

Makerere University

Faculty of Law

Regional Integration and Tax Harmonisation:

A Critical Analysis of the East African Double Taxation Agreement

Student Name: **Oscar Kambona**

Student Number: 207002586

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Supervisors:

Prof. David Bakibinga

Dr. Henry Onoria

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ABSTRACT

This study examines the role of a double taxation agreement in the Regional Integration of East Africa. It is believed that when countries enter into Double Taxation Agreement's, it increases revenue by encouraging investments, enhancing co-operation among States in combating tax evasion and does away with Double Taxation. The study addresses a number of issues, which include inter alia the extent to which these assumptions are true and correct.

The study examines taxation as a barrier to free trade (movement of goods, capital and labour) has to be addressed by sound fiscal policies of harmonization. Harmonization is the elimination of divergences between tax systems. The question therefore is how to effectively reduce or even eliminate tax barriers to Regional Integration.

The study also tackles the possibility of taxation creating barriers to cross-border capital flows in the form of equity investments envisaged by regional Integration. The challenge, therefore is how to effectively reduce or eliminate such barriers.

The study focuses on the treatment of aspects of the Double Taxation Agreements including non-discrimination, concept of permanent establishment, prevention of fiscal evasion and anti-avoidance provision business profits, dividends, interest, royalties and capital gains. The conclusion is that while the proposed treaty may not be comprehensive in its coverage, it offers a more effective solution to double taxation when compared to the conclusion of separate but comprehensive bilateral treaties between member States and other countries.

The study makes a number of findings but mainly that without comprehensive tax harmonization in the East African Community, the Double Taxation Agreement may have little impact although providing a good start towards that objective. Basing on the findings made, the study draws necessary conclusions and makes recommendations.