



# The African Tax Administration Forum (ATAF)

- **Presenter:** Elizabeth Storbeck
- **Venue:** Rome, Italy
- **Date:** 28 January 2013
- **Event:** Joint Meeting by FfDo of UNDESA and the ITC
- **Topic:** “Capacity Building on Tax Treaty Administration”



## EXCHANGE OF INFORMATION CHALLENGES FOR AFRICAN COUNTRIES

- Lack of treaties as instruments for exchange of information in several African countries.
- Lack of communication as to who are designated Competent Authorities as only point of contact for requests for exchange of information between countries and / or regular updates on any changes.
- Inadequate legislation and regulatory framework to ensure availability of information for exchange purposes.
- Ineffective legislation to ensure access to information for exchange purposes.
- Lack of capacity and capability in some tax administrations to deal with requests for exchange of information.
- Limited participation by ATAF member countries in the Global Forum on Transparency and Exchange of Information for tax purposes.

# COMPOSITION OF THE ATAF EoI & TAX TREATIES WORKING GROUP

The Exchange of Information and Tax Treaties Working Group was established in April 2011, consisting of senior officials from six ATAF member countries, with experience in tax treaties and / or exchange of information and other international tax matters.

## WG Members

- **Ali Ssekatawa** – Uganda Revenue Authority (Chairperson)
- **Samuel Aboge** – Kenya Revenue Authority
- **Adekunle Ogundare** – Federal Inland Revenue Service of Nigeria
- **Ehshan Jannoo** – Mauritius Revenue Authority
- **Moussa Ndoye** – Direction Générale des Impôts et des Domaines Sénégal
- **RC Terblanche** – South African Revenue Service

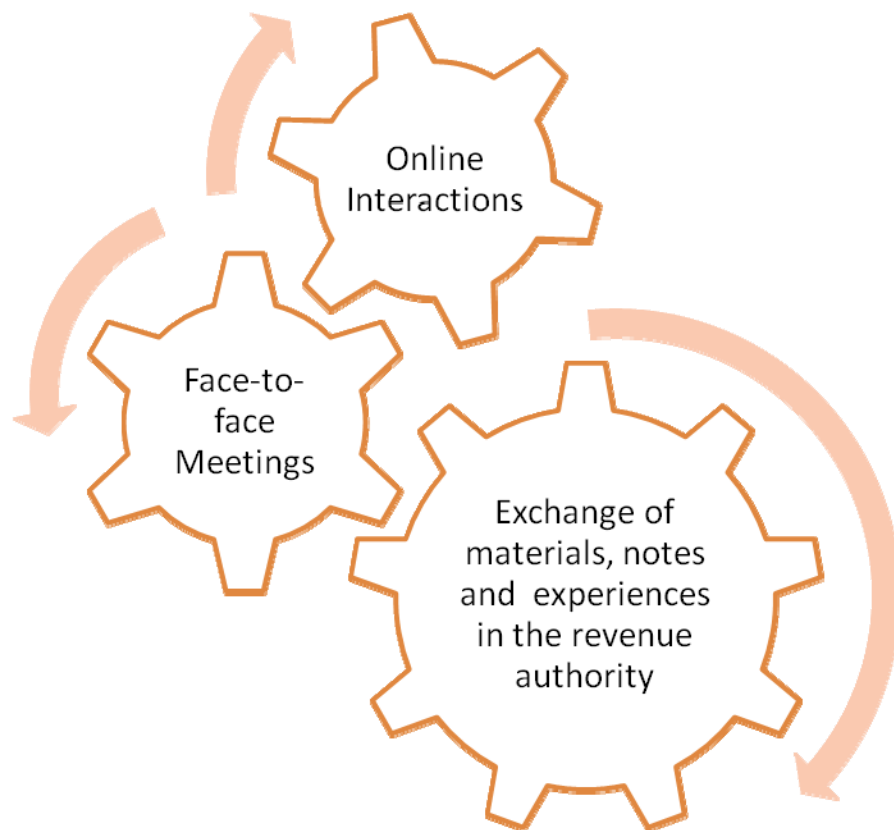
## Technical Advisors

- **Ron Van Der Merwe** – Member of UN Committee of Experts on International Cooperation in Tax Matters
- **Yanga Mputa** – Assessor on Global Forum for Transparency and Exchange of Information

## Secretariat Coordinators

- **Elizabeth Storbeck** – ATAF Secretariat member
- **Femi Edgal** – FIRS, Nigeria official seconded to the ATAF Secretariat

# METHODOLOGY



- The Working Group identified eleven (11) key deliverables as target priority areas for 2011-2012 with set timelines. Group's Work Plan for 2013 is to be revised.
- At least 2 members are allocated 2 deliverables to manage as a lead team and report their findings to the Working Group in consultation with the Technical Advisors.
- The Working Group reviews the work of the lead team, in consultation with the Technical Advisors, and prepares a joint paper for presentation to the ATAF Council.
- Approved recommendations are then implemented by the Secretariat.

# KEY MILESTONES FOR ATAF IN EXCHANGE OF INFORMATION

Deliverable	Progress
Recommendation to Council → Participation by ATAF member countries in the Global Forum on Transparency and Exchange of Information	Recommendation approved in March 2012. Global Forum has <b>16 African countries as members.</b>
Recommendation to Council → Facilitating multiparty negotiations for ATAF members	Recommendation approved in March 2012. Model TIEA Agreement forwarded to members for consideration. Potential negotiations commencing with EAC members and the <b>Isle of Wight, Guernsey and Jersey</b>
Recommendation to Council → Adoption of Internationally Accepted Standards of Transparency and Exchange of Information by ATAF members	Recommendation approved in March 2012. Document forwarded to all members for implementation – supported by <i>Practical Guide of EoI for Developing Countries</i>
Recommendation to Council → Facilitation of ATAF Agreement on Mutual Assistance in Tax Matters (AMATM) by ATAF members	Recommendation approved in March 2012. Successful hosting of meeting in July 2012 attended by <b>22 ATAF members.</b>
Develop <b>data base on tax treaties and tax information exchange treaties</b>	Nearing completion
Establish database on Competent Authorities / Delegated authorised representatives of ATAF members	Database consistently updated.

# ATAF TECHNICAL CONFERENCE ON EXCHANGE OF INFORMATION

- Held in Kampala, Uganda from 19 – 20 April 2012.
- **Targeted audience:** those officials directly responsible for tax treaties and carrying out exchanges of tax information, such as Competent Authorities, Designated Authorities and Senior Officials of African Tax Administrations.

- **Focus of the conference:**

One of the objectives of ATAF is to contribute, in a practical manner, towards increased cooperation and transparency amongst tax administrations in Africa. For this to be achieved, and based on global developments in the tax arena, discussions focused on:

- Significance of exchange of tax information to address tax evasion and avoidance on the African continent;
- Tax information exchange agreements (TIEA's), Avoidance of Double Taxation Agreements (DTAs), Mutual Legal Assistance Treaties (MLAT) and Multilateral Agreements aimed at governing procedures;
- Establishment, role and functions of the Office of the Competent Authority / Designated Authority as the structure directly responsible for carrying out exchanges between the treaty partners;
- Sharing the challenges of tax information exchange experienced by African Tax Administrators and benchmarking best practices for ATAF member countries; and
- The programme of the ATAF WG on EoI and the products developed thus far in promoting information exchange for ATAF Members.



# ATAF AGREEMENT ON MUTUAL ASSISTANCE IN TAX MATTERS (AMATM)

- Emanating from discussions during the Technical Conference, participants felt the need for ATAF to convene a meeting of Heads of Legal Departments and / or Competent Authorities to engage in greater detail with the draft Multilateral Treaty on Exchange of Information.
- Convened by ATAF and hosted by the South African Revenue Service (SARS), in Pretoria, South Africa from 25 - 27 July 2012
- Law advisers and competent authority officials from 22 ATAF Member States met to **finalise the text** thereof in order to assist each other in exchange of tax information.
- Assistance referred to is in respect of:
  - the exchange of information in tax matters,
  - the carrying out of tax examinations abroad,
  - the carrying out of simultaneous examination, and
  - assisting in tax collection.

➤ Agreement is first of its kind in Africa.
- Five ATAF members need to ratify the AMATM through domestic procedures before it can enter into force.



# OECD / ATAF PRACTICAL GUIDE ON EXCHANGE OF INFORMATION FOR DEVELOPING COUNTRIES

## The need for a Practical Guide?

- The ATAF WG identified the need for a Practical Guide for developing countries to:
  - Assist developing countries and in particular ATAF members to improve the effective use of exchange of information in order to counteract tax evasion and avoidance;
  - Ensure efficient implementation of Eol while ensuring taxpayer confidentiality;
  - Raise the awareness on the legal instruments available for Eol; and
  - Help developing countries benefit from the international cooperative environment.
- The **Global Forum on Transparency & Eol** and **OECD Task Force on Tax and Development** is assisting in developing such a Guide

## Practical usage?

- Examples provided throughout the draft guide - detailed Case studies in Annex
- Optional Model templates are included in Annex: request under TIEAs, feedback
- Check lists provided: on how to draft a request for information , how to draft a response, on how to provide information spontaneously
- Guidance for competent authorities and tax auditors on searching publicly available information

The **ITC** have generously offered to fund translation costs as well as the design, layout and printing of the Guide.



# INTERNATIONAL ENGAGEMENTS AND ATAF CAPACITY BUILDING TECHNICAL EVENTS IN 2012

- **Global Forum on Transparency & Eol Technical Seminar**  
***(Accra, Ghana: 27 July – 3 August 2012)***
  - Seminar was attended by the ATAF Eol WG Chairman – Mr Ali Ssekatawa
  - Delegates were taken through practical request of information guidelines and the OECD Model Convention
- **East Africa Community Technical Workshop on Eol**  
***(Arusha, Tanzania: 23 – 24 August 2012)***
  - High-Level Seminar in the Good Financial Governance Declaration
  - Panel included Dr Donald Kaberuka, Mr Pravin Gordhan, Mrs Maria Kiwanuka
- **Negotiation of Tax Treaties *(Pretoria, South Africa: 13 - 17 August 2012)***
  - Practical workshop attended by 14 ATAF members and facilitated by highly skilled and seasoned international treaty experts: Ron van der Merwe, Jacques Sasseville, David Partington, Odd Hengse, Douglas Rankin and Martin De Graaf.
  - Workshop took the form of a simulated negotiation of all of the provisions of a bilateral double tax agreement between two fictitious countries. The workshop also gave guidance on short presentations and discussions on all aspects of tax treaty negotiation including how to organise a treaty negotiation programme, how to conduct negotiations and advice on strategies for successful outcomes.

# ATAF CAPACITY BUILDING TECHNICAL EVENTS FOR 2013

- ***Launch of Practical Guide on Exchange of Information for Developing Countries –***  
5<sup>th</sup> ATAF Council Meeting, 19 – 20 March 2013
- ***4<sup>th</sup> Meeting of ATAF Eol WG –***  
9 June 2013, venue tbc
- ***Seminar on Eol –***  
10 – 14 June 2013, venue tbc
- ***Capacity Building Seminar on Tax Treaties and Exchange of Information –***  
14 – 18 October 2013, venue tbc

PLEASE refer to [www.ataftax.net](http://www.ataftax.net) for more information on these and other ATAF capacity building events.



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