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1 author:

Agbo ELIAS Igwebuike
Godfrey Okoye University

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AGGRESSIVE TAX PLANNING INAFRICA

Elias Igwebuike Agbo
Department of Accounting and Finance, Faculty of Management and Social Sciences, Godfrey Okoye University, Ugwuomu-Nike, Enugu, Nigeria.
E-mail: agboelias@ymail.com

Abstract
Quite often, developing nations are confronted with the challenge of designing tax policies which can ensure tax fairness and provide taxes that are easy to pay and easy to collect. They strive to establish such fiscal regimes that are reasonably transparent and visible, protect economic competiveness and, as much as possible, base taxes on the benefits received within their political and economic contexts. Nevertheless, many multinational corporations have often engaged in tax avoidance schemes that tend to undercut the tax revenues accruable to their host countries, using aggressive tax planning. The aim of this paper is to review and provide an update on the effect of aggressive tax planning on revenue mobilization in the African continent. This study reveals that, in spite of the recent achievements made to tackle this menace, its effect on the economies of African countries is still significant. It recommends that more international organizations should involve African countries in the Base Errosion Profif Shifting project as they are the worst victims of such activities.
Keywords: *Tax Policy, Multinational Corporations, Base Erosion Profit Shifting, Aggressive Tax Planning, Revenue mobilization, African economy*.

1.Introduction

Miyandazi and Ronceray (2018) report that the 2018 Organization for Economic Cooperation and Development (OECD) Development Assistance Committee (DAC) figures show that an estimated US$ 29 billion in bilateral official development assistance (ODA) was given to Africa including US$ 25 billion to sub-Saharan Africa. This amount reflects an increase of about 3% compared to the previous years. However, as of 2018, only five countries within the European region (the United Kingdom, Denmark, Luxembourg, Norway and Sweden) were able to achieve or exceed the United Nation (UN) target of 0.7% of ODA as a percentage of gross national income (GNI) to developing countries. This situation made it obvious to economies that, although ODA is an important source of finance particularly for fragile and low-income countries in Africa, it is no longer a stable source of development financing. As a result, nations have seen the need to adjust to the changing global landscape in ODA through increased financing and ownership of their own development. Hence, renewed interest and focus on reforming and improving their tax laws and practice have emerged in the recent times as countries now see taxation as a very essential instrument of state building. Taxation is considered very important as it not only provides a stable and regular flow of revenue used to finance development but is also interwoven with many policy areas such as good governance, economy formalization and growth enhancement. Tax policies are made which not only clarify the taxes to levy, in which amounts and by whom but also are aimed at creating conducive environment for international trade and investment to thrive. Nevertheless, the objectives for tax policies and their reforms are yet to be fully achievable in many African countries. On the side of revenue mobilization, a lot of tax gap still exists and arise from low tax bases caused by aggressive tax planning activities by the MNCs. Regrettably too, the international tax laws have not kept pace with the changes in the global business environment. This limitation has created room for the multinational corporations (MNCs) to evade taxes seriously across the universe (Fundira, 2015). The developing countries, especially those in Africa usually collect tax revenues that are in very low proportion with their Gross National Products (GNPs) (Valderrama, Akunobera, Muzz, Cruz, Schoueri, Roeleveld, West, Pistone & Zimmer, 2014). Valderrama et al, (2014) report that developing countries collect between 15% and 20% of their GDP as against the range between 30% and 40% which the OECD countries collect. Apart from the problems of balancing the mobilization of domestic resources and broadening tax base, the major challenges confronting African countries and many others are tax evasion and avoidances by the MNCs which often come in the form of aggressive tax planning.

Aggressive tax planning which the MNC sexecute 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 nations all over the universe. The issue of aggressive tax planning has remained a significant challenge that works against optimal revenue mobilization, despite all the interventions from the OECD, the United Nations (UN) 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 causes of losses in cross-border transactions for African countries is transfer pricing – an exercise that takes place when one company sells some good or services to another related company. Many countries in Africa lack the required capacity to mitigate effective transfer pricing risks; hence, the huge losses. 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 African 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. Coulibaly and Dhruvahandhi (2018) project that African countries are expected to face a sizeable fall in financing for investment. The authors estimate the shortfall at about $230 billion per annum over the next five years, arising from inefficiencies and lower taxation capacities.

The main purpose of this paper is to review and provide an update on the effect of aggressive tax planning on revenue mobilization in the African countries.

The paper is structured in the following order: Section2 presents the review of related literature. Section3 discusses multinational enterprises‟ tax evasion and avoidance in developing countries. Section 4 presents how illicit financial flows takes place in Africa and the resultant current revenue losses. Section 5 focuses on the reasons for the low tax base in Africa. Section 6 demonstrates the global efforts to fight tax avoidance and evasion in Africa while Section 7 concludes the paper.

2. Review of the Related Literature

2.1 Conceptual framework

2.1.1 Concept of Tax Policy

Tax policy comprises a set of guidelines, rules and *modus operandi* for regulating taxation. It clarifies 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. Tax policy spells out how societies carry out taxation (Christians,2018)., A good tax policy does not change when there are large budget deficits or healthy surpluses. It has 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 competiveness and basing taxes on benefits received where possible(Association of International Certified Professional Accountants ,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.

Some guides have been provided for tax policy formulation, the guides expect governments to take the following steps (i) employ taxes with broad bases and low rates and minimize tax exemptions, (ii) use very clear and precise statutory language, (iii)maximize conformity with national tax code, (iv)try to balance the cost of enforcement with the desired level of tax compliance and (v) create awareness among the tax payers on the linkages to spending. In addition, policy makers are expected to (i) avoid increasing taxes automatically, for instance, index rates or triggers,(ii)report on tax incidence, especially on the taxes ultimately paid by persons that are not directly levied (such as corporate tax),(iii) seek to strike a balance among different types of taxes,(iv)make used of budget reserves and rainy- day funds to respond to weak economies, (v) employ the reserve system to reflect the costs imposed and not to influence social policy,(vi) minimize reliance on taxing mobile factors of production (labor, capital and tangible property), (vii)ensure that business taxes are directed towards public investments that can stimulate growth and job creation in the private sector, (viii) use fees instead of general taxes, whenever they can be justified, and (ix) base fees on full costs of providing government services.

2.1.2 Base erosion and profit shifting (BEPS)

Base erosion and profit shifting (BEPS) refers 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) considers 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 nontax policies through manipulation resulting in little or no overall corporate tax being paid. BEPS strategies also mean exploiting gaps and mismatches in tax rules. 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 having intellectual property, namely technology and life sciences as well as multinationals. BEPS is practiced mostly through transfer pricing for intangible products. 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 share-holders. 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:-

(i)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 trade.

(ii)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.

(iii)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.

(iv)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

(v)The existence of digital economy

This makes it possible to deliver services that from anywhere, while generating value and making sales elsewhere. with this situation in place, it becomes difficult to determine 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 15Actions implementable via some inclusive framework (IF)

,namely(i)addressing the challenges of the digital economy,(ii)neutralizing the effects of hybrid mismatch arrangements,(iii)strengthening controlled company rules,(iv)limiting base erosion through interest deduction and other financial payments,(v)countering harmful tax practices more effectively while taking into account transparency and substance,(vii)preventing treaty abuse in the form of treating shopping.[Treaty shopping 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],(viii)preventing the artificial avoidance of permanent establishment status,(ix)reducing the tax benefits of transferring intangibles within the same group,(x)preventing inappropriately large returns made by a group entity simply by providing capital or assuming contractual risks,(xi)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,(xi)establishing methodologies for collecting and analyzing data on BEPS and the actions to address it,(xii) requiring tax payers to disclose their aggressive tax planning arrangements, (xiii) re-examining transfer pricing documentation, (xiv) making dispute resolution systems more effective and (xv) developing a multi- lateral instrument.

2.1.3 Concept of Aggressive Tax Planning

Aggressive tax planning has been defined as an effort aimed at exploiting the differences in tax systems by taking advantage of the technicalities of a tax system or of the mismatches between two or more tax systems for the purpose of reducing tax liability. 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.

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). While tax planning involves using tax provisions in the spirit of the law, aggressive tax planning and tax evasion involve (i) rearranging international flows to avoid repatriation

taxes, (ii) reallocating the tax base to a lower tax country, (iii)reducing the tax base through a double deduction or double non –taxation, and (iv) 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 (see also Dharmapala, 2014). EU (2016) tabulates the main channels of aggressive transfer tax planning (ATP) as follows:

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. (a)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. 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.

(b)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 Theoretical Framework

a. Optimal tax theory

Mankiw, Weinzierl and Yagan (2009) define optimal taxation as the study of designing and carrying out a tax which maximizes a social welfare function subject to some economic constraints. The social welfare function referred to is usually a function of the utilities of individuals. This implies that a tax system is to be chosen which maximizes the sum of individual utilities. States require tax revenue to finance the provision of public goods and other government services. Tax revenue is also employed as a tool for wealth redistribution from the rich to the poor individuals. However, most taxes distort individual behavior, as the activity that was being taxed becomes less desirable (Kean,2011). The optimization challenge involves minimizing those distortions away from the efficient state caused by taxation, while at the same time achieving the desired levels of redistribution and provision of public goods (Lars & Sargent,2010). Exceptions to this kind of trade – off include nondiscretionary taxes, like lump-sum taxes, where individuals are incapable of changing their behaviors to reduce their tax burdens and Pigourian taxes where the market consumption of a good is not efficient and a tax brings consumption to the efficient level (Mirrlees and Adam, n.d).

(b) Socio-political theory of taxation

This theory advocates for a tax system which is not designed to serve individuals but one that cures the ills of the society as a whole. It demands that a tax system should be directed towards the health of the society as a whole since individuals are integral part of the broader society (Chigbu, Akujuobi & Appah, 2012)

(c)The Economics of Crime Model

This theory was used in nearly all compliance research. It is argued that a rational individual maximizes the expected utility of the tax evasion gamble balancing the benefits of successful cheating against the risky prospect of election and punishment. Based on this model, compliance depends on enforcement and it is straightforward to show with comparative analysis that declared income increases with an increase either in the probability of deletion, penalty rate and frequency of audit and verification

(d)Cost of Service theory

This theory emphasizes the semi-commercial link between the state and its citizens to a greater extent. It implies that citizens are not entitled to any benefits from the state. However, if the citizens have any such entitlement, they must pay the cost of the provision of such entitlement. This work is anchored on all the thories highlighted above.

2.3 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.

. Obafemi (2014) carried out a study on the effects of tax evasion and avoidance on Nigerian economic development. He adopted survey research data by administering a well-structured questionnaire to 150 Nigerians including tax payers and evaders. He found that tax evasion and avoidance affected the economic growth and development of Nigeria.

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.

European Commission (2017)carried out a study with the aim of providing economic evidence of the relevance of aggressive tax planning (ATP) structures for all EU Member States. The study relied on economic indicators available at macro-level and on indicators derived from firm-level data. The study also had the objective of looking at the relevance of ATP for all Member States through two complementary angles. The results of the study showed that none of the indicators provides per se an irrefutable causality towards aggressive tax planning unless the set of indicators are. Considered together, the study provides a broad picture of which member states appear to be exposed to ATP structures, and how it impacts on their tax base. When combined, these indicators allowed the classification of entities within multinational enterprises (MNEs) into three types: (i) target entities, where the tax base is reduced (ii) the lower tax entities where the tax base is increased but taxed at a lower rate, and (iii) conduit entities which are in a group with aggressive tax planning activities but no clear effect on the tax base is evident.

Miyandazi and Ronceray (2018) sought to understand illicit financial flows(IFFs) and efforts to combat them in Europe and Africa. The authors analyzed policy dynamics and looked into the dilemmas relating to IFFs, in particular in Africa and Europe, to comprehend how to step up the game in fighting IFFs and favour development. They found thatthere is no unanimous definition of what IFFs are, even though they stand prominently on the international agenda.

They also observed that different types of IFFs have a different range of impacts, some of which are far from straightforward and that several policy factors and incentives determine their existence. The study concluded that all countries will need to mobilize politically and seek policy coherence arrangements to reduce illicit financial flows IFFs.

3.Multinational Enterprises Tax Evasion and Avoidance in Developing Countries

Developmental organizations and NGO's are worried about BEPS practices in developing countries for two reasons for some reasons. Firstly, developing economies are less equipped than developed economies to counter cooperate tax avoidance; consequently, their exposure may be greater. Secondly, the effect in terms of resource losses for developing countries is significant. UNCTAD (2016) 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, profit-shifting out of developing countries is 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.

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 super national 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. 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 as 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.

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4. Illicit Financial Flows and current revenue losses in Africa

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 the profit accrued. 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.

In an attempt to optimize taxation while aiming to attain developmental targets, developing nations face a myriad of challenges (Pfister, 2009). They encounter the difficulty at finding the optimal balance between a tax requirement which is business and investment friendly and leveraging 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 resource income is 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. Ffister asserts that developing countries lose vital revenue through tax evasion and the siphoning of funds to tax havens. The author cites the World Bank as reporting that illicit flows of cash from developing countries every year amounts to between $500 and 800 billion. He estimates the amount of money that have been lost by the African continent as a result of tax evasion between 1991 and 2004 to be in hundreds of billion of dollars annually and about 7.6% of the annual GDP of Africa. In addition, 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.

In an overview of the African experience with illicit financial flows, Miyandazi and Ronceray (2018) report that African economies grew by 3.6% in 2017 and were expected to move up to 4.1% in 2018 and 2019.Contrary to expectations, however, for some decades, Africa fell behind in terms of ecomnomic development. For instance, poverty was estimated at 41% and the region remained one of the most unequal in the world, with ten of its countries listed among the 19 most unequal in the world (Miyandazi & Ronceray,2018). This was partly caused by illicit financial flows(IFFs) which have damaging consequences particularly for African countries. Such flows affect the continent's ability to finance their development and governance agenda.

According to Miyandazi and Ronceray (2018), a 2015 report from Global Financial Integrity (GFI) notes that when IFFs are scaled to a percentage of the gross domestic product (GDP), the Sub-Saharan Africa region tops the list, with illicit financial outflows averaging 6.1% of the region's Gross Domestic Product (GDP). Many of these countries collect only between 10 to 15% of their GDP through taxes. For instance, in two of Africa's largest economies (Angola and Nigeria), the tax-to-GDP ratio is between 12.5% and 6% (as per 2017 data). Indeed, Nigeria has one of the lowest tax-to-GDP ratios in the world. In 2017, the second edition of the Revenue Statistics in Africa report showed that for the 16 African countries it covered, the average tax-to-GDP ratio was 19.1% in 2015 – a percentage that is relatively low compared to developed economies. Within the OECD countries, the average tax-to-GDP ratio is estimated at between 22.8% and 34.3% (Miyandazi & Ronceray,2018). IFFs are also seen as increasing poverty level and inequality in Africa. The African Tax Administration

Forum is reported to have reported that up to 33% of Africa's wealth is being held abroad.

A 2017 United Nations Development Programme's (UNDP) study on Income Inequality Trends in sub-Saharan Africa is said to have identified IFFs as a specific feature of resource dependent growth, which presents obvious inequality risks that is capable of could resulting to a classic case of the "resource curse". In addition, the United Nations Economic Commission for Africa (UNECA) asserts that the estimated US$ 60 billion lost through IFFs from Africa annually could reduce inequality substantially through social transfers and investments in productive and job creating initiatives (Miyandazi & Ronceray,2018).

Other challenges that have, over the years, contributed to Africa's focus on IFFs include: rampant corruption, the depletion of natural resources, the need to finance infrastructure, concerns around terrorists and terrorist organisations using both legitimate and illegitimate means to raise and transfer funds, and formal and informal channels to move cash around. These challenges generate specific constraints in Africa, and addressing them requires significant funds.

As part of its usual role, the African Union (AU) has taken a keen interest in curbing IFFs that leave Africa. The AU (then the Organisation of African Unity (OAU)) first started looking at the issue of IFFs by analyzing the magnitude of capital flight in both monetary values and relative to the GDP of the continent in the 90s and early 2000s.According to Miyandazi and Ronceray (2018), in 2011, Léonce Ndikumana and James K. Boyce analysed capital flight from Sub-Saharan Africa and claimed that between 1970 and 2008 more than US$ 700 billion had left African continent. – an amount that was almost equal to the GDP of the 33 countries covered, or four times their external debt as it stood in 2008. In 2010, the annual forum for African ministers of the economy, finance and planning, recommended the creation of national financial intelligence units, regional collaboration as well as carrying out country level research to start dealing with the issue of IFFs.

Even though significant progress has been made by many developing countries, weak capacity, corruption and the missing reciprocal link between tax and public and social expenditures remain as challenges(OECD,2019).According to OECD(2019),the external environment poses increasing challenges. The continued heavy dependence of many countries on trade tax revenues, for instance, means that continued trade liberalization poses significant challenges in recovering revenue from other sources. Striking the right balance between an attractive tax regime for domestic and foreign investment, by using tax incentives for example, and securing the necessary revenues for public spending, is a key policy dilemma. Competition between developing countries for investment can trigger a race to the bottom. Developing countries face challenges in designing and implementing effective transfer pricing and information exchange regimes and more generally in improving transparency.

Specific challenges that loom especially large in developing countries include:

• Weak tax administrations.

Many administrations continue to be staffed by poorly trained and low paid officials, have structures which do not encourage an integrated approach to different taxes, and are marked by imbalanced service and enforcement functions;

• Low taxpayer morale, corruption and poor governance are often deeply entrenched. Corruption indicators are strongly associated with low revenue as are other governance indicators (weak rule of law, political instability). • Dealing with sectors that are „*hard-totax*" everywhere, including small businesses, small farms, and professionals.

Specifically:

(i) Although progress has been recorded in reforming revenue administrations, modern risk management techniques are not yet widely applied;

(ii)Several revenue administrations continue to suffer from serious problems of governance,

(iii)High-income individuals are not taxed sufficiently effectively. This can be done by removing opportunities for avoidance and strengthening detection and enforcement;

(iv) The personal income tax (PIT) is particularly difficult to enforce in developing countries with weak administrations.

(v)The tax base is not sufficintly expanded to enable value added tax (VAT) to bring in greater revenue than most other instruments

(vi) Insufficient systematic attention is given to replacing revenue lost from trade liberalisation. Most middle-income countries have readily recovered lost revenue from domestic sources. However, the same has not been true of low-income countries (though sub-Saharan African countries have on average done slightly better than others in this regard).

(vii)Incentives, including corporate income tax (CIT) exemptions in free trade zones, have continued to undermine revenue generation from the CIT;

(viii)The CIT is expected to come under continued pressure from globalisation in coming years, as international tax competition continues to lead to lower rates of CIT world-wide.

(ix)Profit-shifting by multinationals has become an increasing concern;

(x)Many resource-rich countries are yet to be able to design and implement fiscal regimes that are transparent and capable of securing a reasonable share of resource rents.

(xi) Streamlined tax regimes are yet to be established for small businesses. In addition, the methods of taxpayer segmentation have not been extended to them.

(xii) Capacity within governments to carry out tax policy analysis is usually weak. This is a significant hindrance to better design and fuller ownership;

(xiii)Tax expenditure analysis which is necessary for efficient, transparent and fair systems is not yet a routine exercise,

(xiv) The level of effectiveness and visibility of public spending financed by taxation, which can promote the trust on which voluntary tax compliance rests, is poor;

(xv) There is an absence of sustained political commitment from the highest levels such as will enable the countries to obtain sustainable tax reform; even where reform is successfully begun, backsliding can occur.

(xvi) related issue is the lack of knowledge, poor data, corrupt practices, capacity constraints and limitations in enforcement capabilities represent significant challenges to stemming IFFs in Africa (AU & ECA, 2015 cited in Miyandazi & Ronceray,2018). Also, African actors has been having the challenge of knowing how to best gain from possible internationally collaborations to fight IFFs.

5.Reasons for the low Tax Base in Africa

According to Fundira (2015) a number of issues are accountable for the low tax base in Africa, They are as follows:-

- Economic structure and history of particular countries are characterized by large informal sector (i.e. unregistered part of the economy).
- There is 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.
- There is bad governance in there source-rich developing countries whose incomes are derived mainly from natural resources such as oil and other minerals as opposed to revenue from taxing their citizens. Those countries generally have history of bad governance.
- There is 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 a lot 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. A country review in Ghana by the 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 (see Economic Justice Network, 2014).

- Corruption and tax evasion are a global phenomenon. 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 exists and leads to the decline in customs revenue in developing countries
- The economies are agriculture – based. This 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 informal sector is large in the towns; this makes tax collection onerous
- There are lack of resources and capacity for building effective tax collection system.
- The collection of tax contributionis 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).
- Other financial sources have negative effect on recipient countries‟ incentives to generate revenue through domestic resources.
- Impact capital flight and tax havens contributes to stifling the tax structures in developing countries. Capital flight has contributed significantly to the erosion of the tax base. (Tax Justice Network Africa and Christian Aid, 2012). Investment gap in developing countries has been stated at around $2.5 trillion (Mykhalechenko, 2019)**.**

Inspite of all the initiatives mounted to help African countries out of the low revenue collection caused by aggressive tax planning and despite the series of tax reforms going on in those countries, some Africam states are expected to face a sizeable shortfall in financing for investment. The latter is estimated at about $230 billion a year on average over the next five years (Coulibabaly and Dhravgandhi, 2018). According to Coulibaly and Dhravgandhi, tax revenue collection continues to under – perform, notwithstanding recent improvements. Apart from the tax revenue raise from the natural resource sector, tax revenues in the region moved up from 11 percent of GDP in the early 2000s to about 15 percent in 2015. Even at that, the ratio falls short of the desired level and remains below that of OECD (24 percent) and other emerging and developing nations. This region's still –lower tax revenues are attributed to both lower taxation capacities – about 20 percent of GDP on average – and to inefficiencies in revenue collection (Coulibaly and Dhravgandhi, 2018).

Tax competition also has serious implications for developing countries because they rely on company income tax for revenues. There is the risk that tax competition will drag them into tax policies which endanger their revenue source **OEC**D (2020).

Nevertheless, African countries are making headway in tackling tax evasion and money laundering, According to OECD(2020), the latest Tax Transparency in Africa report reveals that African countries made great strides in strengthening commitments and capacity aimed at achieving tax transparency and exchange information on illicit fund flows in 2019.Participating countries show significant advances on the Africa Initiative's two core pillars, namely raising political awareness and commitment and developing capacities in tax transparency and exchange of information. African countries were reported to have earned almost $12 million in additional revenue while eight African countries secured $189 million of additional revenue between 2014 and 2019.

6.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. Consequently, there is a clarion 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 prominentinitiatives 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 (i) 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 arm's-length principle, (ii)move away from damaging tax competition among themselves and foster regional co-operation in tax matters and(iii)stand together to enforce multilateral adoption and implementation to end financial and corporatesecrecy (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 (June 2012) and St. Petersburg (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(2014), countries have tackled aggressive tax planning by means of increasing administrative cooperation, that is, 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 5 October 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 projects 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), inspite of the fact that the 2015 BEPS reports were considered final, the OECD has carried out some follow-up activities on the BEPS projects.

On a survey carried out by Carter and Cebreiro (2011), action is already being taken by the African countries, but more work is still required as building tax administration capacity will help boost development. The OECD data shows 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. Mascaqni, Moore and Mccluskey (2014) claim that the recent upsurge of interest of developing countries in revenue mobilization is explained by a number of factors, namely (i) the potential benefits of taxation for state building (ii) independence from foreign aid (iii) the fiscal effects of trade liberalization (iv) the financial and debt crisis in the West and (v) the acute financial needs of developing countries. However, some serious challenges were observed to be facing tax administrators in those countries. Those challenges include

- 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 where non-tax revenues accounted for 100% or more of government revenues.
- Institutional arrangements follow a relatively unified, semiautonomous model. This would have an impact on the effectiveness of tax administration. On the positive side, the results of the survey disclose 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 – 5year 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.

7.Conclusion

The run-up in debt levels across Africa, the increasing concerns about debt sustainability, the potential benefits of taxation as regards state building, the independence from foreign assistance over a long-term and the issue of shifting aid are a reminder that financing for developing countries" economic development remains a work-in-progress. On several occasions, developing nations face the challenge of designing tax policies which can ensure tax fairness and provide taxes that are easy to pay and easy to collect. They make effort to install such tax regimes that are reasonably transparent and visible, protect economic competiveness and, as much as possible, base taxes on the benefits received within their political and economic contexts. However, several multinational corporations have often engaged in tax avoidance schemes that tend to undercut the tax revenues accruable to their host countries, using aggressive tax planning. The purpose of this paper was to review and provide an update on the effect of aggressive tax planning on revenue mobilization in the African continent. The study revealed that, inspite of the recent achievements made to tackle this aggressive tax planning, its effect on the economies of African countries is still significant. It recommends that more international organizations should involve African countries in the Base Errosion Profit Shifting project as they are the worst victims of such activities. In addition, the following actions are recommended:-

(i)The OECD and the G-20 should involve developing countries in the BEPS project as they are the worst victims of the BEPS activities. (ii) To enable developing countries reap the benefits of the G-20 tax agenda, new international tax rules should be put into shape. (iii) 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.(iv) 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.(v) 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.(vi) 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.

(vii) 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. (viii)Policies should be put in place to raise efficiency in tax collection. (ix) Technology should be leveraged as the advent of information and communication technologies offers avenues to support tax mobilization efforts.

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