**TAX POLICY AND PLANNING: LESSONS FROM DEVELOPED COUNTRIES**

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**Abstract**

*One of the fundamental issues in developing countries is how to evolve tax policies that can generate sufficient revenue for government activities. Consequent upon the above, this study examined tax policies and planning in developing sub-Saharan African countries. It adopted table content analysis and descriptive statistics in its methodology. The study observed that aggressive tax planning which the Multi-National Corporations execute through royalty payment, interest payment, strategic transfer pricing and treaty shopping, among others, has caused countries around the globe huge revenue losses annually and has become a matter of serious concern to both the developed and developing economies. The implication of this is that achievement of objectives of tax policies and their reforms will remain a mirage in sub-Saharan African countries. The study concluded that the prevalence of illicit financial outflows in the form of tax evasion and avoidance in the guise of aggressive tax planning by multinational corporations, however, makes Africa’s tax policies worse. It was recommended that the Organization for Economic Corporation and Development, and the G-20 should involve developing countries in the Base Erosion and Profit Shifting project as they are the worst victims of these activities.*

Keywords: Tax Policy, Aggressive Tax Planning, Developing countries, Africa.

**1.0 Introduction**

The international tax laws have failed to keep pace with the changes in the global business environment. This shortcoming paves way for the multinational corporations (MNCs) to be taxed inappropriately throughout the globe (Fundira, 2015). Presently, the huzzle for revenue mobilization in developing countries is provoking a lot of concern in public debates. The rationale for this rush is predicated on the potential benefits of taxation with respect to state-building, the independence from foreign assistance over a long-term and the issue of shifting aid. Taxation is recognized generally as an essential instrument for national development. The general renewed interest and focus on reforming and improving the tax laws and practice is, therefore, not unexpected. The intention for engaging in such exercise, especially in developing countries, is to expand the tax base, improve on the process of tax collection and administration as well as meet the terms required for the easy of doing business. Apart from this, many economies regard taxation as necessary for economic development because it provides a stable and regular flow of revenue used to finance development. Pfister(2009) claims that tax is interwoven with many policy areas such as good governance, economy formalization and growth enhancement.

Tax policies set broad parameters which are linked with taxation. They comprise a set of guidelines, rules and modus operandi for regulating taxation. Their importance lies on the fact that they clarify the taxes to levy, in which amounts and by whom in an economy, apart from creating an environment conducive enough for international trade and investment to thrive. Countries all over the world usually employ tax policies as a means of regulating their tax systems. However, in designing tax policies, the major challenge faced by developing countries quite often is striking an optimal balance between installing a tax regime that is business and investment friendly and one that mobilizes sufficient revenue which maximizes the attractiveness of the economy. Developing countries, especially those in Africa, usually collect revenues that have much lower proportions of their Gross National Products (GNPs) than expected (Valderrama, Akunobera, Muzz, Cruz, Schoueri, Roeleveld, West, Pistone & Zimmer, 2014). Valderrama, et al assert that developing countries collect between 15% and 20% of their GDP as against between 30% and 40% which the Organization for Economic Co-operation and Development (OECD) countries collect. The indices of tax efforts of developing countries are also reported to be lower than those of their OECD counterparts. One reason for this tax gap is that, for developing countries, a significant proportion of their tax revenue growth emanates from taxes on natural resources. Apart from the problems of balancing the mobilization of domestic resources and broadening tax base, the major challenges confronting developing countries in Africa and many others are tax evasion and avoidance by the MNCs which often come in the form of aggressive tax planning. Aggressive tax planning in developing countries come in the form of tax treaty shopping, indirect transfer of interest in assets, interest deductibility and transfer pricing. It is an issue that has remained a significant challenge militating against optimal revenue mobilization, despite all the interventions from the OECD, the United Nations and International Monetary Fund (IMF). The African Progress Panel identified cross- border transactions between related parties as a major threat to the tax base of African countries (Readhead,2016). One of the major vectors of losses in cross-border transactions for African countries is transfer pricing.The latter takes place when one company sells some goods or services to another related company. Many countries in Africa lack the required capacity to implement effective transfer pricing risks; hence, the huge losses.

**1.1 Objectives of the Study**

The general objective of this paper is to examine tax policies and planning in developing countries of the world. However, the specific objectives are:

1. To examine issues surrounding tax policies in sub-saharan African countries.
2. To examine issues affecting aggressive tax planning in sub-saharan African countries.

**2.0 Review of the Related Literature**

**2.1 Theoretical Background**

This study is anchored on the cannons of taxation as advocated by Adams (1776) and later modified by Christians ( 2018) and Minnesot Center for Fiscal Excellence (n.d).

**2.1.1 Tax Policy Principles**

Tax policy concerns how societies carry out taxation (Christian, 2018). Minnesot Center for Fiscal Excellence (MCFE) (n.d) contends that good tax policy does not change when there are large budget deficits or healthy surpluses. Good tax systems can fail completely short of creating sufficient revenue during economic recession while poor tax systems are capable of generating plenty of money - which may often be unsustainable. Tax policies have some guiding principles, namely, equity and fairness, certainty, convenience of payment, effective tax administration, information security and simplicity. Other qualities of good tax policies include neutrality, economic growth and efficiency, transparency and visibility, minimum tax gaps, accountability to tax payers and appropriate government revenue, economic competitiveness and basing taxes on benefits received where possible (NCFE, n.d, Association of International Certified Professional Accountants (AICPA), 2017). According to Christians (2018), the achievement of the desired distribution of costs and benefits through taxation will be achieve only when societies are guided by those principles.The principles are described in summarized form as follows:-

* **Equity and Fairness**

Equity is a term which suggests that people should be treated fairly. Tax fairness is the idea that most people move towards when thinking about good tax principles (MCFE, n.d). Fairness is actually a very essential and influential tax policy principle. It requires that similarly situated tax payers should be taxed similarly. It includes both horizontal equity (taxpayers with equal ability to pay should pay the same amount of taxes) and vertical equity (taxpayers with a greater ability to pay should pay more taxes). Fiore (2002) suggests that equity should be best measured by considering a range of taxes paid instead of by looking just at a single tax.

* **Certainty**

The main thrust of this principle is that tax rules should clearly specify when and how a tax is to be paid and how the amount will be determined. The main sources of tax uncertainty include (1) policy design and legislative uncertainty (2) policy implementation and administrative uncertainty (3) uncertainty around dispute resolution (4) uncertainty arising from changes in business and technology and (5) international aspects (IMP/OECD Report for the G20 Finance Ministers, 2017).

* **Convenience of Payment**

A tax should to be due at a time and in a form most likely to be convenient for the tax payer, as convenience helps ensure compliance.

* **Effective tax administration**

The cost of tax collection should be kept to a minimum for both the tax administrator and tax payer.

* **Information Security**

Tax administration has to protect tax Payer information from all forms of unintended and improper disclosure.

* **Simplicity**

Taxes should be made simple, easy to comply with and easy to collect. The more complex a tax is, the greater the costs for the government to administer it and the greater the costs of compliance for tax payers to determine their liability and report it. It will also engender fairness among tax payers due to greater understanding.

* **Neutrality**

The effect of the tax law on a tax payers decisions as to how to carry out a particular transaction or whether to engage in a transaction should be kept to a minimum since a tax systems primary purpose is to generate revenue and not change tax payers behaviour.

* **Economic growth and efficiency**

The tax system should not unnecessarily stand against or reduce the productive capacity of the economy.

* **Transparency and Visibility**

Tax payers should be made to know that a tax exists, why the tax is being levied, who is responsible for the tax and how it is calculated and paid. When taxes are visible, they allow citizens to make informed judgments about the relationship between their tax burden and the types and levels of government services provided to them.(MCFE, n.d). The notion of transparency should include clarity, implicitly and reliability (Owen, 2009).

* **Minimum tax gap**
* A tax should be structured so as to minimize non-compliance. A tax gap refers to the amount of tax owed less the amount of tax collected.
* **Accountability to taxpayers**

It is necessary to ensure accessibility and visibility of information on tax laws and their development, modification and purpose.

* **Predictability, Stability and Reliability:**

These should be encouraged as both taxpayers and Government benefit from stability, reliability and predictability in tax systems. Tax payers require stability in order to plan for payments. Governments benefit from tax stability as government spending is often driven by economic conditions.

* **Economic Competitiveness:**
* It is necessary for a tax system to reflect the realities of competing in a global economy. Tax systems should be responsive to changing regulatory and competitive circumstances.

**2.1.2 Tax Policy Guides**

 With regard to tax policy formulation, MCFE (n.d) provides the following guides: Policy makers should:

* Employ taxes with broad bases and low rates and minimize tax exemptions
* Use very clear and precise statutory language
* Maximize conformity with national tax code
* Endeavour to balance the cost of enforcement with the desired level of tax compliance;
* Create awareness among the tax payers on the linkages to spending
* Avoid increasing taxes automatically, for instance, index rates or triggers
* Report on tax incidence, especially on the taxes ultimately paid by persons that are not directly levied (such as corporate tax).
* Seek to strike a balance among different types of taxes
* Make used of budget reserves and rainy- day funds to respond to weak economies
* Employ the reserve system to reflect the costs imposed and not to influence social policy
* Minimize reliance on taxing mobile factors of production (labor, capital and tangible property).
* Ensure that business taxes are directed towards public investments that can stimulate growth and job creation in the private sector
* Use fees instead of general taxes, whenever they can be justified, and
* Base fees on full costs of providing government services.

AICPA (2017) highlights some of the challenges that exist in incorporating all of the guiding principles of good tax policy into a tax system. Many of them stem from the desire to use the tax law for more than raising revenue - for instance, to implement social or economic policies . One challenge mentioned is the frequent changes to tax law that challenge the principles of certainty and simplicity. The more changes that are made, the greater the difficulty which tax payers, tax practitioners and government tax administrators have in comprehending the tax consequences of transactions. AICPA asserts that it is impossible to achieve all the principles in the same level of perfection.

**2.2 Conceptual Review**

**2.2.1 Concept of capital flight and tax haven**

Fundera (2015) defines capital flight as unrecorded capital flows between one country and the rest of the world. These capital flows are not taxed. Consequently, they deprive the country of much needed revenues. Tax havens refer to jurisdictions that use secrecy and low tax, as a selling point in order to attract businesses to their financial service sectors. The banking secrecy prevalent in such countries makes it virtually impossible to detect who the account holders are. Fundera (2015) accuses multinational corporations as perpetrators of capital flight and responsible for the flourishing of tax havens. He claims that capital flight in the business world has led to the disappearance of huge sums of money estimated to be between $1.26 trillion and $1.44 trillion from Africa annually. Those figures are equivalent to 10 times the amount of annual global aid given to developing countries and two times the amount of debt servicing (Fundera,2015). Capital flight is a major constraint to growth and development in the African Sub-region. According to Boyce and Ndikumana (2012), 33 sub-Saharan countries estimated that in the period between 1970 and 2010, a total of $814 billion was lost to capital flight.

**2.2.2 Base Erosion and Profit Shifting (BEPS)**

Base erosion and profit shifting (BEPS) refer to corporate tax planning strategies used by multinational corporations to shift profits from higher tax jurisdictions to lower tax jurisdictions, thereby eroding the tax base of the higher tax jurisdiction (Bloomberg, 2017). OECD (2017) consider BEPS as tax avoidance strategies used to exploit the gaps and mismatches in tax rules of a particular country to shift profit to countries having low or non-tax policies through manipulation resulting in little or no overall corporate tax being paid. An OECD (2017) report estimates that BEPS tools caused tax losses of between $100 and $240 billion annually. Cobham (2018) claims that most BEPS activities are associated with industries that have intellectual property, namely technology and life sciences. BEPS is practiced mostly through transfer pricing for intangible products. However, in Nigeria companies in the oil and air way sectors of the economy appear to more involved in BEPS activities than other companies. This could be as a result of their number in these sectors of the economy or paucity of technology and life science industries in Nigeria. The degree of BEPS activities in these sectors in Nigeria is not only significant but worrisome. It has become obvious that many of the companies in the oil and airline operations employ various techniques of BEPS to reduce their tax liability to Nigeria.

Base erosion is the use of finance approaches and tax planning to reduce the size of a firm’s taxable profits in a country. This is usually achieved by structuring income in order to have a more favorable tax treatment or by exploring ways to write off certain expenditures against taxable income. This has the effect of reducing a company’s tax bill below what it would have been expected to pay. Profit shifting has to do with making payments to other group companies so as to move profits from higher tax jurisdiction to low tax regimes. This has the effects of increasing the overall profits available to group shareholders. Usually, these intra-group payments (known as transfer pricing) are in the form of royalties and interest payments as these expenses can be deducted from pre-tax profits. An additional advantage of these payments is that some jurisdictions have lower tax rules on these kinds of income.

According to Guidecoq (2019), the techniques used in base erosion and profit shifting include the following:-

1. **Trademark and technology licensing/transfer pricing.**

Managing the group’s trademark, designs and patents through an entity that applies a lower tax rate to intellectual property and then charging group companies royalties on the use of the trademark.

1. **Thin capitalization.**

By setting up subsidiaries with minimal share capital, groups can use a financing arm to finance the new company’s activities with debt. This large debt load attracts interest which has different treatment in some jurisdictions and can reduce the group’s overall tax bill if structured accurately.

1. **Hybrid mismatch arrangements**.

Different tax rules between countries can sometimes give rise to unintended effects such as double non-taxation which can be exploited by businesses enterprises to reduce their tax burdens.

1. **Putting assets into entities with no substance**.

Some countries introduce preferential tax regimes as a way to compete for business. This form of tax competition erodes the tax base of the country where the activity takes place. Some factors affect countries’ ability to determine the right amount of taxable incomes of those companies engaging in BEPS, namely

1. **The existence of digi8tal economy**

This makes it possible to deliver services that from anywhere, while generating value and making sales elsewhere .With this situation inplace,it becomes difficult to detemine what should be taxed, where and in what manner without some form of international cooperation.

The OECD is coordinating the initiative towards tackling the negative effects of BEPS and has proposed 15 actions implementable via some inclusive framework (IF) viz:

\* Addressing the challenges of the digital economy

\* Neutralizing the effects of hybrid mismatch arrangements

\* Strengthening controlled company rules

\* Limiting base erosion through interest deduction and other financial payments

\* Countering harmful tax practices more effectively while taking into account transparency and substance

\* Preventing treaty abuse in the form of treating shopping. [Treaty sopping means making investment through a third country only for the purpose of having the treating protection provided by the treaty concluded by such third country]

\* Preventing the artificial avoidance of permanent establishment status

\* Reducing the tax benefits of transferring intangibles within the same group

\* Preventing inappropriately large returns made by a group entity simply by providing capital or assuming contractual risks

\* Developing rules to clarify the application of transfer pricing methods such as profit splits in the face of global value chain as well as to protect against management fees, head office expenses and other common base erosion payments

\* Establishing methodologies for collecting and analyzing data on BEPS and the actions to address it

\* Requiring tax payers to disclose their aggressive tax planning arrangements

\* Re-examining transfer pricing documentation

\* Making dispute resolution systems more effective and

\* Developing a multi- lateral instrument.

The OECD, IMF and other international organizations have joined hands to organize a number of conferences aimed at addressing possible shortcomings in the individual action plans and modify them accordingly. The final report on the outcome of such conferences was produced in 2016.

**2.2.3 Concept of Tax Policy**

A country’s tax regime is a key policy instrument which may negatively or positively influence investment (OECD,2013). Marshal (2014) claims that all modern contemporary societies are grounded on the compulsory payment of tax. Tax policy has the twin goals of offering a tax system that is attractive to investment while at the same time raising revenues to support the key pillars of a business – enabling environment such as infrastructure. OECD (2013) contends that a poorly designed tax system where the rules and their application are non-transparent, overly complex or unpredictable may discourage investment. This increases project costs and uncertainty. In addition, tax systems that leave excessive administrative discretion in the hands of tax officials tend to invite corruption and undermine good governance objectives which are fundamental to securing an attractive investment environment. OECD (2013) advises policy-makers to ensure that their tax systems impose acceptable tax burdens that can be accurately determined, and which keep tax compliance and tax administration costs in check.

According to OECD (2013), in formulating a tax policy that is supportive of investment, the following issues should be taken into consideration:-

* The consistency of a country’s tax burden with its broader development objectives
* An evaluation of the actual tax burden on domestic profits
* A comparison of the actual versus the target tax burdens
* Understanding the potential tax effects on investment
* An evaluation of tax distortions to investment
* The determination of taxable income
* Accounting for unintended tax incentive effects
* Tax expenditure reporting and
* International tax cooperation.

Other issues to be taken into account in tax policy formulation include:

* Tax rates
* Tax burdens
* Tax burden with respect to specific tax bases (say corporate profits)
* Tax practice (administrative and compliance costs)
* Predictability or certainty of taxes over time
* Legal certainty (transparency of system)
* Use of tax revenue – services rendered by government and
* Present and expected fiscal deficits and public debt.

**2.2.4 Concepts of Tax planning and Aggressive Tax Planning**

Tax Planning is defined as the analysis of a financial situation or plan from the perspective of a tax with the aim of ensuring tax efficiency (Investopedia, 2018). It is an important part of a financial plan. Through this activity, all elements of the financial plan work jointly in the most tax efficient way. Tax planning considerations involve some issues such as the timing of income, size and timing of purchases as well as planning for other expenditures. Tax planning equally involves the selection of investments to create the best possible outcome. The goal of tax planning is to arrange one financial matter in order to minimize tax payable. It can be achieved by reducing ones income, increasing deductions and taking advantage of tax credits (The Balance, 2018).

 **2.2.5 Aggressive Tax Planning**

The European Commission(EU) (2012) cited in European Commission (2016) describes aggressive tax planning as taking advantage of the technicalities of a tax system or of mismatches between two or more tax systems for the purpose of reducing tax liability. Although it is theoretically possible to draw a line between acceptable tax planning and aggressive tax planning, the boundaries will in reality not be clear (EU, 2016).The Commission states that while tax planning involves using tax provisions in the spirit of the law, aggressive tax planning and tax evasion involve:

* Rearranging international flows to avoid repatriation of taxes;
* Reallocating the tax base to a lower tax country;
* Reducing the tax base through a double deduction or double non –taxation, and
* Illegal measures like non-disclosure of income (tax evasion).

A survey by Heckerneyer and Overesch (2017) identifies two main strategies of aggressive tax planning as (i) the use of both internal and external debt and (ii) the use of transfer pricing and licensing of intellectual property. EU(2016) tabulates the main channels of aggressive transfer tax planning (ATP) as follows:

 **2.2.5.1 Tax Planning Via Interest Payments**

 Interest costs are deducted in target entity and (i) not taxed/tax at zero rates in offshore entity or (ii) taxed at a lower rate in lower tax entity or (iii) treated as dividend income (and exempted) in other entity, or (iv) interest cancels out because target entity is transparent for other entity, or (v) deemed interest costs are deducted in target entity while no interest is paid/ received by other entities.

 **2.2.5.2 Tax planning via royalty payment**

 Royalty costs are deducted in target entity and (i) not taxed/taxed at zero rate in offshore entity, or (ii) taxed at a reduced rate in patent box entity or (iii) taxed at reduced rate in lower tax entity or (iv) royalty income is not taxed in receiving entity which is legal but not tax resident or (v) income arises in tax free entity.

 **2.2.5.3 Strategic transfer process of goods and services**

Prices from transactions are distorted to increase profits in lower tax entity at the expense of higher tax entities. By mispricing internal transactions, corporate tax base is reallocated to jurisdictions where lower taxes are levied.

 **2.2.5.4 Treaty shopping**

Under this channel, dividend flows are diverted with the aim of reducing or eliminating the tax burden on the repatriation of the profits.

**2.2.6 Concept of Tax Competition**

Tax competition refers to the process by which counties, states or even cities use tax acts, tax breaks, tax loopholes or tax subsidies to attract investment, hot money and even wealthy individuals (Tax Justice Network, 2019) Nations cut taxes on wealthy individuals that are generally more mobile than poorer people or smaller or local businesses in response to competitive pressures. The trouble with tax competition is that by competing with one another and eroding each other’s revenue, countries end up having to depend on other typically more distortive sources of financing or reduce much needed public spending or both (Keen, 2017).

**2.3 Contextual Review**

**2.3.1 Multinational Enterprises Tax Evasion and Avoidance in Developing Countries**

The process of formulating the development goals and the related financing for development discussion have increased the awareness of policy-makers and the public concerning the role of taxation as a source of development financing. Policy-makers have shifted attention towards the detrimental impact of tax evasion and avoidance schemes in developing countries (UNCTAD, 2015). Concord (2013) asserts that the total amount of domestic sources of development in developing countries is estimated at 60% of their aggregate GDP, as against 5%, with tax revenues constituting 15 to 30% of their GDP.

Developmental organizations and NGOs are worried about BEPS practices in developing countries for two reasons. Firstly, developing economies are less equipped than developed economies to counter corporate tax avoidance; consequently, their exposure may be greater. Secondly, the effect in terms of resource losses for developing countries is significant. This is so especially because of the scarcity of available local resources and the development financing gap (UNCTAD, 2015). It further asserts that tax evasion and avoidance practices by MNEs are issues which are relevant to all nations. Equally, the exposure to investments from offshore hubs is generally similar for developing and developed countries. However, UNCTAD (2015) considers profit-shifting out of developing countries as capable of having a significant negative impact on their sustainable development prospects. Developing countries are less equipped to deal with highly complex tax evasion and avoidance practices due to resource constraints and for lack of technical expertise.

**2.3.2 Tax Revenue Losses for Developing Economies from hub-based tax avoidance schemes**

A significant leakage of development financing resources is traceable to tax avoidance practices. UNCTAD (2015) claims that an estimated $100 billion tax revenues lost annually by developing countries is traceable to inward investment stocks directly linked to offshore investment hubs. The more investment is routed through offshore hubs, the less taxable profit accrue. For African developing countries, l of every 10 percent of offshore investment is connectd to a 1 percentage point lower rate of return (UNCTAD, 2015). In a similar dimension, Mykhalchenko(2019) reports that approximately $240 billion is lost in tax revenue every year due to various forms of tax evasion and avoidance and that the losses are more pronounced in low-income countries.

**2.3.3 Current tax policy challenges in African countries**

In an attempt to optimize taxation while aiming to attain developmental targets, developing nations face a myriad of challenges (Pfister, 2009). They encounter the difficulties at finding the optimal balance between a tax regime which is business and investment friendly as well as garnering enough revenue for public service delivery.

Pfizer indicates that after a period of flat growth between the early 1990s and early 2000s, the total government revenue as a share of GDP increased steadily in most African countries. Domestic revenue increased by about four percentage points of GDP between 2002 and 2007 and approached an average of 25% in 2007 for the whole of sub-Saharan Africa.

However, one major challenge which the African region faces is the fact that a significant portion of the increase in tax revenue in the region comes from natural resource tax. The natural resources subjected to taxation include income from production-sharing, royalties and corporate income from oil and mining.

OECD (2009) claims that non-resource related revenue in African countries increased by less than 10% of GDP over 25 years. On the whole, when compared to the 30% of tax to GDP ratio of the OECD countries, Africa is to be considered as suffering from a large revenue gap.

World Bank as cited in Pfister (2009) asserts that developing countries lose vital revenue through tax evasion and the siphoning of funds to tax havens. It contends that illicit flows of cash from developing countries every year amounts to between $500 and $800 billion. However, Pfister (2009) estimates the amount of money that have been lost by the African continent as a result of tax evasion between 1991 and 2004 as being in hundreds of billions of dollars annually and about 7.6% of the annual GDP of Africa. He further argues that the tax bases of African countries are significantly low.

Other issues confronting African countries apart from the BEPS menace are the use of tax incentives, lack of expertise in drafting complex provisions in the tax treaty or in their application by the tax administration and the use of the OCED model reducing the taxing right of these countries on management fees, technical services, royalties and dividends and interests. Nevertheless, Pfister (2009) claims that the OECD can support African countries in addressing these challenges in various ways, ranging from leading global efforts to counter cross-border tax evasion to working closely with the African Tax Administration Forum(ATAF). According the author, OECD also encourages deeper dialogue with development agencies and donors to transform widespread recognition of the central importance of taxation into effective action.

 **2.3.4 Reasons for the low Tax Base in Africa**

Fundira (2015) advances a number of reasons for the low tax base in Africa as follows:

* Economic structure and history of particular countries characterized by large informal sector (i.e. unregistered part of the economy).
* Rampant tax avoidance especially in situations where tax payers consider taxes as unfair and where a large degree of coercion is required to collect the taxes.
* Bad governance in resource-rich developing countries whose incomes are derived mainly from natural resources such as oil and other minerals as opposed to revenue from taxation. Those countries generally have history of bad governance.
* Inordinate use of tax incentives. This has been demonstrated in literature as a major factor that prevents African governments from maximizing tax revenues. Governments have invested a lot of money in tax incentives on the premise that such incentives promote economic development. A good example is in the extractive sector, especially in mining in the sub-Saharan Africa, where there are lots of investment incentives to large MNEs without carrying out proper cost-benefit analysis. Fundera (2015) cites the OECD as reporting that incentives on average were equivalent to 33% of the total value of tax collections in six African countries. In Ghana for instance, OECD reveals that special tax provisions and exemptions granted resulted in huge revenue loss of 6.13% of GDP. Estimates showed that up to $2.8 billion is lost annually in countries such as Kenya, Uganda, Tanzania and Rwanda in favor of tax incentives and exemptions (Economic justice Network, 2014).
* Corruption and tax evasion: The political and economic elite in many developing countries are often not part of the tax base because of tax exemptions and/or tax evasion as well as abuse of power.
* Trade liberalization which leads to the decline in customs revenue in developing countries
* Agricultural based economies which pose a challenge for tax collection in poor countries because the tax bases are often small while the cost of tax collection is usually high. Personal income is also seasonal and unstable.
* The existence of large informal sector in the towns which makes tax collection onerous
* Lack of resources and capacity for building effective tax collection system.
* Collection of tax contribution only from a small number of sources in many developing countries. For instance, Tanzania with a population of over 40 million has 286 companies contributing about 70% of domestic tax revenue, while in Kenya only 0.4% of tax payers pay 61% of the total domestic tax bill. ( Marshall, 2014).
* Negative effect of other financial sources on recipient countries’ incentives to generate revenue through domestic resources.
* Impact of capital flight and tax havens which contribute to stiffling the tax structures in developing countries. Capital flight has contributed significantly to the erosion of the tax base. (Tax Justice Network Africa, 2012).

**2.3.5 Tax evasion, avoidance and other tax gaps in developing countries**

There is a consensus among taxation experts that there is a considerable potential to boost tax revenue in most low – income countries (Mascaqni, et al, 2014). Both IMF (2011) and Minn, Moreno – Dodson and Bayraktar (2012) confirm that most low income countries have low tax collection and low tax effort. The implication is that tax revenues of those countries are below their potential levels (Torres, 2013). The difference between potential and actual tax revenue broadly defines the aggregate tax gap. Tax gap refers to the difference between tax collected and the tax that should be collected.

Mascaqni, et al (2014) highlight the difficulty in obtaining precise estimates of the amount of revenue losses due to international capital flight. However, according to the authors, various organizations have attempted to quantity them for instance, Christian (2009) estimates that transfer pricing costs developing countries $160 billion in lost revenues every year. Lewis (2013) claims that Associated British Foods had by shifting over a third of its subsidiaries profits out of Zambia, denied Zambian government $17.7 million since 2007. More generally, the amount that developing countries lose through illicit financial flows mainly in the form of tax avoidance by Multinational Corporation is estimated to be between EUR 660 and EURO 870 billion each year (Eurostat, 2013). Mascagni, et al (2014) required tax incentives as a second important source of tax gap while a third major cause of revenue loss is related to revenue generated in extractive industries. In addition to those major sources of revenue losses, developing countries face a number of constraints of political, administrative and economic nature.

**2.3.6 Efforts made to spur development in Africa**

While tax revenues account for more than 33% of GDP in OECD countries, they account for far less in developing countries, particularly in sub-Saharan Africa where they correspond to less than 20% of GDP (Carter & Cebreiro, 2011). However, they observed that action is already being taken by the African countries but noted that more work is still required as building tax administration capacity will help boost development. The OECD (2009) showed that, as at 2011, the tax GDP ratios in sub-Saharan countries where tax reforms were being implemented exceeded 16.8% of GDP which was the average for fragile and lower income countries. In order to fill the tax gap, the International Tax Dialogue, a global initiative based at the OECD and involving the European Union, the IMF and the World Bank, among others, undertook a survey of 15 African Revenue bodies. Those countries surveyed include Benin, Botswana, Burundi, Ethiopia, Ghana, Kenya, Malawi, Mauritius, Rwanda, Senegal, Sieora Leone, South Africa, Tanzania, Uganda and Zambia.

According to Carter and Cebreiro (2011), the intentions behind carrying out the survey were to build a clear picture as to the various approaches and practices used across the African continent, to identify the problems and to provide policy makers with a better view of the kind of measure that might be taken to address them. A similar exercise was carried out for the 50 middle and higher income countries of the OECD’s Forum on Tax Administration. All the countries surveyed by the International Tax Dialogue were seen to be already engaged in some significant tax administration reforms, many a time with donor support. However, some serious challenges were observed to be facing tax administrators in those countries, namely:

* The cost of collection ranged from 1% to 4% of the total collection in the region. Salary and related expenditures accounted for the largest portion – some 60 to 80% of the budget.
* In most of the surveyed countries, investment in information technology accounted for less than 2% expenditure.
* Non-tax revenues such as income from state-owned enterprises, fees and other payments for government services accounted by only about 1 to 2 % of total revenue collection as against the case in developing countries. In Latin America, non-tax revenues accounted for about 100% of government revenues.
* Institutional arrangements follow a relatively unified, semi -autonomous model. This would have an impact on the effectiveness of tax administration.

On the positive side,the results of the survey disclosed that:

* Most of the organizational arrangements are hybrid in nature. A number of revenue bodies set up headquarters function to provide operational policy guidance to field delivery.
* All revenue bodies surveyed produce 3 – 5 year business, corporate plans as do OECD countries.
* Most of the revenue bodies are funded through parliamentary appropriation.

According to Carter and Cebreiro (2011), the African Tax Administration Forum (ATAF) and other international institutions are collaborating to carry out a move comprehensive survey.

**2.3.7 Global efforts to fight tax avoidance and evasion in Africa**

Tax avoidance, tax evasion, tax heavens, illicit financial flows and global tax governance have come to dominate current international political and financial domains in the recent times and there is a growing call in favor of fighting the exploitation of tax regulations (Mykhalchenko, 2019). The OECD’s Declaration on Automatic Exchange of Information and Tax inspectors Without Borders are among the most prominent initiatives in this direction.

From the global scene, after the global financial crisis, the G – 20 leaders tasked the OECD through its Committee on Fiscal Affairs with the following mandate: To

* Work with policy makers from the OECD countries. Other bodies, such as the IMF, the UN Tax Committee and Independent Tax Experts to explore alternatives to the arms-length principle.
* Move away from damaging tax competition among themselves and foster regional co-operation in tax matters and
* Stand together to enforce multilateral adoption and implementation to end financial and corporate secrecy (Fundera, 2015).

The G20 Summit at St. Petersburg led to the endorsement of the BEPS project whose major objective is to close loopholes in the international tax system. The BEPS and the Action Plan were endorsed in the G20 meetings at Mexico in June, 2012 and St. Petersburg in September, 2013. In 2014, the IMF published a policy document addressing the spillovers – the impact that one country’s international tax practice has on other countries in international corporate taxation. The IMF observed that, for developing countries, the key issues are preventing tax treaty shopping, indirect transfer of interest in assets, interest deductibility and the introduction of clear and simplified transfer pricing rules. The BEPS actions designed to tackle aggressive tax planning from the OECD and UN perspective are Action 6 – dealing with tax treaty abuse and Action 12 – disclosure rules for aggressive or abusive transactions, arrangements or structures (Valderrama, 2014).

 According to Valderrama, countries have tackled aggressive tax planning by means of increasing administrative cooperation i.e concluding agreements to exchange information and administrative assistance to ensure tax compliance. Countries have equally introduced anti-abuse rules in tax treaties and in national rules. At national level, nations have introduced general anti-avoidance rules such as substance over form, business purpose and abuse of law, among others.

According to Green, Bustos and Vorredor – Vatasquez (2019), the G20 and the OECD finalized work on the BEPS project and published their report on October 5, 2015.

The BEPS Actions are meant to equip governments with domestic and international instruments for addressing tax avoidance and ensuring that profits are taxed where economic activities that generate the profits are carried out and where value is created. As it is necessary to have an effective international tax framework with the involvement of developing countries, the OECD established the Inclusive Framework (IF) on BEPS in January 2016 so that all interested countries and jurisdictions can participate on an equal footing in developing standards on BEPS related matters and reviewing and monitoring its implementation. Green, et al (2019) assert that 116 jurisdictions are already members of the IF on BEPS. Nigeria is one of them. Minimum BEPS standards for members have been set including Action 5 (countering harmful practices), Action 6 (preventing treaty abuse, Action 13 (transfer pricing documentation) and Action 14 (enhancing dispute resolution). Each member is subject to an ongoing peer review process to ensure timely and consistent implementation of the four minimum standards. A platform for collaboration on tax which aims to strengthen collaboration on domestic resource mobilization through the creation of tool kits was formed with the OECD, IMF, UN and World Bank Group as members. The aim is to help countries address challenges in international taxation. According to Green, et al (2019), in spite of the fact that the 2015 BEPS reports were considered final, the OECD has carried out some follow-up activities on the BEPS projects. For instance, the OECD has :

* Released an interim report on the tax challenges arising from digitalization (Action 1)
* Released the report on branch mismatch arrangements as a follow up work on Action 2.
* Completed work on two aspects of the common approach established in the Action 4 final report.
* Approved the contents of the 2017 update to the OECD Model Tax Convention (MTC). The update added a new article, the minimum standard agreed, as part of the work on BEPS Action 6 to eliminate double taxation without creation of opportunities for non- taxation or reduced taxation through tax evasion or avoidance, including treaty shopping arrangements.
* Produced additional guidance on how the existing rules of Article 7 of the OECD/ MTC would apply to permanent establishments (i.e.) resulting from the changes to the deduction of PEM Article 5 of the OECD /MTC.
* Continuing the work on transfer pricing issues of Action 8 – 10. Additional guidance is equally forthcoming
* Released a number of sets of guidance and two handbooks to assist and give greater certainty to tax administrations and multinational enterprise groups alike on the implementation and operation of country by country reporting of BEPS 13.

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**2.3.8 Effects of digitalization of the global economy on tax policy**

The final report on Action 1 considers the direct and indirect tax challenges created by increased digitalization and provides an evaluation of the options to address the challenges. The challenges of a digital economy for tax policy- makers are generally grouped into three categories – broader tax challenges, namely:

(1) The difficulty of collecting value added tax/sales tax in the destination country where goods, services and intangibles are acquired by private consumers from suppliers that are based overseas which may not have any direct physical presence in the consumer’s jurisdiction

(ii) The ability of some businesses to earn income from sales from a country with a less significant presence in the past, thereby calling into question the relevance of existing rules that look at physical presence when determining tax liabilities

(iii) The ability of some businesses to utilize the contribution of users in their value chain for digital products and services including through collection and monitoring of data which raises the issue of how to attribute and value the contribution (Saint – Amans, 2016). OECD (2015) contends certain business models and key features of the digital economy may increase BEPS risks.

Mykhalchenko (2019) reports that, at the moment, many initiatives have emerged across the global south to raise awareness of the tax avoidance problem involving governments and supernational organizations such as EU, UNDP and OECD as well as rights advocacy groups such as Tax Justice Network and others. After examining the anti-fraud initiative in South Africa, Ghana, Botswana, Nigeria, Tanzania, Kenya, Malawi, Rwanda and Zambia, the author observes some trends, one of which is the nature of the initiatives aimed at tackling various forms of tax evasion and avoidance as well as the actors during the measures. A number of private businesses especially consultancies and banks are seen to be active advocates for lawful taxation contributions across the countries studied namely, Deloitt Consultancy in Botswana and Malawi, in Ghana, Nortal, Botswans, Price Waterhouse ; in Malawi, Coopers; in Kenya, Southern Graphics Systems; in Tanzania, Sproxil and Bureau Veritas (Mykhalehenko, 2019). Some national governments in Africa have participated strongly in the push for strengthening tax regulations. For instance, crackdowns have been declared on tax misconduct by the president of Tanzania, Electronic billing machines have been adopted in Rwanda; amendments have been made to national legislation in South Africa to tackle tax avoidance, more aggressive measures have been adopted in Nigeria as her Federal Inland Revenue Service has often threatened to deny access to banking facilities to those companies that do not join taxation registration. In Ghana, measures to combat tax evasion and avoidance are taken by many actors including the Ghana Investment Promotion Council. The Ghana Revenue Authority planned to use the point of sale (POS) devices to strengthen tax collection and improve revenue monitoring. Kenya focuses efforts on small and medium enterprises to address the tax issue at grassroots level and work closely with county authorities to integrate the SMEs into the taxation system. Malawi Revenue Authority uses technology, particularly electronic payment systems to encourage taxpayers and prevent tax evasion and avoidance.

Botswana has joined the OECD’s BEPS framework and focuses on tackling tax avoidance by identifying multinational tax defaulters ( Mykhalchenko, 2019).

According to Mykhalchenko (2019), foreign actors have been deeply involved also in fighting tax evasion and avoidance in those African countries. The author claims that UK’s DFID spent over £22 million in 2015 and £26 million in 2016 on tax system improvements overseas. Ghana, Nigeria, Tanzania, Kenya, Malawi, Rwanda and Zambia received financial assistance from the British government in that respect. Currently, technical assistance is being offered to 18 African countries to enhance their capacity to obtain their tax.

Contributions also come from multinational companies in partnership with actors such as UK’s HMRC, African Tax Administration Forum, German’s Federal Ministry of Finance, Netherlands’ Tax and customs Administration, the World Bank Group, the French Direction Generale´ de Finances Publiques (DGFiP), USAID and others.

**2.4 Empirical Review**

Several studies have examined the effect of tax evasion and tax avoidance (the consequences of aggressive tax planning) on income generation in many countries. The studies emerged with diverse opinions. However, in general terms, the results show that tax evasion and avoidance bring about loss of revenue to the government.

Mookherjee (1997) investigated the effect of bonus tax systems on revenue generation. He observed that the possible gain in tax revenue follow from the fact that the position of corrupt tax officials is strengthened. The author concluded that bonus systems should be rejected as it does not capture the long-term effects of an increase in corruption on tax revenue and government legitimacy.

Cobham (2015) examined the effect of overall tax system in Latin American countries on employment generation. He observed that the direct tax in EU countries increased from the 1970s to 1980s but the overall growth was primarily due to increases in the revenue from sales tax. In contrast, the US exclude lower overall revenue and showed continuing growth in direct taxation only.

Russo (2010) studied the effects of tax evasion in Italy and found that one of the effects of tax evasion is loss of revenue to the government. Estimates from the Italian Ministry of Finance indicated that roughly 20% of the income earned within the national boarder was not reported; resulting in a loss of more than 300 million Euros every year in foregone tax revenue.

 Muchleggar (2008) asserted that lack of compliance with tax laws are likely to change the discretionary costs of raising a given level of government revenue and may have some impact on the distributional consequences of a given tax policy. Also, the resources spent evading taxes represent a deadweight loss to an economy.

Onyeka & Nwankwo (2016) investigated the effect of tax evasion and avoidance on Nigeria’s economic Growth. They found that tax evasion and avoidance had negative significant effect on the growth of the Nigerian economy.

Mehrara and Farahani (2016) examined the effects of tax evasion and government tax revenues on economic stability in OECD economies using data from 1990 – 2013. The results of their study show that tax evasion led to economic instability and that more tax revenues would be beneficial to a better economic condition. Obafemi (2014) carried out a study on the effects of tax evasion and avoidance on Nigerian economic development. He adopted survey research design and found that tax evasion and avoidance affected the economic growth and development of Nigeria.

Fuqe (1979) cited in Membrara and Farahani (2016) found that the size of the illegal economy was 22% of GNP in 1976 and 33% of GNP in 1978. He recommended the reduction of tax rates in all the legal sector, an increase in the punishment for participating in the illegal activities and the legalization of currently illegal activities such as grumbling and use of marijuana.

 **3.0 Methodology**

The researchers employed table content analysis and descriptive statistics in its methodology. It made use of journals, papers from conferences, seminars and workshop from international tax experts and organizations like OECD, IMF, World Bank, DFID, EU and others. The study concentrated on sub-Saharan African countries but drew inferences from other nations of the world.

**4.0 Observations**

 It was observed from the study that objectives of tax policies and their reforms are yet to be fully achievable globally, especially in the sub-Saharan African countries. On revenue mobilization, a lot of tax gap still exists in the developing countries arising from low tax bases caused by aggressive tax planning activities by the MNCs. Aggressive tax planning which the MNCs execute through royalty payment, interest payment, strategic transfer pricing and treaty abuse, among others, has caused countries around the globe huge revenue losses annually and has become a matter of serious concern to both the developed and developing economies. Consequently, a number of initiatives and efforts have been put in place to counter seriously the tax avoidance and evasion which result from aggressive tax planning by international organizations like the G20, OECD, UN, IMF, DFID, NGOs as well as some national governments and consultancy groups. In the forefront of the crusade of anti-avoidance and evasion battle are the G20 that mandated the OECD to join forces with similar organizations and tax experts to execute the BEPS project whose objective is to close the loopholes in the international tax system. In order to come up with an effective international framework with the involvement of developing countries, the OECD established the inclusive framework of BEPS to enable all interested countries and jurisdictions to participate on an equal footing in developing standards on BEPS and related matters and reviewing as well as monitoring its implementation. Of recent, a lot of initiatives are coming up. However, in Africa, a lot of concern with the BEPS project exists. The varying level of development of tax systems of developing countries and the capacity constraints thereof have the implication that there may be no meaningful participation of African countries in the BEPS project as a result of its exclusive nature, despite the initiatives mounted to help African countries out of low tax revenue collection. The sub-Saharan African countries are expected to face a sizeable fall in financing for investment which may be attributable to tax gap resulting from inefficiencies and lower taxation capacities.

**5.0 Conclusion and Recommendations**

 Tax revenues are essential predictable and sustainable sources of income for African countries. Consequently, efforts are constantly made to reform the tax systems and produce such tax policies that can ensure tax fairness and at the same time guarantee optimal tax collection.

The prevalence of illicit financial outflows in the form of tax evasion and avoidance and in the guise of aggressive tax planning by multinational corporations, however, makes Africa’s tax policies worse. Such illicit outflows divert scarce resources from productive activities, lower the tax bases and exacerbate the tax gaps in those countries. Though some modest successes have been recorded in terms of increase in tax revenue, tax revenues remain low compared to those of the OECD and other regions. For African countries to succeed and prevail economically, the global financial systems have to work effectively to eliminate the loopholes that have created room for tax avoidance and evasion by some of the wealthiest and most economically successful entities in Africa.

To tackle the issues highlighted above effectively, the study recommends as follows:

1. African countries should critically examine OECD and the G-20 policie of BEPS project with a view to identifying latent loop holes that make African countries vulnerable to BEPS activities.

2. To enable developing countries reap the benefits of the G-20 tax agenda, new international tax rules should be put into shape.

3. African continents should support the African Tax Administration Forum (ATAF) to implement the agreement of outcomes for the consultative conference on the African BEPS. Project goal societies in Africa should work in harmony with ATAF.

 4. The OECD and the international conference developing the BEPS multilateral instrument should recognize that the economic development of the developing countries is different among countries and among regions, and assist to install some changes in the tax administration of those countries aimed at increasing the human capacity, promoting interest to stem corruption and increase their testimonial knowledge.

1. The relationship between the tax administration and the taxpayers should be improved upon based on trust which is justified on the actions of the tax administration and the tax payer.
2. The OCED should recognize that the BEPS measures ought to be tailored to the countries’ perculiar circumstances and to the regions since one size does not fit all.
3. Since tax systems are different around the globe, the OECD, UN and regional organizations should develop one international instrument which addresses the different priorities of countries including the different approaches and priorities of the non-OECD countries.
4. Policies should be put in place to raise efficiency in tax collection.
5. Technology should be leveraged as the advent of information and communication technologies offers avenues to support tax mobilization efforts. For instance digitalization presents ample opportunity to formalize informal business, expand the tax base and increase the tax capacity.

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