Domestic Resource Mobilisation (DRM) Programme

BASELINE STUDY REPORT

Executive Summary

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Introduction: Domestic resource mobilization remains one of the most important policy challenges that States in Sub-Saharan Africa have to deal with today (Nnadozie et al 2017; IMF, 2018). This is because pursuing the Sustainable Development Goals and the Agenda 2063 requires substantive resources yet this comes at a time when global development finance landscape is changing fundamentally (Culpeper and Bhushan, 2010; Nnadozie et al 2017; OECD/ATAF/AUC, 2018). As such, sub-Saharan African countries need to increase the shares of national revenues mobilised from domestic sources considering reduction in development assistance, cost implications of commercial debt and volatility in trends in revenues generated from foreign investment. Despite notable recent progress in terms of strengthening the mobilization and effective use of domestic resources, there remain loopholes that continue to limit revenue generation outcomes (AU/ECA, 2015; ACBF, 2015; Nnadozie et al 2017). Many States in Saharan Africa are still struggling to collect sufficient revenues – often failing to reach at least 15% of GDP in taxes (IMF, 2016; IMF, 2018; OECD/ATAF/AUC, 2018; ATAF, 2018). Illicit Financial Flows (IFFs) are considered a major hindrance to effective domestic resource mobilization in sub-Saharan Africa (AU/ECA, 2015; World Bank, 2016). According to estimates by United Nations Economic Commission for Africa (UNECA), African countries lose about US$60 billion annually through IFFs and Sub-Saharan Africa reports the highest illicit financial outflows averaging 6.1% of the region's GDP (Kar and Spanjers, 2015). Globally, efforts to address and reduce IFFs have intensified recently with the publication and endorsement of the HLP report on IFFs from Africa in 2015 and endorsement of the OECD's Base erosion and profit shifting (BEPS) package by G20 leaders.

Background to DRM programme: The DRM programme implemented by four initial partners - Tax Justice Network Africa (TJNA), Transparency International – Kenya, AFRODAD, and Diakonia. aims to address some of the limitations to bolstering domestic resource mobilisation in Sub-Saharan Africa. The programme aims to take advantage of existing regional policy frameworks to push for maximization of domestic resource mobilization leveraging on some of the existing frameworks like the i) EAC Model Investment Code, ii) EAC Model Investment Treaty, iii) SADC Protocol on Finance and Investment, iv) ATAF DTA Model, v) Africa mining Vision (AMV), vi) Extractive Industries Transparency Initiative (EITI), and High Level Panel Report on IFFs from Africa to influence and drive change.

Objectives of the Baseline Study: The study was tasked to provide analytical input to the development of the DRM programme and to contribute to a flexible and continuously adjusted monitoring framework. This included: i) Assessment of the current situation in Sub-Saharan Africa with regard to Domestic Resource Mobilisation, in particular in the areas selected in this program, ii) Suggestion of benchmark indicators for the EAC, ECOWAS and SADC, and iii) Development of portfolio of data and information to support and inform adaptations to the context of the programme.

Methodology: The baseline study pursued a mixed method approach. This included a mix of qualitative and quantitative data collection methodologies incorporating participatory techniques in collecting data from key respondents (including beneficiaries of the project, partners and other key stakeholders). The main quantitative method applied was – collection of vital statistics obtained from reports, websites and global databases among other sources. Primary data was collected through: i) knowledge harvesting and ii) Key informant interviews and iii) electronic interviews. These were combined with secondary data from review of relevant and available literature on the project and related policy, legislative and institutional frameworks. The study mapped and reviewed a total of 132 pieces of literature (45 from international organisations, 49 from civil society organisations and 48 from thinktanks, independent research and academic institutions). The study sampled 129 respondents from four countries across the three Regional Economic Communities (Kenya, Tanzania, Botswana, and Nigeria) and managed to reach and consult 93 respondents representing a 72% response rate. Interviews were conducted through one2one interviews (40), electronic interviews (32) and multistakeholder knowledge harvesting forums (21). The response rate was occasioned by challenges in accessing some of the high level policy makers. Data was analysed largely through manual content analysis. The study made significant effort to triangulate the data considering information from academia/experts, civil society, government officers and media. It is therefore confident that the compendium of information collected and analysed was sufficient to support the findings presented and conclusions arrived at.

Study Findings: The findings of the study are organised in three segments as per the ToRs: i) along the programme's indicators across all four outcomes, ii) on the conduct of the programme, and iii) regarding outcome of analysis of the character of stakeholders involved in the programme.

1. **Regarding the programme's indicators:**

Outcome 1: Member States of EAC, SADC and ECOWAS implement key recommendations in HLP report on IFFs to curb harmful tax practices by 2022

- There was no State reported to have developed a database for comparable pricing of world trade goods in customs authorities. There was however mention of a private company in South Africa that offers a database which countries subscribe to though at very high prohibitive costs. There were also indications that the Kenya Revenue Authority (KRA) was using a tech platform - Excisable Goods Management System (EGMS) to tag and trace a wide variety of products and prevent both counterfeiting and tax avoidance. Also, the study noted the presence of a UN database - https://comtrade.un.org/ that provides free access to detailed global trade data - official international trade statistics and relevant analytical tables.
- The study found anecdotal evidence of existence of at least six transfer pricing units in the process of development in Sub-Saharan Africa. These were in Kenya, Nigeria, Tanzania, Ghana, Mozambique and South Africa. Nonetheless, fifteen (15) States were reported to have some legislation providing for Transfer Pricing in their tax regimes.
- At least three (3) States across the three RECs had put in place substantive measures and committed to implement AEOI on a specific timeframe. These were South Africa, Ghana and Nigeria. However, the study also noted that at least nine (9) other States were already compliant to standards for Exchange of Information on Request (EOIR).
- At least twelve (12) laws, policies or political commitments were established to have been made to encourage aligning of tax incentives within the three RECs. These included 3 notable efforts in the SADC region - a protocol, some guidelines, and an MoU; 3 efforts in the ECOWAS region - an Act and two institutional frameworks; and 6 efforts in the EAC region - two treaties, a protocol, an Act, a policy and a code of conduct.
- The study could not find any Double Taxation Agreement (DTA) aligned to ATAF DTA model. However, it noted some 28 treaties/agreements under review (based on ActionAid DTA simulator). These included: 4 in ECOWAS, 7 in the EAC and 17 in SADC.
- At least four (4) States across the 3 RECs had some form of legislation or policy framework that provides for Country by Country reporting by MNEs. These included 3 in ECOWAS (Nigeria, Côte d'Ivoire and Senegal) and 1 in SADC – South Africa. There was however, no State across the 3 RECs that had developed a public beneficial ownership register. Most of the States that had made progress with BORs were in the initial stages of making legislation and regulations for collecting information on beneficial ownership.
- At least four (4) States across the 3 RECs had some form of legislation or policy framework that provides for Country by Country reporting by MNEs. These included 3 in ECOWAS (Nigeria, Côte d'Ivoire and Senegal) and 1 in SADC – South Africa.

Outcome 2: Regional parliaments hold member States in targeted RECs accountable for prudent public debt.

- Due to lack of access to critical primary data sources like Hansards from regional parliaments, it was not possible to objectively measure and establish the extent to which regional parliaments were parliaments debating and questioning adherence to regional protocols on finance and investment by national governments.
- The study established that there were some public domain reports on debt levels produced. These included i) three reports produced regional level by Society for International development (SID), AFRODAD, IMF & World Bank, and ii) 37 national debt status reports produced by national treasuries or Central Banks. These included 16 in SADC, 15 in ECOWAS and 6 in EAC; and ii) 37 Country Debt Sustainability Analysis reports produced by IMF & World Bank for each member States from the three RECs. There were no indications from conversations with respondents that any of these reports had been actively disseminated or presented at any national or regional parliaments with a view to incentivise their action.

- There was no specific public data/information portal developed by RECs with information on debt status of member States identified by the study. However, it noted three websites where such could be mined. These were: EAC: http://elibrary.eac.int/; SADC: https://www.sadc.int/themes/economic-development/macro-economic-convergence/public-debt/; ECOWAS: http://www.ecowas.int/
- The study did not identify any fact finding forums or mission on debt that had been convened over the past three years by regional parliaments of any of the three RECs.

__Outcome 3:__ Regional Economic Communities' legislative and policy structures support implementation of the AMV and EITI

- The study noted one (1) declaration made by ECOWAS council of ministers in support of the Africa Mining Vision (AMV). It however noted that at regional level significant steps were being taken by the African Union Ministers in support of the AMV. They have had three sessions to date and the commitments and declarations thus far made include: i) December 2011 approval of the Action Plan for the implementation of AMV, ii) October 2012 discussion on an Action Plan for AMV as a continental tool, iii) December 2013 mandating of the African Union Commission to develop an Africa-led and owned mineral sector governance framework, iv) and October 2015 launch of the Africa Mining Vision (AMV) Compact by the African Union Commission (AUC).
- Due to lack of access to critical primary data sources like Hansards from regional parliaments, it was not possible to objectively measure and establish the extent to which regional parliaments were parliaments debating the AMV.
- The study noted at least seven (7) bills/laws passed by regional parliaments of targeted RECs with provisions related to implementation of the AMV. These include: 2 EAC (East Africa Community Mining Bill, 2017 and East Africa Investment Code); 4 ECOWAS (ECOWAS Directive on Harmonization of Guiding Principles and Policies in the Mining Sector of 2009, ECOWAS Mining Directive 2009 ECOWAS Mineral Development Policy (EMDP), 2012, ECOWAS Model Mining and Minerals Development Act (EMMMDA), ECOWAS Mining and Petroleum Forum (ECOMOF); 1 SADC (SADC Protocol on Mining 1997)
- There were at least seven (7) countries implementing policies or enforcing laws aligned to AMV principles or standards at national level noted by the study. These include; 3 in SADC (Mozambique, Lesotho and Malawi), 2 in EAC (Tanzania and Kenya), and 4 in ECOWAS (Nigeria, Guinea, Ghana and Sierra Leone)
- The study identified no REC with functional mechanisms for monitoring implementation of AMV at national levels
- There were 12 countries noted by the study to be implementing policies or enforcing laws aligned to EITI principles or standards at national level. These include 9 in ECOWAS (Burkina Faso, Côte d'Ivoire, Ghana, Liberia, Mali, Niger, Nigeria, Senegal and Togo), 2 in SADC (Mozambique and Zambia) and 1 in EAC (Tanzania).

__Outcome 4:__ Implementing partners in the DRM programme adequately deliver programme results to contribute to increased DRM in Africa

- The study noted that all three implementing partners (Afrodad, TJN-A and TI-Kenya) had substantive technical capacity to implement the planned project interventions but with recommendation to further enhance project staff capacities on (i) thematic competence, (ii) Rights Based Approach and (iii) Mainstreaming gender, conflict & environment in project work.
- Regarding functional mechanisms for horizontal learning among implementing partners, the study noted two mechanisms – mainly meetings and email correspondence between partners.
- The study also noted that all the three implementing partners (Afrodad, TJN-A and TI-Kenya) had notable capacity to engage in regional and continental level spaces/forums on DRM. Some partners had engaged in regional and continental level policy spaces and contributed policy suggestions and evidence. For example, TI's national chapters have combined efforts to engage the EAC on anti-corruption issues. These efforts have been bolstered by an experienced regional team based at the TI Secretariat in Berlin.
- However, it noted that there is need to establish strong contacts with regional bodies and frameworks through which implementing partners can obtain more sustainable and institutionalized (rather than personalised arrangements) for policy space and engagement of political actors that are crucial to the success of the programme.

- No implementing partner was identified to have Observer Status or MoUs with regional and continental level spaces/forums on DRM.

2. **Regarding the conduct of the DRM programme:**

- **On the theory of change:** The baseline study found approaches to implementation apt and suited for achieving the outcomes desired. It however, noted concerns on appropriateness of the level of implementation and targeting of key drivers of change. The main concern was that a lot of the outcomes desired by the programme appear to be things that will be achieved through action at national levels – through revenue authorities, national treasuries and or legislatures. As such, whilst targeting regional level actors can substantively change norms and incentivise States to do particular things, the real changes would require political buy-in, policy support and technical and administrative capabilities largely at national levels. The baseline study thus poses the question as to whether, the DRM programme can find a balance between national and regional level intervention. Is it possible to consider a mixed-method approach – targeting both drivers of change at regional and national levels?
- **On Capacity and Quality of implementing partners:** The baseline study established that to a large extent implementing partners demonstrated substantive capability to take on the demands of the efforts required to promote DRM in the sub-Saharan Africa in the contexts selected by the programme. However, there were notable gaps related to capacity of implementers to deliver on key outcomes of the programme that will need attention. Foremost, there were indications that implementers lacked strong linkages and contacts with regional actors especially with the RECs. This is despite the programme seeking to target regional actors. There were also concerns around the portfolio of staffs in the organisations implementing the programme that could effectively canvas and engage on the technical elements of DRM – like taxation, debt management and extractives sector accountability.
- **On the balance between available resources and scope of outcomes expected:** Whilst the study underscored the fact that the programme had substantive resources at its disposal, it was noted that perhaps the magnitude of outcomes expected of the programme outstrip the scope of these resources. This was especially with regards to time and also because gauging from the findings on the indicators – the amount of effort that will be necessary to make significant progress is colossal. This is also because of the impression the study got from exploring the contextual issues that present significant challenges especially with regards to possible opposition to some of the proposals or huge political will and policy buy-in that will be necessary.

3. **Regarding character and constellation of stakeholders involved in the programme.**

The general understanding developed from the analysis of stakeholders is that the entities/people who are most crucial to achieving any meaningful change or progress on DRM in sub-Saharan Africa are largely national level actors in the public sector (government). They are mostly linked to national revenue authorities, ministries of finance (treasuries) and legislatures (national or federal assemblies). This finding from the stakeholder analysis highlighted the overall finding from the study that whilst the DRM programme targets to engage regional level actors to influence norms and to promote development of policy legislation and political commitments on DRM, the most influential parties that have the highest interest in DRM are perhaps national level actors (especially political actors).

Conclusion and Recommendations: The baseline study found the intentions and efforts of the DRM programme to target influencing norms and promoting policy and institutional reform and political commitment to facilitate DRM substantively relevant and suited to the contexts within which it is intended for implementation. However, the study raises questions about the relevance and efficacy of the choice of actors – drivers of change elected by the programme to pursue. This is especially in terms of their ability to facilitate the desired change considering the method of implementation that is preferred. The baseline study is of the view that whilst targeting changing of norms on DRM at regional levels is useful and has the capacity to promote policy and institutional changes at national levels that could promote DRM, perhaps more returns could be achieved by also targeting national level actors in whose domain and under whose authority much of the desired changes would occur. Political will remains at the epicentre of conversations around DRM and especially for tackling some of the key issues around taxation, debt management and transparency in the extractives sector that the DRM programme has set off to take on. Perhaps a lot more attention should be paid to strategic communication and engagement of high level politicians, government officials, and private sector to make meaningful progress. Also, there remain substantive capacity gaps and challenges – amongst those seeking to intervene, targeted stakeholders and beneficiaries that will need to be addressed. It is also necessary to increase capabilities and willingness of those mandated to make these changes happen like those in revenue authorities, treasuries and other relevant institutions of government. Moving forward, evidence based policy advocacy, capacity development and awareness creation will be imperative for the programme to succeed. The study thus recommends that the DRM programme:

1. Revisits the Theory of Change; considering the drivers of change, implementation methodology and trade-offs in targeting regional vs national actors,
2. Reviews portfolio of planned activities – considering how far can they go to produce the intended outcomes within the scope of time allowed by the programme,
3. Reviews the programme's indicators and indicator definitions to make them more cogent,
4. Considers developing outcomes/indicators related to influencing norms at regional level and others at national level focused on tangible actual progress on some of the critical issues like operationalisation of transfer pricing units, and beneficial ownership registers,
5. Considers the elements of the programme that can be best achieved through intervention at national or regional level and task implementing partners to pursue them accordingly. Task specific implementing partners (depending on their capacities) to focus on regional level interventions and others for national level interventions,
6. Considers including a focus or outreach for private sector in engagements for influencing norms to increase voice and make the programme more inclusive,
7. Increases pool of people who can engage on technical issues regarding DRM (in civil society, academia, private sector and government),
8. Builds and strengthens capacity of implementing partners to access regional and continental policy spaces to effectively insert and meaningfully engage,
9. Designs and implement capacity development activities tailored along the thematic focus areas of the DRM programme targeting government, CSOs and other important stakeholders,
10. Identifies key regional level policy making spaces suitable for engagement on DRM and prioritize resources for participation,
11. Pursues open policy making spaces at regional level – through institutional modalities like observer status,
12. Concretises relations with key stakeholders that are instrumental in implementing major activities through MoUs and other suitable working arrangements.
13. Develops and maintains an DRM programme database of key stakeholders to be engaged during the process of implementation,
14. Works with implementing partners to improve on mainstreaming gender, environment and conflict sensitivity in their programing and implementation, and
15. Further pursues the consortium approach to implementation focusing on deepening partnerships and harmonisation of capacities amongst Implementing Partners. Pursue more horizontal learning and joint activities to avoid working in silos.