an era of liberalization where most economies allow foreign direct investment, which have implications on domestic capital formation. Large multinational companies (MNCs) therefore tend to outcompete the local companies. Government therefore needs to intentionally ensure its tax policy prioritizes the expansion and growth of the local private sector to grow its tax base: Kenya will have a larger tax base if its local private sector will grow to surpass the foreign private sector.

The minimum revenue required to perform essential functions by government and that is also conducive for economic growth is estimated to be at 12.75 % of the GDP, 15% to address the issue of revenue volatility, and 17% to help states attain the Millennium Development Goals (MDGs). Kenya's current Tax:GDP ratio is at 12.8 %. A robust NTP which also prioritizes growth of the local private sector will ensure higher tax to GDP ratio needed to boost growth and support inclusion in public spending. In this quest, Kenya should focus beyond the three major sectors of the economy i.e., Manufacturing, Banking/Insurance, and ICT.

Developing countries like Kenya should take into consideration existing multilateral agreements such as the EAC treaty other than placing more value on bilateral agreements where countries offering Official Development Assistance (ODA) and financial aid may have leverage to influence national tax policies.

Kenya and other developing countries should also aggressively adopt other good revenue administrative practices including provision of tax information which ensures timely resolution of disputes and hence reducing reliance on litigation.

## KEY RECOMMENDATIONS

1. Government working with KRA should develop a tool/system to monitor, interrogate and report on national expenditure. This will help reduce wastage and progressively build up surplus from tax revenues.
2. KRA should engage the National Treasury to ensure submission of NTP to parliament before February 2022 and ensure review of NTP every 5 years to create a stable business environment.
3. Kenya should rationalize taxes on some items to increase consumption and take advantage of the economies of scale.
4. Kenya should deliberately prioritize empowerment of local private sector through tax policies for domestic capital formation and growth to broaden its tax base.
5. Fully implement recommendations from the Tax Administration Diagnostic Assessment Tool (TADAT) assessments and other diagnostics as metrics to improve tax certainty.

## Key Statistics



**14% TO 22%**

Singapore's manufacturing sector share of GDP increase from 1960s to 19970s



**1.669TR**

Revenue Collection for the Financial Year 2020-2021

## Quotes

*“Clear, coherent policies and legislation are critical, but do not provide tax certainty if it is not accompanied by coherent, fair and efficient implementation.”*

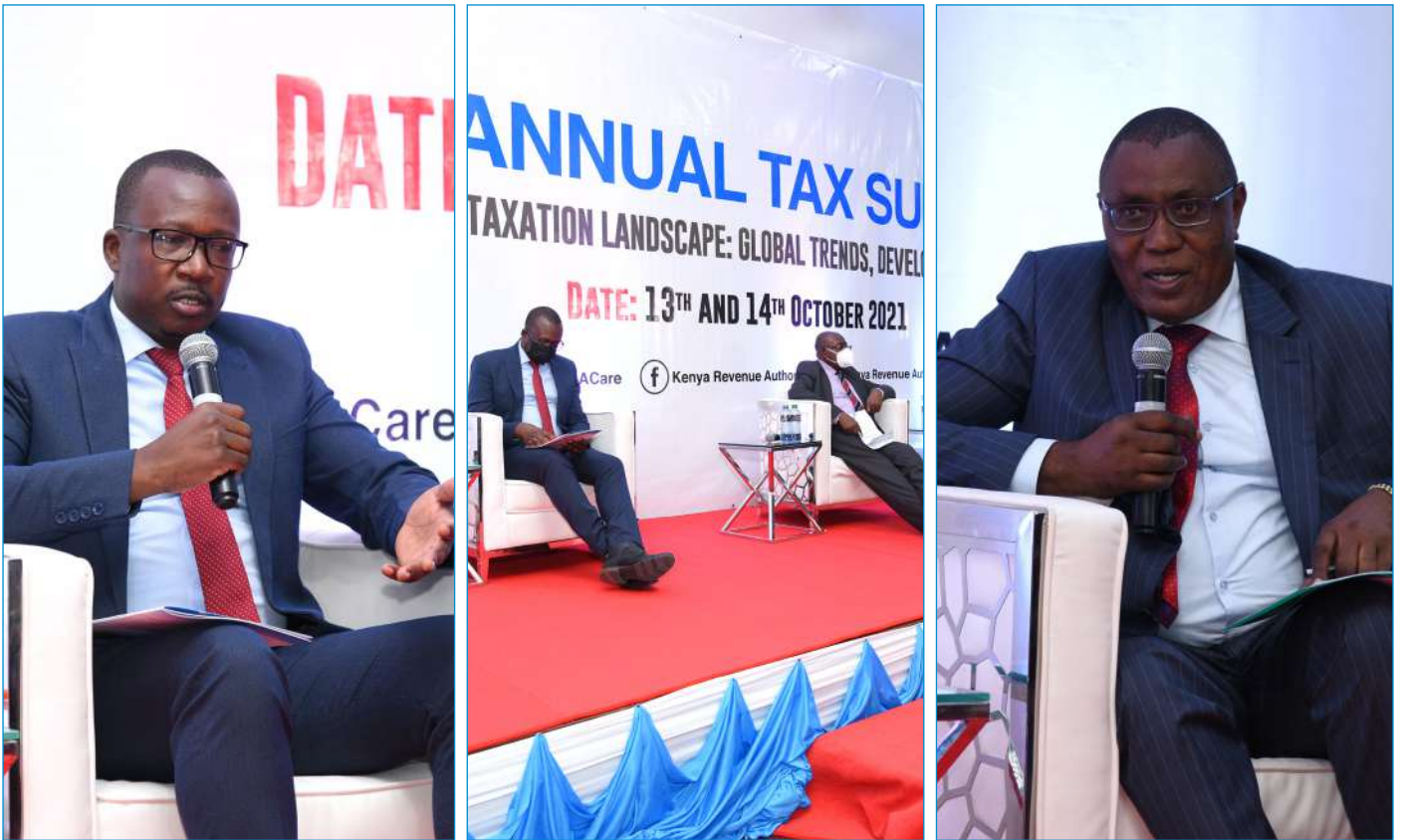
Ms Katherine Baer

*“We need to develop our tax policies taking into account that we are living in an era of economic liberalization because such regimes have implications on domestic capital formation. For example, large multinational companies out compete the local companies. When the local private sector will grow to surpass the foreign private sector, Kenya will have a larger tax base.”*

Prof. Phillip Nying'uro.

# Plenary Three

## Plenary Three: Keynote Speaker & Panellists



# Plenary Four

## Enhancing Service Delivery in Tax Administration

### Keynote Speakers

Ms. Chantel Botha, Managing Director, Brandlove Customer Experience, South Africa.

### Discussants

1. Ms. Lucille Aveva, Director Customer Obsession, Safaricom.
2. Mr. Mukesh Shah, Director KRA Board of Directors.
3. Mr. Francis Kinuthia, Tax Manager Maersk.
4. Mr. John Musingizi Rujoki, Commissioner General, Uganda Revenue Authority.
5. Mr. Titus Ndambuki, CBS, Technical Advisor, State department of Public Service and Gender.

### Preamble

At the heart of service in tax management is a tax administration's responsiveness to individual taxpayer's circumstances in a consistent

manner. Responsiveness infers to accessibility, dependability, and timeliness of service delivery as well as the accurate and timely treatment of requests and appeals.

KRA's 8th corporate plan highlights the following key strategic thrusts that aim to enhance service delivery i.e., Tax simplification, improved dispute resolution processes, service excellence and enhanced brand awareness. This plenary focused on service excellence and customer experience, with emphasis on a) Responding to taxpayers' needs to achieve customer satisfaction; and b) Achieving painless compliance through tax simplification and tax dispute resolution.

### KEY HIGHLIGHTS

1. KRA processes and systems have been simplified to enable easy access and comprehension by the taxpayers hence contributing to enhanced service delivery.
2. The ultimate goal to achieving painless compliance is ensuring that systems work. Getting the basics right is key and understanding that products cannot work without technology.
3. KRA has in place an Alternate Dispute Resolution (ADR) program that resolves tax disputes. Aggrieved parties are permitted to resolve tax disputes through ADR within 90 days by the court.

### Keynote Address (Chantel Botha)

The three aspects of customer experience include a) the Rational that focuses on goal achievements and good values in service industry; b) the Emotional which entails the feelings of the customer and his/her satisfaction; and c) the Sensual which encompasses the five common senses.

People have different experiences with brands every day: It ultimately boils down to how well-designed the experience is. In revenue services, we can move the dial to make experiences pleasant. When interacting with an organization through various channels e.g., websites, emails or calls it is through a great design that taxpayers get their experiences aligned. Tax authorities need to frequently reassess their customer experience to constantly improve on it.

Markets are rapidly evolving, informing the shift in customer preferences. To be effective and elicit brand loyalty, large organizations like tax authorities are shedding off complexities associated with them whilst simplifying their operations (Most organizations value their processes and systems and have lost tangible connections with their customer). New communication strategies, engagements with customers and training of the customer service staff remains an utmost priority.

### Discourse

There has been a transformation of service delivery from customer care/service to customer experience/obsession. Customers are more discerning and aware of their preferences and with an ever-dynamic digital space, the customer drives innovation in addition to relaying real-time feedback on social media whether positive or negative.

With increasing competition, one must be hyper-focused on what

customers want. In the spirit of "Huduma bora ni haki yako" (Good service is your right), to the customer "haki yako" (Your right) is non-negotiable. That is the evolution of customer obsession. Companies exhibiting customer obsession have witnessed great strides in growth, expansion and profitability. These are mainly technology-driven – e.g., Amazon - which are either product obsessed or customer obsessed. Tax authorities need to double-down on their focus on taxpayers' needs and be emotionally connected to them, then the compliance (just like profits) will surely come.

KRA can achieve customer obsession by remaining customer-centric through leveraging technology. The authority strives to communicate better by simplifying tax laws to the benefit of taxpayers. This is complemented by ensuring service accessibility through availability of service centres spread across the country. Clear channels of raising complaints and whistleblowing have also changed the perceptions of KRA staff who understand the need to communicate more effectively, honestly, and transparently. Transparency includes the need for KRA and its relationship managers to engage taxpayers freely and in a transformational, rather than transactionally – including through visits, follow-ups, and timely information exchange. KRA's planned rebrand to Kenya Revenue Services (KRS) as envisioned in the Authority's 8th Corporate Plan is expected to endear public trust and brand affinity to the levels witnessed in other countries like Sweden.

### Tax Simplification Agenda: Uganda's Experience

Uganda's efforts in achieving painless compliance dovetails with the role of tax simplification in enhancing service delivery. The Uganda Revenue Authority (URA) has undertaken the following steps to achieve tax simplification.

1. Tax Policy - Simplification of tax laws, regulations, and rates e.g., simplified rates for small businesses, review of tax exemptions and consultations between government, private sector, and Civil Society Organizations (CSOs).
2. Tax Administration - Taxpayer services are simplified through registration procedures and processes, trade facilitation, timely customer service, management of tax disputes, and tax education and outreach.
3. Understanding Taxpayer Behaviour - This is achieved through data analytics, third party information, key stakeholder engagements, risk-based compliance management, relationship management and system integration with other agencies.



# Plenary Four

## Kenya's Experience with Dispute Resolution in Tax Administration

Kenya's tax disputes legal framework is set out in the Constitution and in the Tax Procedures Act 2015. Tax disputes arising from KRA's mandate are resolved by the judiciary to enable the Authority deliver on its mandate efficiently. The Judiciary tax division has ensured efficient and effective disputes resolution as follows:

1. Between May 2020 and October 2021, a total of 746 tax disputes have been settled through the ADR mechanisms. This is a win-win situation for both the tax authority and the taxpayer since both are satisfied with the end-result and it addresses taxpayer concerns and ensures compliance.
2. Improved tax dispute resolution period from 3-4 years to under 1 year. For Example, in 2020-2021 financial year, only 33 cases were resolved. Between July 2021 and October 2021, 31 tax disputes have been resolved, unlocking revenue worth Kshs 1.4 billion to the government.
3. Between April and December 2018, the Tax Appeals Tribunal (TAT) was not in operation since the members' terms had lapsed. Between May 2020 and October 2021, the TAT resolved 429 tax disputes through litigation. Currently the judicial court is handling 317 cases with a revenue implication of USD 1.1 billion.
4. For the financial year 2019/2020, only 4 cases were resolved amounting to about USD 890. This improved between 2020 and 2021 where 33 cases were resolved releasing USD 22 billion into government revenue coffers. Between the months of July and September 2021, about 31 disputes were resolved, and over USD 14.3 million collected in revenue.

Other government efforts aimed at improvement in service delivery and engagement with the citizenry include:

- a) Service charters to inform customers on what to expect when they go to government offices.
- b) Feedback programs through suggestion and complaints boxes for improvement of service delivery.
- c) Introduction of Huduma Centres - To centralize all the government services under one roof. Currently, there are 52 Huduma Centres across the country.
- d) Huduma Outreach Programs and Huduma Mashinani programmes.

## Key Statistics



# 746

Tax disputes settled through ADR between May 2020 and October 2021.



# USD 14 MILLION

Revenue collected from 31 disputes resolved between July 2021 and October 2021.

## Quotes

*"You cannot not have an experience"*

Lou Carbone

*"We should measure Return on Involvement and not Return on Investment"*

Kevin Roberts

*"Customers are the heart of service delivery and offering solutions to them is key opposed to basic service"*

Francis Kinuthia

## KEY RECOMMENDATIONS

1. Enhance digital experience for tax administration to improve service delivery.
2. Integrate with other government systems and processes to deliver tax services as part of whole-government approach to public service.
3. Ensure transition into Kenya Revue Service (KRS) reflects 'service' in all aspects of tax administration.
4. Equip customers with the necessary information and infuse empathy to create a pleasant experience.

# “

*With increasing competition, one must be hyper-focused on what customers want. In the spirit of “Huduma bora ni haki yako” (Good service is your right), to the customer “haki yako” (Your right) is non-negotiable.*

Ms. Lucille Aveva

# ”

# Plenary Four

## Plenary Four: Keynote Speaker & Panellists





# Plenary Five

## The Role of Tax Administration in Fighting Illicit Financial Flows: The African Experience

### Keynote Speakers

Mr. Moses Kajubi, Senior Public Sector Specialist – Taxation, World Bank Group

### Discussants

1. Mr. Logan Wort, Chief Executive Officer, African Tax Administration Forum (ATAF).
2. Mr. Guy Ficco, Executive Director, Global Operations Policy and Support, Internal Revenue Service (IRS), USA.
3. Pierce O'Reilly, PhD, Head of Business and International Taxes Unit, Tax Policy and Statistics Division, OECD.
4. Dr. Terra Saidimu - Commissioner, Intelligence & Strategic Operations, KRA.

### Preamble

There is critical need for tax administrations across the globe to fight illicit financial flows (IFFs) through various regulatory frameworks and other measures. Recent estimates indicate that developing countries lose an estimated USD 1 trillion each year through illicit financial flows. Between 2002 and 2011, Kenya is believed to have lost as much as USD 1.51 billion to trade misinvoicing, translating to 8.3% of government revenue. The journey to fight illicit financial flows has however started with Kenya expressing commitment to sign various regulations and international frameworks to fight IFFs.

### KEYNOTE HIGHLIGHTS

1. IFFs are known for draining crucial resources and are a major obstacle to growth since they fuel tax evasion, exacerbate corruption, and weaken trust in the rule of law.
2. There is need to strengthen cooperation in the fight against IFFs through treaties, agreements, and information exchange systems. This will help in achieving controls by strengthening laws and regulations around transfer pricing and capitalization.
3. Fighting IFFs should focus on activities within jurisdictions' control, that is, legislation, regulation, training capabilities of auditors, IT systems
4. Strengthened inter-agency cooperation is critical to fight IFFs. In the United States, the Internal Revenue Service (IRS) has been successful in investigating 80% of cases touching on financial frauds with an impressive conviction rate. This was through global and international operations, financial expertise, data driven approach and fraud referrals.
5. Information exchange for fighting IFFs should emphasize data analytics and the role of data protection in combating IFFs.
6. The media plays a significant role in the fight against IFFs through publicity, thus passing a message of deterrence to the public, and reining in tax evasion.

### Keynote Address (Moses Kajubi)

Illicit Financial Flows (IFFs) primarily involve the illegal movement of money or assets, locally and internationally, in contravention of both national and international laws. IFFs operate on a cross border basis making their detection complicated, and as such contributing to tax evasion and difficulty in prosecution. IFFs drain crucial resources and act as a major obstacle to growth as they fuel tax evasion, exacerbates corruption and weakens trust for the rule of law. They undermine anti money laundering laws in the countries sending or receiving the funds and are an obstacle to the reforms dealing with the vice.

The direct magnitude of IFFs has not yet been measured but there are statistics to show its extent. The Mbeki Report indicates Africa loses more than USD 50 billion a year through IFFs while UNCTAD reports this in the upwards of EUR 88.6 billion or 3.7% of the continent's GDP annually. It has since been established that there is a correlation between IFFs and government spending. Countries with high IFFs spend 25% less on health and 58% less on education compared to countries with lower IFFs, further undermining national development efforts.

Mechanisms through which IFFs thrive include contract awards, cross

border transactions, extractives, natural resources, and environmental issues. To successfully combat the vice, tax administrations need to ensure transparency in contract awards and high-level disclosure on public accountability mechanisms. A well thought out strategy anchored on regulatory frameworks is of essence. As pillars to this strategy, stringent anti-money laundering laws buttressed with a relentless fight of corruption are important.



*The Mbeki report shows that Africa loses more than 50 billion dollars a year through IFFs while UNCTAD reports that Africa losses amounts estimated in the upwards of 88.6B Euros or 3.7 % of the continent's GDP annually. It has since been established that there is a correlation between IFFs and government spending.*

Mr. Moses Kajubi





# Plenary Five

Cordial inter-agency as well as international cooperation, and adequate knowledge of the shadowy operatives behind companies engaging in IFF malpractices are highly instrumental. These should be complemented by good capacity to fight tax evasion and strong policies against tax avoidance. The International Monetary Fund (IMF), for instance, is supporting African countries, including Kenya in international tax capacity-building by developing a national risk assessment framework with a focus on tax evasion. The anti-money laundering and counter terrorism approach should also incorporate the Financial Action Task Force (FATF) recommendation to carry out risk assessments and develop an action plan to fight vulnerability. The fight against anti-money laundering should be on a case or sector level basis and in this aspect, tax administrations should play a role by issuing case level assessments.

Tax administrations should enhance tax policy, tax administration's capability and international cooperation as part of the anti-IFFs agenda. With the knowledge that anti-corruption involves both national and tax administration strategies such as asset disclosures, the interest of tax administrations in asset disclosures should go beyond national borders and integrate regional and international focus.

## Discourse

The South-South Tax Cooperation was derived from the adoption of the Bueno Aires Plan of Action (BAPA) 138 UN member states to promote and implement technical cooperation among developing countries. It was noted that tax evasion is an outright subversion of the tax laws and African countries were called upon to strengthen cooperation in the fight of IFFs through treaties, agreements, and information exchange systems. There was a clear distinction between tax evasion and tax avoidance with the latter being stated to mean aggressively using legal loopholes.

60% of the total corporate IFFs come through activities around transfer mispricing. A high-level report indicated that for IFFs, 30% comes from criminal activities, 60% from corporate activities, and 10% from government corruption. The biggest percentage of IFFs in Africa therefore come from corporate behaviour. Controls to combat these flows are likely to be achieved by strengthening laws and regulations around Transfer Pricing and capitalization. Bolstering cooperation between tax administrations & tax policy makers would be a shot in the arm for investigative and enforcement agencies.

The South-South Cooperation has laid out guidelines on treaties, VAT and transfer pricing, not only used within the continent but also in other developing economies. Fighting IFFs should focus on activities within country jurisdictions' control - legislation, regulation (often outside the hands of authorities), training capabilities of auditors, and IT systems required to get, protect and analyse, information. Kenya, for instance, as a member state of the OECD has signed a multilateral treaty to prevent treaty shopping. Regionally, Kenya is working closely with ATAF & World Bank to undertake joint trainings and investigations to implement Common Reporting Standards. OECD is also partnering with KRA to conduct training for other African countries on international crimes within the framework of transfer pricing.

## Best Practice Case Study: The United States Internal Revenue Service (IRS) Experience

The United States Internal Revenue Service (IRS) conducts criminal investigation & recommends for prosecution of offenders and maximum conviction for culprits to deter the public from committing IFFs offences. The IRS has been successful in investigating 80% of cases touching on financial frauds with an impressive conviction rate to boost. Data has been a critical component in fighting IFFs in the US, especially its prudent use in establishing patterns and trends that inform and help identify and qualify IFFs. Data protection is key in this process. However, striking a balance

between protection and utility in combating IFFs has proven delicate.

To combat IFFs, IRS has deployed concerted efforts in international cooperation and exchange of information, including through presence in foreign missions, and diligence in pursuit and implementation of international legal instruments and policy frameworks e.g., the MAA on Tax Matters. This has significantly reduced IFFs activities.

## IRS Governance Framework for Combating IFFs

The Criminal Investigations (CI) Unit in the IRS is the competent authority and responsible office for fighting IFFs. Its mission is a) To investigate potential criminal violations of the internal revenue code and related financial crimes; and b) To maximize the publicity of CI prosecutions to provide strong deterrent message to would be tax evaders which ensures integrity and fairness in the tax system.

This is achieved through a variety of measures and strategies:

1. Financial Expertise: There are 3,000 employees in the unit with experience in money laundering and Bank Secrecy Act.
2. Global Operations: There are 12 attachés posted across the globe to support criminal investigations and uncover emerging threats and schemes.
3. International Operations: The Joint Chiefs Global Tax Enforcement (J5) leaders of tax enforcement authorities have partnered to increase collaboration in the fight against international & transnational tax crime & money laundering.
4. Data Driven Approach: This is implemented through the following infrastructure: a) National Coordinated Investigations Unit; and b) IRS Wide - Research Applied Analytics and Statistics.
5. Fraud Referrals: These are from the tax audit reports. 72.7% are accepted and dealt with.
6. International Fraud Referrals: These referrals are received from combating global cybercrime, Public-Private Partnerships and The OECD framework.
7. Media Publicity: Extensive publicity in messaging the consequences of IFFs to maximize compliance and deter tax evasion and IFFs.

## KEY RECOMMENDATIONS

1. Tax administrations should actively participate in mutual assistance and exchange of information as a way of fighting IFFs.
2. Tax administrations need to seal tax evasion loopholes (especially treaty shopping) and give inputs in treaty negotiations.
3. Tax administrations need to apply thin capitalization rules.
4. To make fight against IFFs effective, tax administrations need to allow multiple investigations on particular cases.
5. Tax administrations need to improve domestic and international cooperation in fight against IFFs.

# Plenary Five

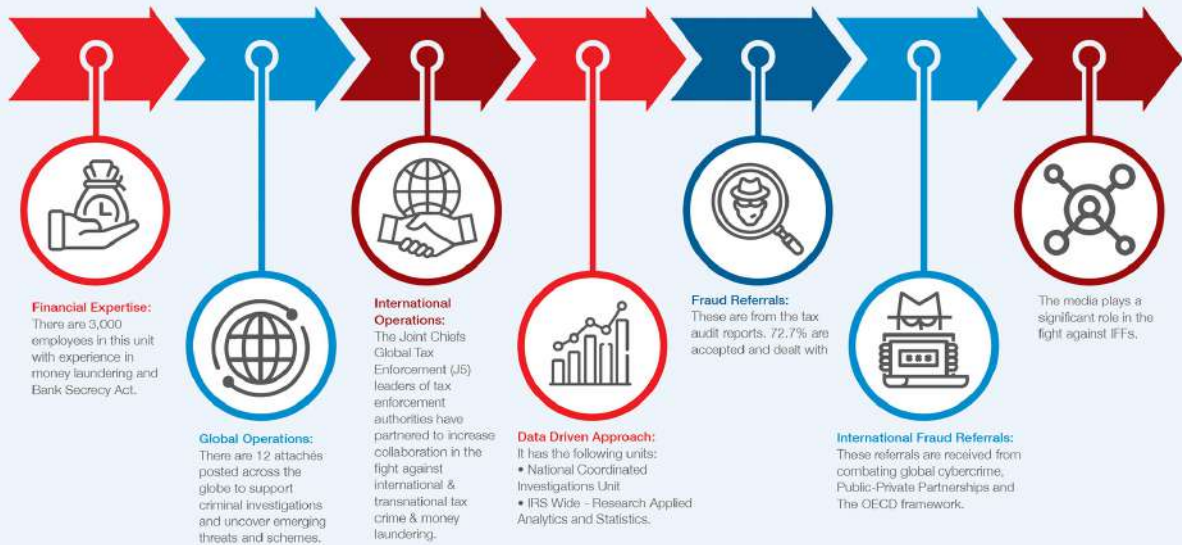
## The Role of the Criminal Investigations (CI) Unit in fighting IFFs



### The Mission:

- To investigate potential criminal violations of the internal revenue code and related financial crimes.
- To maximize the publicity of CI prosecutions to provide strong deterrent message to would be tax evaders which ensures integrity and fairness in the tax system.

## The IRS Governance Framework for Combating IFFs



## Key Statistics



**3,000**

Number of employees in the IRS Criminal Investigations Unit.



**3.7%**

Approximate percentage of Africa GDP lost to IFFs.

## Quotes

*“International cooperation is critical; the downside it could end up being a contest of muscle”*

Moses Kajubi.



# Plenary Five

## Plenary Five: Keynote Speaker & Panellists



# Plenary Six

## Plenary Session Six: Impact of African Continental Free Trade Area (AfCFTA) in Intra-Africa Trade: Challenges & Prospects

### Keynote Speakers

Betty C. Maina, EGH, Cabinet Secretary, Ministry of Industrialization, Trade & Enterprise Development.

### Discussants

1. Amb. Erastus J. O. Mwencha, Board Chair, Equity Bank (K) Limited and former Deputy Chairperson for the Africa Union Commission (AUC).
2. Lilian Nyawanda – Commissioner, Customs & Border Control, KRA.
3. Jaswinder (Jas) Bedi, EBS, MBS - Board Chairman Kenya Export Promotion & Branding Agency.
4. Kenneth Bagamuhunda – Deputy Secretary General, Trade & Customs, EAC.
5. Willie Shumba, Senior Customs Advisor, Africa Continental Free Trade Area (AfCFTA), African Union Commission.

### Preamble

Trade is a powerful engine for economic growth and development. However, Africa's role in the global trade market has been minimal, with the continent accounting for 3% of the global share of trade. The AfCFTA is the largest free trade area in the world measured by the number of countries participating. It is expected to reduce tariffs among member countries as well as technical barriers to trade. AfCFTA will offer a continent-wide regulatory framework by modifying policy matters — such as investment and intellectual property rights protection — that have not been covered in most sub regional agreements.

However, achieving its full potential will depend on putting in place significant policy reforms and trade facilitation measures, including customs processes. Kenya has systematically taken several steps to strategically position itself to benefit from the AfCFTA by establishing requisite customs procedures and infrastructure required to fully operationalize tariff free trade.

### KEYNOTE HIGHLIGHTS

1. Kenya is adequately prepared to implement AfCFTA and ready to reap benefits from the expanded market access for its industries.
2. African countries jointly contribute towards the realization of the objectives of AfCFTA including strengthening institutional mechanisms for its implementation.
3. Value chains are critical in the development and export promotion in AfCFTA.
4. To sustain the momentum on the implementation of the agreement, policy coordination needs to be prioritized.

### Keynote Address (Ms. Betty C. Maina)

Kenya is keen to expand its supply capacity globally to grow its economy. Kenya has over the years maintained an export-oriented strategy to sustain economic growth. In addition to other trade arrangements with EU, UK and the US, Kenya has signed preferential trade agreements with African territories that cover more than 1.4 Billion people with a market of more than Kshs. 29 Trillion. AfCFTA can unlock Africa's potential in the socioeconomic front, enhance resilience and strengthen intra-Africa supply chains.

Main objectives of AfCFTA include:

- To create a single continental market for goods and services with free movement of goods, people and investment to spur growth in the continent.
- To overcome dependence on exportation of primary products and promote social and economic transformation for economic growth, industrialization, and sustainable development in line with Agenda 2063.
- Facilitation, harmonization and better coordination of trade regimes and elimination of challenges associated with multiple overlapping trade agreements across the continent.
- Boost intra-Africa trade.
- To create a freer market for goods and services, building upon the trade agreements and associated commitments thus paving way for accelerated integration.

The AfCFTA covers Trade in Goods (tariff elimination, removal of NTBs, harmonization of trade related issues, customs cooperation and trade facilitation), Trade in Services, Dispute Settlement, Competition Policies,

Intellectual Property Rights, Investment and e-Commerce, and Facilitation through Movement of People. Potentially, AfCFTA will boost African trading and manufacturing as well as increase exports to the continent and beyond.

After participating in integrations with EAC and COMESA, the Kenya National Treasury is confident that the liberalization agreements will contribute to a wider tax base and production capacity. Consequently, some segments of the economy and of producers may not be as competitive in the expanded market access, but it is important that EAC does analysis of its economic activities and gear itself for each segment that it can be competitive in.

### Discourse

Setting up the AfCFTA requires a progressive approach to revenue and integration (customs & tax). Progressive liberalization that will result from AfCFTA will resolve multiple and overlapping partnerships (cooperation asymmetry) that countries are party to, resulting in the desired convergence. KRA, working within Kenya's Technical Working Group on Implementation of AfCFTA, is involved in negotiations that clarify the customs perspective on qualifying criteria (origin and value addition) and thresholds for preferential treatment.

### How KRA is prepared for AfCFTA

1.	AfCFTA agreement has been signed and ratified.
2.	The rules of origin criteria are in place.
3.	The customs systems are already aligned with the agreement.
4.	The risk mechanism is in place i.e. the ICMS risk modules.
5.	Training of staff and stakeholder capacity building are ongoing.



# Plenary Six

The existence of the EAC Customs Union Policy and Legal Framework enables EAC to participate as a bloc in AfCFTA i.e., leveraging on Common Customs law and regulations and the application of Rules of Origin in a unified way. Currently, EAC has interconnectivity of Customs Systems, Trade Facilitation platforms (Single Window), Trade Portals and Centralized Customs Platforms. There is also a stable regional infrastructure – the Standard Gauge Railway (SGR), One-Stop Border Posts (OSBPS), Airports, and Ports, and the ongoing infrastructural improvements within the EAC. These will throughput trade through efficient movement of goods, services, and people in the region and beyond.

There are also mechanisms in place for national and regional coordination - Ministries of Trade and Regional Economic Communities (REC) Secretariats with demonstrable commitment to putting in place policy structures for implementation of AfCFTA. The EAC, for instance, will pursue a harmonized adjustment to implementation of the AfCFTA, enhance industrialization drive, and prioritize trade policy harmonization.

It is imperative for Africa to assert its trade portfolio by insisting that all produce originating from African countries be identified (components/ composition of end product) when sold at the consumer point. In comparison to Sri Lanka, Kenyan exports stand to fetch higher prices through value addition to products like tea, unlike exporting unprocessed tea. In respect to value chains, there is an appreciation that countries may not be able to produce everything. Therefore, AfCFTA ensures that value chains can be utilized for the benefit of state parties. In this way AfCFTA promotes trade, which is part of the 2030 Sustainable Development Goals (SDG) aimed at ending poverty and ensuring prosperity among global citizens. Customs plays a critical role in value addition by enforcing the rules of origin criteria for imported goods. The special economic zones (SEZ) too are good tools for value addition and industrialization for the supply side of goods being traded in the continent.

## Key Statistics



**1.2 BILLION**

Combined population of AfCFTA.



**3%**

Africa's share of world trade.

## Quotes

*"Let us look at AfCFTA as a child who has been born ..... In order to walk he will stumble and there will be mistakes. Therefore, let us start trading!"*

Willie Shumba

*"Each country has got its own strengths and every country has its own weaknesses but we should be doing the same play as Africa."*

Jaswinder Bedi.

## KEY RECOMMENDATIONS

1. Kenya should leverage on institutions of excellence such as Kenya School of Revenue Administration (KESRA) to build capacity for the private sector, and to formulate strategy for value addition.
2. Kenya needs to develop local competencies in Trade In Services to benefit from expanded market access rather than seek to overprotect the economy.
3. Kenya should invest in industries for value addition to enhance quality of exports.
4. KRA Customs should align border processes to AfCFTA structure and protocols to facilitate trade.
5. African countries should commence identification (components/composition of end product) of all produce originating from Africa at consumer points.
6. Africa should leverage on producers, manufacturers, and investors through SEZ's to enhance value chains.



# Plenary Six

## Plenary Six: Keynote Speaker & Panellists



# Closing Ceremony

## Amb. Dr. Francis Muthaura, MBS, EGH - Board Chairman, Kenya Revenue Authority

“All the valuable contributions given would be considered to inform the review and implementation of Tax Policies of the country. KRA’s role of revenue mobilization is central in the country’s development agenda. The National Tax Policy will provide a set of guidelines and rules for regulating taxation in the Kenyan economy.”

## FCCA Githii Mburu, MGH, CBS - Commissioner General, Kenya Revenue Authority

KRA has prioritized the Annual Tax Summit as a premium platform for extensive local and international stakeholder engagement with the aim of sharing experiences and shopping for solutions to unique and common tax administration challenges. Over time, the Summit has transformed into a more taxpayer-centric event.

- Simplification of tax policies would create a good and predictable environment for investors and create opportunities that attract long-term investments. KRA will, therefore, continue working closely with the National Treasury and all stakeholders to ensure that tax policies are simplified which will ultimately improve compliance.
- The government of Kenya is currently focusing on bringing 2 million additional taxpayers into the tax net by the end of 2023/2024 financial year. This will in effect increase the number of active taxpayers from the current 6.1 million to 8.1 million as envisioned in the 8th Corporate Plan. The Digital Economy is among industries earmarked for the Tax Base Expansion drive.
- KRA is committed to stakeholder engagement, focus on taxpayers’ feedback and listening to its customers to enhance customer satisfaction and taxpayer loyalty.
- KRA will continue to invest in both human and technological resources to drive improved service delivery. This will create a more resilient tax administration especially during uncertainties like COVID-19.
- Kenya notes the recommendation on the OECD all-inclusive framework and remains a member of the Inclusive Framework with ongoing negotiations. Kenya is however committed to protect its revenue base, without losing an inch of it while also fostering cooperation in international tax management.
- The recommendation on leveraging on inter-agency cooperation to fight Illicit Financial Flows is notable. Kenya is currently implementing the exchange of information under MAAC with various jurisdictions and is cooperating with international actors to build capacity in risk assessments for tax evasion aided by IFFs.



“

*KRA’s role of revenue mobilization is central in the country’s development agenda.*

Amb. Dr. Francis Muthaura, MBS, EGH

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# Summary of Key Recommendations

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1. Developing countries need to leverage on all other BEPS Actions as applied to their contexts.
  2. Kenya should consider whether the current two-pillar proposal offers any tax profits.
  3. Countries need to do a cost-benefit analysis of how much they would obtain from Amount A and assess other key considerations.
  4. In implementing unilateral measures, countries should pay maximum attention to a) Registration of the taxpayer; b) Enforcement; c) Verification of the declarations; and d) How the measures may interact with tax treaties depending on their design.
  5. Developing countries need to pitch BEPS as a priority political agenda and just a tax agenda.
  6. Kenya should encourage work through online platforms to enhance compliance and broaden the tax base.
  7. Develop strong policies to respond to cyber security challenges to safeguard staff in tax administration.
  8. Upscale protection of tax administration employees by enhancing key services e.g., improvement of medical cover, psycho-social support among others.
  9. Re-evaluate jobs in terms of skills and abilities to align with modern tax administration practices.
  10. Government to work with KRA to develop a tool/system to monitor, interrogate and report on national expenditure.
  11. KRA to engage National Treasury to submit National Tax Policy to parliament before February 2022.
  12. Kenya should rationalize taxes on some items to increase consumption.
  13. Kenya should deliberately prioritize empowerment of local private sector through tax policies for domestic capital formation and growth to broaden its tax base.
  14. Fully implement recommendations from the Tax Administration Diagnostic Assessment Tool (TADAT) assessments.
  15. Enhance digital experience for tax administration to improve service delivery.
  16. Integrate with other government systems and processes do deliver tax services.
  17. Ensure transition into Kenya Revue Service (KRS) reflects 'service' in all aspects of tax administration.
  18. Equip customers with the necessary information and infuse empathy to create a pleasant experience.
  19. Tax administrations should actively participate in mutual assistance and exchange of information to combat IFFs.
  20. Tax administrations need to seal tax evasion loopholes and give inputs in treaty negotiations.
  21. Tax administrations need to apply thin capitalization rules.
  22. Tax administrations need to allow multiple investigations on particular cases.
  23. Tax administrations need to improve domestic and international cooperation in fight against IFFs.
  24. Kenya should leverage on institutions of excellence such as KESRA to build capacity for the private sector, and to formulate strategy for value addition.
  25. Kenya needs to develop local competencies in Trade In Services to benefit from expanded market access.
  26. Kenya should invest in industries for value addition to enhance quality of exports.
  27. KRA Customs should align border processes to AfCFTA structure and protocols to facilitate trade.
  28. African countries should commence identification of all produce originating from Africa at consumer points.
  29. Africa should leverage on producers, manufacturers, and investors through SEZ's to enhance value chains.
-



# Highlights of Summit Outcomes Over the Years

## Enhanced Service Delivery



- The Authority has installed a Customer Relationship Management System.
- The Authority has developed an MService platform to cater for the needs of all segments of taxpayers.

## Tax Education & Research



- KRA has collaborated and launched a KRA and Kenya Institute of Curriculum Development in mainstreaming tax education in competency-based curriculum.
- KRA has formed strategic partnerships with academic & research institutions to leverage on their expertise for proactive research on tax matters e.g. ATAF, OECD etc.
- The Kenya School of Revenue Administration has also opened up training programmes to the public to facilitate understanding of tax & customs administration.

## Enhanced Stakeholder Communication



- KRA has put in place a robust stakeholder engagement structure that allows continuous dialogue on tax matters.
- KRA has over the years conducted 10 tax round tables chaired at the highest level of KRA hierarchy in partnership with KEPSA in improving the business climate and ease of doing business.
- KRA has introduced a Relationship health Audit for a qualitative evaluation of KRA's key relationships using best practice analytical tools, relational metrics and measurements. This exercise develops a Baseline Relational Health level to use as a benchmark in improving relations.

## Business Process Re-Engineering



- Undertaking comprehensive Business Process Reengineering (BPR) in refund management. Undertake system enhancements on identified key BPR aspects to enhance efficiency.
- An Enterprise Resource planning system dubbed "iSupport", has also been rolled out to enhance operational efficiency.
- Cargo Scanner Management Solution - Automate and centralize cargo scanning.
- Data Warehouse Solution (DWBI) – Facilitate use of data driven compliance interventions.
- Regional Electronic Cargo Tracking System (RECTS) – Real time monitoring of cargo across East Africa.
- Excisable Goods Management System – Tracking of excisable goods.
- Integration with key databases : IFMIS , LIMS, iCMS, NSSF and NHIF.
- TIMS Real time information and business transactions.
- IGS – Anonymous reporting system.

## Cutting Edge Technology in Tax Administration



- A new Integrated Customs Management System is being rolled out to enhance trade efficiency through faster cargo clearance.
- KRA has set up an Integrated Scanner Command Center (ISCC) which is the focal point for all Scanner operation. It provides a 360 degree view of the scanner operation from actual cargo scanning at



# Summary of Key Recommendations

the various scanner sites, to image analysis process at the command centres.

- It incorporates the use of Closed Circuit Television (CCTV) cameras for monitoring operations at the various scanner sites.

## Predictability of the Tax Environment



- Draft National Tax Policy that is been finalized by the National Treasury for public participation.
- One of the guiding principles of the review is predictability and stability of Kenya's tax policy to facilitate long-term investment decisions.

## Trading across Borders Indicators



- For trading across borders, KRA has established One Stop Border Posts that bring together all the Partner Government Agencies as well as the Partner Revenue Administrations to enhance passenger and cargo clearance at the borders. The OSBPs support cross border trade.
- KRA frequently holds bilateral meetings with the Revenue Authorities of EAC Partner States under the auspices of the Ministry of Industry, Trade & Cooperatives as well as the Ministry of East African Community & Regional Development to address emerging issues.





# Appendices

## Conveners



# Committee Members

MEMBER	POSITION
Dr. Mohamed Omar Mohamud	Chair
Dr. Fred Mugambi	Co-Chair
Mr. Andrew Osiany	Project Lead
Ms. Diana Akivaga	Deputy
Ms. Maximilla Onyango	Deputy
Ms. Sharon Kirai	Secretary
Ms. Lydia Olumbe	Team Lead
Mr. Rading Kwaje	Team Lead
Mr. Allan Madoka	Team Lead
Ms. Julian Kondo	Member
Ms. Diana Korir	Member
Ms. Loice Akello	Member
Ms. Margaret Gachina	Member
Ms. Elizabeth Roimen	Member
Ms. Carol Lagat	Member
Ms. Maureen Dondi	Member
Ms. Mary Muthuya	Member

## Special Thanks To:

1. Ms. Beatrice Mundia
2. Ms. Sheila Mugusia
3. Ms. Margaret Irungu
4. Mr. Dolton Nzano
5. Ms. Sheila Aduvagah
6. Ms. Hannah Gakuo
7. Mr. Paul Agonda
8. Ms. Emmy Chepkoech
9. Ms. Lilian Ontweka
10. Mr. Timothy Mure
11. Mr. Steve Obonyo
12. Ms. Monica Gathoni
13. Ms. Barbra Mududa



# Rapporteurs

## 7th Annual Tax Summit Rapporteurs



### RAPPORTEURS

Ms. Julia Njamio	Ms. Faith Ayoma Kidullah	Ms. Charity Manga Mwandawiro
Ms. Agnetta Mutunge	Ms. Faith Njagi	Ms. Leah Wairimu Muthuo
Ms. Elizabeth Juma	Ms. Fiona Nyawira Murage	Ms. Caroline Mputhia
Ms. Loreen Patricia Kathambi	Ms. Winfred Mbuya Mwaniki	Ms. Mildred Ntinyari
Mr. Kevin Tanui Kiprono	Ms. Abigael Jepkorir Kipsoi	Ms. Susan Kwamboka
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Mr. Alex Maina Kithaka		



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Kenya Revenue Authority



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