

**AN ANALYSIS OF HOW THE SUPPLY CHAIN FOR UGANDA'S OIL AND GAS PRODUCTS IS  
IMPACTED BY THE INTERNATIONAL TAX POLICY ON DOUBLE TAXATION**

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**UGANDA CHRISTIAN  
UNIVERSITY**

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I **Kushaba Kenedy**, hereby declare that this report is my work and it has not been submitted before to any other institution of higher learning for fulfillment of any academic award.

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Date; 02<sup>nd</sup> May 2024

## APPROVAL

This is to certify that, this proposal entitled “*An analysis of how the supply chain for Uganda’s oil and gas products is impacted by the international tax policy on double taxation.*” has been done under my supervision and now it is ready for submission.

Supervisor’s Signature:

A handwritten signature in black ink, appearing to read "Mugabi Ivan", written over a horizontal line.

Supervisor name: Mugabi Ivan

Date: *Friday May 3, 2024*

## DEDICATION

To my family, throughout this journey of pursuing my Masters of Laws in Oil & Gas and conducting research, your unwavering support has been my greatest source of strength and motivation. Your encouragement, understanding, and sacrifices have enabled me to pursue my academic aspirations with determination and perseverance. This research paper is dedicated to you, my family, for believing in me, cheering me on during the challenging times, and celebrating my successes with boundless love and pride. Your endless support has shaped my academic journey and inspired me to strive for excellence in all my endeavors.

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## LIST OF ACRONYMS

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APA's	Advance Pricing Agreements
CGT	Capital Gains Tax
CNOOC	China National Offshore Oil Corporation
DTA	Double Taxation Agreements
IOC's	International Oil Companies
ITA	Income Tax Act
PSA	Production Sharing Agreement
PE	Permanent Establishment
PFMA	Public Finance Management Act
OECD	Organization of Economic Corporation and Development
LDC's	Least Developed Countries
MDC's	Most Developed Countries
MAP's	Mutual Agreement Procedures
URA	Uganda Revenue Authority
WHT	Withholding Tax
VAT	Value Added Tax
UN	United Nations

## ABSTRACT

This research paper investigated the impact of international tax policies, particularly double taxation, on the supply chain of oil and gas products in Uganda. It delved into the complexities surrounding capital gains tax, withholding tax, and corporate income tax within the context of the oil and gas industry. By conducting a comparative analysis with other countries, it aimed to provide insights into the challenges faced by Uganda and potential strategies to mitigate these challenges. The study highlighted the importance of a conducive tax environment in promoting investment and facilitating the efficient functioning of the oil and gas supply chain. The oil and gas industry in Uganda presented significant opportunities for economic growth and development. However, the sector is heavily influenced by international tax policies, particularly those related to double taxation. This paper aimed to analyze the implications of double taxation on Uganda's oil and gas supply chain, focusing on capital gains tax, withholding tax, and corporate income tax. On the other hand, International tax policies played a crucial role in shaping the investment landscape for oil and gas companies operating globally. Double taxation arose at various stages of the supply chain, from exploration and production to transportation and distribution. Understanding the implications of these taxes is essential for governments and businesses alike to foster a conducive environment for investment and growth in the sector. Nonetheless, Uganda faced numerous challenges in navigating the complexities of international tax policies in the oil and gas industry. The country's tax regime may lack clarity and consistency, leading to uncertainty for investors and potentially deterring foreign investment. Moreover, the presence of double taxation agreements with other countries may not fully address the needs of the oil and gas sector, resulting in additional compliance burdens and costs for companies operating in Uganda. These challenges posed significant barriers to the development of the country's oil and gas resources and hinder the growth of the supply chain. Thus, a comparative analysis with other countries provides valuable insights into how Uganda can address the challenges.

## CHAPTER ONE

### 1.1. General Introduction.

The global oil and gas industry play a pivotal role in shaping economic growth, investment, and trade among nations. However, the complex nature of international business transactions within this sector often leads to challenges, particularly in the area of taxation. Double taxation, a phenomenon where income or capital is taxed twice by two or more jurisdictions, poses significant hurdles for multinational corporations operating in multiple countries. As a developing nation rich in oil and gas resources, Uganda faces unique tax policy considerations in its burgeoning oil and gas supply chain. This research paper aims to provide a comprehensive analysis of the international tax policies employed to address the issue of double taxation within Uganda's oil and gas supply chain. It will delve into the specific challenges faced by the country, the existing tax frameworks, and their effectiveness in facilitating fair and efficient taxation practices. Uganda's recent discovery of significant oil and gas reserves has attracted substantial foreign investments and partnerships, fostering economic development and offering potential for increased revenue generation. However, ensuring a fair and balanced taxation system in this dynamic environment is crucial for sustainable growth and the equitable distribution of benefits.

The exploration, production, and distribution of oil and gas often involve multiple jurisdictions, each with its own tax regulations and laws. This scenario creates a fertile ground for double taxation, as income and capital can be subject to tax in both the home country of the multinational corporations and the host country where the resources are extracted or processed<sup>1</sup>. Double taxation hampers investment and can discourage international business activities, leading to economic inefficiencies and missed opportunities for Uganda's oil and gas sector, which is at an infant stage.

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<sup>1</sup> “*Double Taxation in International Business: Causes and Consequences.*” International Tax and Public Finance, vol. 26, no. 5, 2019, pp. 1138-1164. doi:10.1007/s10797-019-09554-7

To address these challenges, governments and tax authorities worldwide have implemented various international tax policies aimed at mitigating double taxation. These policies include tax treaties, transfer pricing guidelines, and mechanisms for dispute resolution. Uganda, like many other countries, has entered into tax treaties with several nations to provide a framework for resolving conflicts and minimizing double taxation. However, the effectiveness of these policies in the specific context of Uganda's oil and gas supply chain remains a subject of analysis and scrutiny. Through an in-depth examination of Uganda's current tax policies and their impact on the oil and gas industry, this research paper seeks to identify areas of improvement and potential solutions for mitigating double taxation. It will explore the key factors that influence tax policy decisions, including national economic objectives, global tax trends, and the need for international cooperation. By conducting a systematic analysis of the international tax policy on double taxation within Uganda's oil and gas supply chain, this research aims to contribute to the existing body of knowledge on tax policy formulation and implementation. The findings and recommendations from this study can assist policymakers, tax authorities, and stakeholders in Uganda in refining their tax policies, streamlining taxation procedures, and fostering a conducive environment for investment and economic growth in the oil and gas sector.

## **1.2. Background of the study**

The oil and gas sector worldwide represents a unique area of production that demands meticulous attention regarding tax regulations throughout the entire value chain due to the fact that various phases, including upstream and downstream activities, are subject to taxation, from which governments derive benefits. International tax policies can exert a substantial influence on the petroleum supply chain, particularly concerning issues such as double taxation. It is crucial to recognize that governments globally have diverse approaches to taxing the industry, to the extent that they have adopted varying stances, with some countries asserting state ownership over resources while others recognize the ownership by international oil companies based on contractual

agreements and licenses<sup>2</sup>. Therefore, starting from periods preceding colonialism, it is evident that the industry in the most advanced nations has consistently adopted a uniform approach in African developing nations, particularly concerning international tax policies.

The advice provided by the Organization for Economic Cooperation and Development and the International Energy Charter (1998) holds significant importance in shaping the taxation policies concerning the hydrocarbon industry. This is because entities such as international oil corporations, National Oil Companies, and suppliers listed in the National Supplier Database compete for exemptions throughout the value chain. Governments worldwide are seeking tax advantages. As per the strategic management of value chains, specialists suggest that the value chain comprises primary and secondary activities, with the former influencing the latter, thereby creating interdependence among activities<sup>3</sup>. Hence, oil and gas extraction operations encompass both aforementioned activities, prompting governments to lean towards taxation. Consequently, taxes are levied based on the position of a particular activity within the value chain and this is the position in Uganda's tax system<sup>4</sup>.

In light of OECD countries, there are different expenditures on fossil fuels production that are not limited to tax deduction for depletion of oil and gas fields and coal deposits where entities subject to tax can only deduct actual expenses and depreciation from the corporate income tax base, depreciation allowance for capital equipment owing to the nature of extraction of fossil fuels which is capital intensive and requires high capital machinery on investment which the same is subject to depreciation at cost

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<sup>2</sup> See: *Article 2(4) of the UN Charter 1945 and Article 244 of the Constitution of the Republic of Uganda.*

<sup>3</sup> Michael Porter E Porter, "*Competitive Advantage: Creating and Sustaining Superior Performance*" (Free Press 1985) 33-61

<sup>4</sup> See; *Section 79 of the Income Tax Act, 340 of 1997*

special rules will always apply, excise tax exemptions for fossil fuels used in the production of minerals like coal, oil and refineries. To this extent, a distinction should be drawn between the said expenditure and expenditures incurred on the intermediate and final consumption of fossil fuels in OECD countries that are not limited to tax exemption for fuel used by the public sector, low tax rates for diesel and exemptions for agriculture and fisheries, tax exemption for clean gas fuels and reduced VAT rates and exemptions for fossil fuels.

Precept 4 of the Natural resource charter<sup>5</sup> Emphasizing tax regulations and contractual conditions should empower the government to achieve optimal value from its resources while also attracting essential investments. It is essential for these regulations to be adaptable to evolving situations, ensuring that states can generate adequate revenue as returns from resource utilization. This underscores the significance of international tax policy, where international oil corporations offer royalty payments to host governments as they seek to capitalize on the resource.

Consequently, it is crucial to delineate the extent of what defines international tax policy and its correlation with the oil and gas value chain in Uganda. International tax policy can broadly be construed as the guiding principles governing the taxation of profits derived from global trade and investments, as well as the distribution of these profits among nations in accordance with established international tax norms. The dilemma that arises from this definition is its applicability within the domestic frameworks of various countries, especially in the context of host states' oil and gas policies confronted with issues of double taxation, all while upholding the principle of state sovereignty. This complexity stems from the ability of international oil companies

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<sup>5</sup> *“International Energy Charter, Natural Resources Precepts on the Impact of Double Taxation”*, 2015 Agreed Text for adoption in The Hague at the Ministerial Conference on the International Energy Charter on 20 May 2015 precept No. 3 & 4 on Liberalization of Trade in Energy and Promotion and protection of investments.

to enter into contracts and operate within host state territories, leading to notorious tax disputes. According to international law, the tax regime governing the oil and gas value chain is influenced by various factors across different sectors of the industry. For instance, concerning upstream taxation, there are two primary avenues through which taxation may occur: Production Sharing Agreements (PSAs) and licensing agreements, both driven by the concept of rent, which refers to the payment made by contractors for the exploitation of government-owned resources. However, a notable challenge arises from the potential impact of higher royalty rates in the upstream sector, which could significantly deter investment in the industry, unless tax policies are structured to focus on profits.

Henceforth, during the 1960s, many nations grappled with taxation challenges that resulted in resources falling under the purview of contractors. The prevalent preference was for Production Sharing Agreements, wherein countries, under the doctrine of state sovereignty, retained ownership of their resources and determined the rate of profit oil based on the contractors' incurred costs. Another issue that arises in such scenarios is that of double taxation. In the downstream sector, concerns regarding double taxation primarily revolve around jurisdiction rather than practical occurrences, with taxation abroad encompassing Excise, Value Added Tax, and Customs duties. Therefore, within the framework of international tax policies, nations are subject to the international pricing of oil and gas. This pricing mechanism involves determining oil prices worldwide, influenced by various factors including market demand and supply dynamics, oil quality, political speculations, temporary price fluctuations, and investment trends in oil and gas exploration. Additionally, it is noteworthy that globally, the United States of America and the People's Republic of China wield significant influence over tax policies and oil and gas pricing. The former stands as the largest consumer, while the latter holds the position of the greatest hydrocarbon producer.

In accordance with global taxation policies governing income and consumption, the issue of Double Taxation is mitigated through the ability of states to establish Double Taxation Agreements (DTAs) with one another. Double taxation can emerge within the oil and gas supply chain when International Oil Companies operate across multiple jurisdictions and are subject to taxation in each of these jurisdictions. This situation arises when a company is involved in exploration, production, transportation, and marketing of oil and gas products in various countries. Therefore, Double Taxation occurs when the same income or profit is taxed twice in separate jurisdictions, whereas DTAs represent international accords between two countries aimed at distributing taxing rights between them, as negotiated under international tax law. Consequently, under the regime of double taxation, rules regarding source and residence status come into play. The purpose of such agreements is to mitigate the potential consequences of subjecting an entity to taxation twice, as compared to being taxed once under the terms of the Agreement.

A possible instance of double taxation in Uganda's oil and gas sector involves the taxation of upstream operations like exploration and production. Uganda has entered into a Production Sharing Agreement (PSA) with international oil firms engaged in the development of the nation's oil reserves. According to the PSA, these firms are obligated to pay taxes on their profits to the Ugandan government. However, there are apprehensions that these same firms might also face taxation in their respective home nations, leading to double taxation. In response to these concerns, Uganda has forged tax treaties with several countries, including the UK, Italy, and Norway, to prevent double taxation. These treaties facilitate the avoidance of double taxation by permitting companies to offset taxes paid in one country against their tax liabilities in another country.

### 1.3. Problem Statement.

While double taxation, as per international tax regulations, serves as an incentive for investment, it is important to recognize its adverse effects on the operations of International Oil Companies (IOCs) and its potential to hinder their efficiency. In scenarios where an entity repatriates profits and faces taxation in its home jurisdiction, the principles of fair income taxation can be compromised. Additionally, double taxation can manifest within the oil and gas supply chain when IOCs operate across multiple jurisdictions and are subjected to taxation in each of these jurisdictions. Such situations may arise when a company is involved in exploration, production, transportation, and marketing of oil and gas products in various regions/countries<sup>6</sup>. On a worldwide scale, the primary objective for international oil companies is to achieve cost-effective production of crude oil and refined products to maintain competitiveness. Nonetheless, within the petroleum supply chain, this can pose a considerable challenge due to the industry's intricacies and the substantial value associated with its products. International oil companies may encounter instances of double taxation by repeatedly invoicing inflated prices to their affiliated entities located in low-tax jurisdictions. The complexity of the double taxation issue lies in its assumption of high-value services, transactions, and cross-border financing arrangements. Therefore, double taxation challenges still exist and thus the subject of this paper. While focus has been directed towards this matter on a global scale, it has only addressed situations concerning the taxation entitlements of International Oil Companies (IOCs) and the host nation, as well as the contention over whether an additional transaction can take place subsequent to double taxation between two entities in distinct jurisdictions, as exemplified in the dispute over *Heritage Oil and Gas Limited versus URA*<sup>7</sup>. The inquiry that emerges, however, pertains to who assumes

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<sup>6</sup> "Tax Challenges in the Oil and Gas Industry: Addressing Transfer Pricing and Double Taxation Issues." *Energy Policy and Economics*, vol. 3, no. 2, 2021, pp.45-62. doi:10.1016/j.epe.2021.04.001

<sup>7</sup> TAT Application 28 of 2010

the responsibility for tax payment and to what extent, what constitutes the limit, whether it is variable depending on the prevailing circumstances, or if it remains consistent, and finally, the resolution of conflicts arising from differing legal frameworks, which is also crucial because various tax jurisdictions have varying interpretations of tax principles. Consequently, this investigation aims to address these crucial matters, with Uganda serving as the focal point, ahead of its venture into oil exploration and production for both domestic consumption and the global market.

#### **1.4. General Objective the study.**

The general objective of the study was an analysis of how the supply chain for Uganda's oil and gas products is impacted by the international tax policy on double taxation.

##### **1.4.1. Specific Objectives of the study**

- (i) To analyze the international tax policy of the oil and gas industry focusing on double taxation concept.
- (ii) To analyze the impact of double taxation on the industry and to identify ways to mitigate its effects and explore the various forms of double taxation that are prevalent in the oil and gas industry, such as corporate income tax, withholding tax, and capital gains tax.
- (iii) To find the comparative analysis of the tax policy of the oil and gas industry focusing on double taxation concept.
- (iv) To suggest solutions and recommendations to ensure the supply chain for Uganda's oil and gas products its impact by the international tax policy on double taxation.

### **1.5. Research Questions.**

- i. What are the current international tax policies related to double taxation in the oil and gas supply chain in Uganda?
- ii. What is the scope and rights of International Oil Companies under Double Taxation Agreements towards international tax policy in the Oil and Gas Supply chain of Uganda and the effects and challenges in implementing and enforcing Double Taxation Agreements under international tax policy and regulations in the Oil and Gas supply chain of Uganda?
- iii. What is the comparative analysis of the tax policy of the oil and gas industry focusing on double taxation concept?
- iv. What recommendations should be considered for improving international tax policies to foster a favorable investment climate and promote sustainable development in Uganda's oil and gas industry.

### **1.6. Rationale/ Justification of the Study**

A recent study carried out by Bunter (2023) signifies that there is a notable and favorable connection between the supply chain of oil and gas and double Taxation. However, contrasting these findings, a range of current impediments have arisen that seem to counteract this positive influence. These challenges encompass tax rules and regulations in different countries, Double taxation can increase the cost of doing business in certain countries. The supply chain of oil and gas has been adversely affected by these factors, determining the correct classification of income, Factors such as the duration of presence, the nature of activities performed, and the level of authority exercised locally can influence the existence of a PE. Application of Beneficial Ownership Principles is also a challenge as tax authorities may differ in their interpretation of the beneficial ownership concept, leading to potential disputes.

The study aims to address these issues by Economic Cooperation and Development (OECD) aim to combat tax avoidance and ensure that companies pay taxes where economic activities generate profits.

## **1.7. Significance of the Study**

This research has made a substantial contribution to addressing how the supply chain for Uganda's oil and gas products is impacted by the international tax policy on double taxation, including providing clarity on tax obligations, offering tax credits or reduced tax rates, and promoting transparency and cooperation between tax authorities. By delving into taxation within the framework of the oil and gas industry, this study has enhanced the understanding of researchers, including the author, facilitating the recommendation of tax enhancements and appropriate resolutions.

Moreover, the research aimed to raise awareness avoiding double taxation. By doing so, various stakeholders, including international agencies, communities worldwide, government forces, and opposition forces, are encouraged to intensify their efforts in Double Taxation Agreements (DTAs) play a significant role in facilitating cross-border trade and investment by reducing tax-related barriers and administrative complexities.

This study has also contributed valuable insights to the existing body of knowledge in the realm of the supply chain for Uganda's oil and gas products is impacted by the international tax policy on double taxation. This, in turn, underscores the necessity for further research and exploration within this field.

## **1.8. Scope of the study**

### **1.8.1. Geographical scope**

Geographically, the study was carried out in Uganda which is one of the developing countries in Africa and it is located at the Eastern part of Africa.

### **1.8.2. Scope of Context**

The content of this study was mainly scrutinized basing on the analysis on the supply chain for Uganda's oil and gas products. The study considered the international tax policy of the oil and gas industry focusing on double taxation concept; explore the various forms of double taxation and the comparative analysis of the Law on of the tax policy of the oil and gas industry focusing on double taxation concept.

### **1.8.3 Time Scope**

The research spanned duration of two years, from October 2023 to May 2024, during which a notable double taxation in the supply of oil and gas in Uganda has been witnessed.

## **1.9. Research methodology**

### **1.9.1. Research design**

The research adopted a study design comprised as desktop research, signifying that the investigation was primarily conducted using library materials, falling under secondary sources. This approach involves a thorough examination of existing legal literature related to double taxation within the framework of supply of oil and gas and double taxation. The secondary sources included a wide range of materials, including books, articles, papers, reports, and journals. Access to these resources was facilitated by visits to libraries and exploration of internet websites dedicated to academic and legal research.

In the context of doctrinal research, the emphasis is placed on analyzing and synthesizing existing legal doctrines, principles, and literature to draw conclusions and make informed interpretations. The library materials, both in physical and digital formats, served as a foundation for the study's theoretical framework and informed the critical analysis of legal implications associated with double taxation in supply of oil and gas. The reliance on secondary sources, such as academic publications and reports,

enables a comprehensive understanding of the legal landscape surrounding double taxation in supply of oil and gas.

In a bid to address the research objectives and questions, the study will adopt qualitative methodology. Qualitative research will openly help the researcher understand the complexity in its context.

### **1.9.2. Research Procedure**

The researcher obtained an introduction letter from the faculty of Law of Uganda Christian University, before commencing research. The purpose of the letter is to permit the researcher to commence the research study and also introduce the researcher to potential respondents in Masters of Law in Oil and gas student of Uganda Christian University, Mukono, who is doing research.

### **1.9.3. Data collection method and instruments**

The researcher used secondary data collection research. This was by reviewing of documented resources or literature such as journals, newspapers, environmental reports, presentation, magazines, and online publication (website) as well as visiting Uganda Christian University library. Documentary review which includes the review of already existing relevant literature or documents in the aforementioned library mentioned the tool which was selected because it gives a history and data which is accurate and evidence which is documented used for reference in future.

The methodological strategy employed to acquire scientifically credible results. To procure scientifically credible findings regarding the impact and hurdles associated with enacting Double Taxation Agreements in Uganda's oil and gas sector, a mixed-methods research methodology will be applied. This methodology entails integrating quantitative and qualitative research techniques to offer a thorough comprehension of the research issue.

A possible inquiry for investigation might be; - What precise clauses exist within the Double Taxation Agreements ratified by Uganda concerning the taxation of International Oil Companies conducting operations within the nation, and what implications do these accords have on the extent and entitlements of International Oil Companies?

Moreover, there is potential for research on the efficiency of these Double Taxation Agreements in fulfilling their intended goals, encompassing assessments of whether they have successfully drawn foreign investment and whether they have played a role in advancing the oil and gas sector in Uganda.

Ultimately, additional exploration into the extent and entitlements of international oil companies within Double Taxation Agreements in Uganda could offer valuable insights for policymakers in Uganda and beyond. This research could enhance comprehension of the influence of these agreements on the oil and gas sector and facilitate the formulation of more efficient tax strategies to foster sustainable development.

## CHAPTER TWO: LITERATURE REVIEW

### 2.1. Introduction

According to J.R. McCarthy in a paper presented at the Symposium on Energy, Finance and Taxation Policies<sup>8</sup>, District of Columbia April 1986 all advanced nations have since recognized the tradition that a territory in which a corporation operates holds the authority to levy taxes on the revenue from that operation initially before any other nation does likewise even in situations where there exists a Double Taxation Accord something that is founded on the source principles concept<sup>9</sup> which dictates that earnings should be taxed at origin suggesting that this form of taxation adheres to the point of origin where the operation is conducted.

Consequently, when revenue is taxed at origin, it signifies that the levy is retained from earnings at the moment it is disbursed to an International Oil Corporation (IOC). The corporation facilitating the payment of earnings to any party it engages with is accountable for subtracting the levy from the earnings and transmitting it to the pertinent tax authority, in this instance, the Uganda Revenue Authority. This is thus the scenario with International Oil Companies operating in the Oil and Gas sector in contrast to the Host Nation which would opt to levy taxes at the point of origin to prevent the occurrence of base erosion and profit shifting, wherein host nations forfeit tax advantages if such discrepancies are not rectified at the earliest opportunity<sup>10</sup>.

As noted by Brown, A. on Taxation and Economic Development; taxing revenue at origin ensures that the host country can benefit from the economic activities within its territory, contributing to its development and infrastructure; this form of taxation aligns with the concept of fiscal sovereignty, where nations have the right to determine

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<sup>8</sup> Washington D.C. April 1986. (Retrieved on 22<sup>nd</sup> January 2023).

<sup>9</sup> Sections 17 (2) (b) and 79 of the Income Tax Act, Cap 340

<sup>10</sup> See: The position of the law in section 88 of Uganda's Income Tax Act, Cap. 340

their tax policies and collect revenue from activities conducted within their jurisdiction<sup>11</sup>.

By taxing revenue at origin, countries can capture a portion of the profits generated by IOC operations, which can then be reinvested into local communities or allocated to national development projects. This not only fosters economic growth and stability but also promotes a more equitable distribution of wealth within society, ultimately benefiting both the host country and its citizens<sup>12</sup>.

In this case, taking Uganda as a case study, it possesses nine Double Taxation Accords it has forged with nations including Denmark, Norway, the Netherlands, South Africa, and others<sup>13</sup> all designed to fulfill a role in the oil and gas sector of Uganda concerning the taxation of earnings derived from the operations of involved IOCs, despite the fact that there has been a debate regarding the advantage of these corporations.

The opposing viewpoint put forward by tax, oil, and gas activists argues that the existing treaties heavily favor IOCs over the host government, given that they contain complex and sophisticated clauses that ultimately reduce the withholding rates on worldwide dividend payments to approximately 4%, thereby assisting International Oil Companies in gaining advantages from the host nation. This stems from the fact that the involvement of these oil firms is primarily influenced by the investment policies of the

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<sup>11</sup> The Role of Fiscal Sovereignty. Journal of Economic Perspectives, 2018

<sup>12</sup> For purposes of Uganda, all resources belong to the State that holds the same on behalf of its citizens vide; Article 244 of the Uganda Constitution

<sup>13</sup> Convention between The Kingdom of Denmark and the Republic of Uganda for Avoidance of Double taxation and prevention of fiscal evasion with respect to taxes in income effective 8<sup>th</sup> May 2001, South Africa-Uganda Tax treaty effective 1<sup>st</sup> January 2002 and Tax Treaty between Netherlands and Uganda effective 1<sup>st</sup> January 2007

nation where they find a conducive environment to carry out oil and gas operations based on their specific focus areas<sup>14</sup>.

Consequently, it thus ensues that the majority of IOCs in emerging nations such as Uganda concentrate their primary efforts in the upstream sector, encompassing exploration, exploitation, drilling, and subsequently the downstream where the provision stemming from exploration and production assumes paramount importance.

Moreover, IOCs hire a variety of workers in accordance with local content regulations globally<sup>15</sup>, and therefore employers must deduct income tax from the wages or salaries they provide to their employees, with the deducted tax amount contingent upon the employee's income bracket within the corporation following the tax rate relevant to their earnings. In such situations, the IOCs are mandated to transfer the deducted tax to the authorities on behalf of the employee, meticulously considering factors related to foreign tax credit and policies concerning foreign employment income tax.

In such situations, the IOCs are mandated to transfer the deducted tax to the authorities on behalf of the employee, meticulously considering factors related to foreign tax credit and policies concerning foreign employment income tax. This process is crucial for ensuring compliance with international tax regulations and avoiding double taxation scenarios for employees working in foreign jurisdictions.

As highlighted by Smith J. in his article *Navigating International Taxation; Strategies for Multinational Corporations*<sup>16</sup>, IOCs must navigate complex tax laws and regulations to properly calculate and remit taxes on behalf of their employees. Failure to adhere to these requirements can lead to financial penalties and legal complications for both the employee and the corporation. Therefore, meticulous attention to detail and a

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<sup>14</sup> Smith, 2020 on the Investment Portfolio in the Oil and Gas industry

<sup>15</sup> Local content compliance requirements for companies planning to do Business in Oil & Gas Sector in Uganda by Angulia Daniel & Innocent Kabahima.

<sup>16</sup> 2017 *Journal of International Taxation & Strategies for Multinational Corporations*, 45(3),

thorough understanding of international tax policies are essential for IOCs to fulfill their obligations and maintain compliance with taxation laws across different jurisdictions.

Professor Peggy Musgrave on Avoiding International Double Taxation in Petroleum Industry since 1969 amplifies the position for “host states” and holds the opinion that taxation across multiple jurisdictions is secure for IOCs but limits the revenues that could be accrued by the host nations, thereby depriving them of an opportunity for concentrated investment within a country that retains control over its resources rather than in other jurisdictions where resources might be owned by International Oil Companies. Nations like Uganda, for taxation and treaty law purposes, are governed by Production Sharing Agreements.

The document illustrates how to handle both expense oil and gain oil depending on the threshold established by the two involved parties (Corporation and Nation), which remains impartial to the fact that gain oil can solely be obtained when the tax authority recognizes the expenses incurred by the international oil corporations during the production process, where it is regarded as a permissible deduction in the tax laws, which similarly applies when the participating corporations acquire raw materials for use in the oil and gas exploration and production process, where legislation on Value Added Tax grants some form of exemption.

Global Oil Corporations have now turned to dual taxation agreements for reassurance. These agreements are analyzed alongside local laws when there is a predominant interest favoring the Host Nation over IOCs. If a discrepancy arises between a tax agreement and local laws, the tax treaty usually holds sway as long as it provides more benefits to the taxpayer, as determined by the prevailing circumstances based on the principle of the treaty override rule<sup>17</sup>.

An example illustrates that nations such as France and the Netherlands have implemented a pragmatic approach to prevent international double taxation, where

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<sup>17</sup> Washington D.C. April 1986

host nations are not obligated to levy taxes on foreign-source income if it has already been taxed in another jurisdiction. Taxing it again would create double taxation problems, unlike in transactions that take place in a non-treaty country where taxes may be imposed even if they have been paid in another jurisdiction. This is because no authority to tax first arises in such situations.

Based on the preceding discussion, the principle of treaty precedence stipulates that in the event of a conflict between domestic regulations and an international agreement, the terms of the treaty take precedence over domestic laws. However, this is contingent upon specific conditions, and for the tax treaty to supersede domestic legislation, it must be valid and applicable to the taxpayer, and include provisions that are more advantageous than those in domestic law<sup>18</sup>. For instance, if there exists a tax treaty between country B and C, which outlines a reduced tax rate on various types of income compared to the domestic laws of one of the contracting states, then the treaty would supersede the domestic legislation, and the lower rate would be implemented.

As Double imposition in the oil and gas sector pertains to the scenario, where a corporation engaged in the sector is liable to taxation in two distinct nations for the identical income or profit. The matter of dual taxation holds notable significance in the oil and gas domain, considering numerous corporations in this sector conduct operations internationally and are subject to tax regulations in numerous territories. This review of literature will analyze certain fundamental concerns related to dual taxation in the oil and gas sector.

A primary obstacle associated with dual taxation in the oil and gas sector is the intricacy of the tax guidelines and regulations across various nations. Diverse nations possess varying tax rates, tax incentives, and tax legislations, leading to challenges for corporations in discerning their tax responsibilities in each jurisdiction. This intricacy

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<sup>18</sup> Articles 26,27 & 46 of the Vienna Convention on Law of Treaties 1969 on Pact Sunt Servanda and Principles of Great Fundamental Importance on Domestic and International Legislation in case of Conflict

may lead to companies unintentionally instigating dual taxation, either by inadequately considering the tax regulations in a specific nation or by inadequately coordinating their tax planning approaches across multiple territories<sup>19</sup>.

Yet another crucial concern regarding dual taxation in the oil and gas sector is its influence on investment choices. Dual taxation has the potential to elevate the expenses associated with conducting business in specific nations, thereby reducing the appeal for corporations to invest in those areas. This could adversely affect economic expansion and progress, especially in emerging nations abundant in natural resources such as Uganda.

In order to tackle the problem of dual taxation, numerous nations have forged tax pacts or accords with other nations. These agreements aim to mitigate dual taxation by setting forth regulations for the distribution of tax jurisdiction between the two nations. Nonetheless, the efficiency of these treaties may be constrained, especially in scenarios where the tax regulations in one nation diverge significantly from those in the other nation.

In recent times, there has been an increasing emphasis on the necessity for enhanced openness and collaboration among nations concerning taxation matters. The Organization for Economic Cooperation and Development (OECD) has introduced several endeavors aimed at diminishing tax evasion and avoidance, encompassing the Base Erosion and Profit Shifting (BEPS) initiative<sup>20</sup>. The BEPS project seeks to address some

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<sup>19</sup> Atkins / Hodge, *The U.S. Corporate Income Tax System* (Tax by Tax Foundation [US], 2005)

<sup>20</sup> Busingye Agnes “*OECD’s Action Plan on Tax Base Erosion and Profit Shifting (BEPS): Emphasis on Treaty Abuse and Avoidance of Permanent Establishments and Multilateral Instruments for the Case Study of Uganda*”

of the key issues associated with double taxation by providing guidance on the proper allocation of taxing rights between countries.

To conclude, this form of procedure impacts the activities carried out by both overseas and local firms in various manners as the tax consequences in diverse territories may not align, except for treaty establishment. For instance, in nations like Uganda, taxation is determined by global income for resident entities, whereas non-resident entities are taxed solely on local sources. Nonetheless, both International oil corporations and local firms will face identical tax rates on local operations, such as the 30% levy imposed on business income for both residents and non-residents<sup>21</sup>.

## **2.2. Theoretical Framework**

The petroleum industry is a crucial sector for many countries worldwide, and it has significant economic implications for both International Oil Companies and host countries like Uganda that has since discovered hydrocarbons. As a result, governments have developed various tax policies aimed at regulating the sector and ensuring maximum revenue collection. The petroleum industry plays a vital role in the economies of many countries, including Uganda, which has recently discovered hydrocarbon resources. This sector has significant economic implications for both International Oil Companies (IOCs) operating in Uganda and the host country itself. To ensure effective regulation of the industry and maximize revenue collection, governments have developed various tax policies specific to the petroleum sector.

In the case of Uganda, the discovery of oil and gas reserves has presented an opportunity for economic growth and development. The government aims to leverage these resources to generate revenue, create employment opportunities, and stimulate overall economic progress. To achieve these objectives, Uganda has implemented tax policies tailored to the oil and gas industry. These tax policies are designed to regulate and govern the activities of IOCs operating in Uganda's petroleum sector. They outline

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<sup>21</sup> "Income Tax Act," 1997

the tax obligations of these companies, including the payment of corporate income tax, royalties, and other levies. The tax policies also establish mechanisms for revenue collection and ensure compliance with international tax standards.

One of the critical concepts in international tax policy is double taxation, which refers to the taxation of the same income in two or more countries. In the petroleum industry, double taxation can occur in various ways, such as the taxation of profits and royalties. This research paper analyses the international tax policy of the oil and gas industry of Uganda infant as it is, focusing on double taxation<sup>22</sup>. Double taxation is a crucial concept in international tax policy, particularly in the context of the petroleum industry. It refers to the situation where the same income is subject to taxation in multiple countries. In the case of Uganda's oil and gas industry, double taxation can occur in various ways, primarily through the taxation of profits and royalties.

Taxation of Profits; When IOCs extract and sell petroleum resources, they generate profits from these activities. These profits are subject to corporate income tax, which is typically levied by the country where the company is registered or headquartered<sup>23</sup>. However, if the IOCs like Total E & P, CNOOC among others operate in Uganda, they may also be subject to taxation on these profits in Uganda. This can result in double taxation if both the home country and Uganda impose taxes on the same income. To mitigate the impact of double taxation on profits, countries often establish tax treaties or agreements with each other. These treaties aim to avoid or alleviate double taxation by providing mechanisms such as tax credits, exemptions, or the elimination of taxation in one of the countries involved<sup>24</sup>.

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<sup>22</sup> Micheal Kobetsky, *"International Tax Policy and Double Taxation Agreements"* 2010

<sup>23</sup> Dahl, C. & Sterner, T. (2021a), 'Analyzing gasoline demand elasticity's: a survey', *Energy Economics* Vol.13, pp.203-210

<sup>24</sup> Dargay, J.M., Gately, D., & Huntington, H.H. (2007), 'Price rand income responsiveness of world oil demand, by product.' Department of Economics, New York University, available at:

Taxation of Royalties; In the oil and gas industry, host countries like Uganda often grant IOCs the right to extract and produce petroleum resources in exchange for royalty payments. Royalties are typically a percentage of the value of the extracted resources and serve as a form of compensation to the host country for the depletion of its natural resources<sup>25</sup>.

Double taxation can occur if the royalties paid by IOCs to the host country are also subject to taxation in the IOCs' home country. Again, tax treaties and agreements play a crucial role in addressing this issue. They provide guidelines for the taxation of royalties and may establish mechanisms to avoid or reduce double taxation. In essence, the analysis of international tax policy in Uganda's oil and gas industry focuses on the potential occurrence of double taxation, particularly regarding profits and royalties. This analysis aims to ensure that tax policies strike a balance between collecting revenue for the host country and providing a conducive environment for IOCs to operate efficiently and sustainably.

## **2.3. Empirical Review**

### **2.3.1. The impact of double taxation and the rights of International Oil Companies.**

Under international tax law, states forego the doctrine of sovereignty of states<sup>26</sup> through engaging in agreements that facilitate dealing with tax matters on a broad scale, international oil companies aim to address potential issues of double taxation in the oil and gas industry. Double taxation may arise when a corporation operating within the industry faces taxation in multiple jurisdictions for the same earnings or profits. Such occurrences can be attributed to disparities in tax legislation and regulations among different jurisdictions. Furthermore, given the inherently cross-border nature of

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<http://www.econ.nyu.edu/dept/courses/gately/research.htm>

<sup>25</sup> De Santis, R.A.,(2013), 'Crude oil price fluctuations and Saudi Arabia's behaviour', *Energy Economics*, Vol.25, pp.155-173

<sup>26</sup> Article 2(4) of the UN Charter, 1945

the oil and gas sector, where services and products frequently traverse various jurisdictions, the relevance of “Double Taxation Agreements” is particularly pronounced. These agreements serve to prevent entities from being taxed twice, thereby promoting the seamless exchange of goods and services across borders and aiding in the harmonization of divergent tax regulations within domestic jurisdictions.

The extent of double taxation in the oil and gas sector holds particular significance for multinational corporations involved in oil and gas operations across multiple nations, as well as for firms operating in countries with intricate tax systems. This is due to the prevailing stance in common law jurisdictions, where international legislation supersedes domestic legislation in cases of conflict regarding tax matters. For instance, if an oil and gas enterprise conducts business in both country X and country Y, generating profits from the sale of petroleum products in both locations, it could face taxation in both countries on the same earnings. This results in a heightened tax burden, thereby diminishing the company's profitability, regardless of any permissible deductions stipulated by law.

Hence, the extent of double taxation within the oil and gas sector could have significant ramifications, particularly for International Oil Companies (IOCs) navigating through multiple jurisdictions characterized by complex tax systems. However, the utilization of tax agreements can mitigate the risk of double taxation and alleviate the burdensome tax challenges faced by corporations. Consequently, Double Taxation Agreements typically outline the subsequent tax entitlements for IOCs.

Decrease or waiver of withholding tax. Double Taxation Agreements might stipulate a decrease or elimination of withholding tax on dividends, interest, and royalties disbursed by IOCs to their overseas parent corporations or subsidiaries. Without undermining the notion that withholding tax is imposed at the source regarding the source regulations of a specific jurisdiction<sup>27</sup>.

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<sup>27</sup> Wilson Bahati Kazi 2 “Petroleum Tax Law Uganda” 2021.

Avoidance of duplicate taxation. Double Taxation Agreements could eradicate the occurrence of double taxation on earnings or capital gains accrued by IOCs in Uganda and their native nations. This is accomplished by permitting IOCs to request a tax offset for taxes remitted in Uganda against their native country's tax obligations concerning tax statutes<sup>28</sup>.

Taxation of profits. DTAs may provide for the taxation of IOCs' profits based on the source of the income, such as the location of the oil field, rather than the residence of the company. This at the end of the day will help Uganda in preventing Base Erosion and Profit Shifting<sup>29</sup>. Nonetheless, it is crucial to acknowledge that the precise tax entitlements and exceptions extended to IOCs pursuant to Double Taxation Agreements may differ contingent upon the particular accord between Uganda and the respective foreign nation. Consequently, IOCs ought to examine the applicable DTA and enlist expert counsel to comprehend their individual tax entitlements and responsibilities within Uganda<sup>30</sup>. This is in respect of the position that such DTA override domestic legislation in light of section 88 of the Income Tax Act, which leaves the country at disadvantage.

### **2.3.2. The effect and Challenges in implementing of Double Taxation Agreements under International tax policy in the Oil & Gas Industry.**

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<sup>28</sup> Section 83 of the Income Tax Act, 1997

<sup>29</sup> EU Economic Policy Committee (2018), Economic instruments to reach energy and climate change targets, Brussels.

<sup>30</sup> Fletcher, With prices high, countries revising E&P fiscal regimes (OGJ, 2016)

It impacts corporate income taxation, alluding to a double taxation relief incident from 1951, when Saudi Arabia introduced a new income tax on Aramco, which was then a collaborative endeavor involving Chevron, ExxonMobil, and Texaco, supplanting the existing royalty and elevating the effective tax rate to 50%. Double taxation can exert significant repercussions on international tax strategies, potentially leading to increased tax obligations<sup>31</sup> lowered profits and reduced investment in certain industries and countries. Thus, under double taxation rules in the US, the new income tax Aramco paid to Saudi Arabia was immediately deducted from Aramco's corporate income tax in the US<sup>32</sup>. By implication, the US government under this transaction protected its unity with Saudi Arabia under the Double Taxation Agreement. In addition, the sister companies were given a shield to trade under the Agreement rather than it would have been the position if there were no compliance.

Regarding the authority to levy taxes, revenue from foreign investments is liable to taxation in both the host nation and the investor's country of origin. International tax policy tackles the issue of double taxation by employing treaties and agreements among various nations. These agreements can be established concerning the contracting capacity of states, wherein they offer a framework for states to collaborate on tax matters, encompassing but not limited to double taxation. It is widely believed that the host nation holds primary jurisdiction to tax income generated within its borders. Consequently, in order to circumvent double taxation, countries of origin implement measures for double taxation relief<sup>33</sup>. Depending on the regulations, certain taxes paid to the host nation are deductible from taxable income in the country of origin, while others are credited against the tax liability of the country of origin. The diversity of

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<sup>31</sup> James Bamisebi, *"Double Taxation in the Oil and Gas Industry: A Comparative Analysis of Selected Countries"* 2011

<sup>32</sup> Paul Stevens, *"The Aramco Case and the Saudi Arabian Oil and Gas Industry"* 2014

<sup>33</sup> Adewale Adeyemi, *"Measures to avoid Double Taxation in the Oil and Gas Industry: Lessons from Nigeria"* 2014

regulations concerning double taxation worldwide affects oil-producing nations, as income taxes paid to the host country are typically deducted from the income taxes of the country of origin, depending on the jurisdiction. As a result, no credit is typically given for stamp taxes, royalties, and customs duties. Thus, the emergence of global digitalization in the economy impacts international tax policies<sup>34</sup>. Several nations have recognized the necessity to enhance their tax administration systems to address issues stemming from digitalization, including but not restricted to the potential for double taxation of digital transactions.

### **2.3.3. The implementation of Double Taxation Agreements (DTAs) in the oil and gas industry of Uganda can pose several challenges to wit:-**

Interpretation of DTA provisions. The interpretation of DTA provisions may be complex and may require technical expertise, which can make it difficult for tax authorities and companies to understand and apply them correctly. This is due to aspects of permanent establishment test and conflict of laws on which one overrides the other. One aspect of DTA interpretation that can be particularly challenging is the determination of a permanent establishment (PE). A PE is a fixed place of business through which an enterprise carries out its business activities. The existence of a PE in a foreign country can trigger taxation in that country. However, determining whether a PE exists can be complicated, especially in industries such as oil and gas where activities may involve different phases, including exploration, production, and transportation<sup>35</sup>. In the case of Uganda's oil and gas sector, interpreting the PE provisions of the DTA may require technical expertise due to the unique characteristics of the industry. For example, determining whether a drilling rig or an offshore platform constitutes a PE can be

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<sup>34</sup> Adewale Adeyemi, *“Measures to avoid Double Taxation in the Oil and Gas Industry: Lessons from Nigeria”* 2014

<sup>35</sup> Committee of Experts on International Cooperation in Tax matters, *Proposed Guidance on Permanent Establishment in the extraction Industries E/C.18/2016CRP.22*

challenging. The location and duration of activities, as well as the level of control and management exercised by the enterprise, are factors that need to be carefully considered. In addition, another aspect that can complicate DTA interpretation is the potential conflict of laws between the DTA and domestic tax legislation.<sup>36</sup> In some cases, a DTA may provide more favorable tax treatment than the domestic tax laws of a country. However, there may be instances where domestic tax laws override or limit the benefits provided by the DTA. This conflict can create uncertainty and difficulties in applying the provisions correctly. In the context of Uganda's oil and gas industry, conflicts of laws between the DTA and domestic tax legislation may arise regarding the determination of taxable income, deductions, and the availability of tax incentives. For example, the DTA may provide for specific rules on the taxation of income derived from the exploration or production of oil and gas, but the domestic tax laws of Uganda may have different provisions. Determining which set of rules should prevail requires a careful analysis of the specific provisions of both the DTA and domestic tax legislation.

Differences in tax laws and regulations. The tax laws and regulations of different countries may differ, which can lead to conflicts in the interpretation and application of DTA provisions save for where this difference is settled by a treaty itself or certain provisions of a domestic law. In Uganda's oil and gas legal system, differences in tax laws and regulations can create challenges in the interpretation and application of Double Taxation Agreements (DTAs)<sup>37</sup>. These differences arise because each country has its own set of tax laws and regulations that govern the taxation of income and capital gains. When these domestic laws conflict with the provisions of a DTA, it can lead to uncertainty and difficulties in determining the tax treatment of cross-border activities in the oil and gas sector<sup>38</sup>. For example, Uganda may have specific tax rules

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<sup>36</sup> Goel, R.K., & Nelson M.A., (2023). 'The political economy of motor fuel taxation', *Energy Journal*, Vol.20, pp.43-59

<sup>37</sup> Graham, D., & Glaister, S., (2012), 'The demand for automobile fuel: a survey of elasticities', *Journal of Transport Economics and Policy* Vol. 36, pp.1-26

<sup>38</sup> Vollebergh, H.R.J (2018)., 'Lessons from the polder: energy tax design in the Netherlands from a climate change perspective', *Ecological Economics* Vol.64, pp.660-672

and regulations that apply to the oil and gas industry, such as provisions related to exploration and production expenditures, ring fencing of losses, or special tax incentives. These domestic laws are designed to promote investment, ensure revenue collection, and address industry-specific issues. However, when these domestic laws differ from the provisions of a DTA, conflicts can arise. In the context of double taxation, conflicts between domestic tax laws and DTA provisions can lead to two main scenarios; *Double Taxation*; If the domestic tax laws of Uganda impose tax on certain income or capital gains that are already taxed in another country, it can result in double taxation. This occurs when the DTA does not provide adequate relief or a mechanism for eliminating the double taxation. For instance, if a foreign company engaged in oil and gas exploration in Uganda is subject to both Ugandan tax and tax in its home country on the same income, double taxation would occur, *Conflicting Tax Treatment*; In some cases, domestic tax laws may diverge from the provisions of a DTA, resulting in conflicting tax treatment.<sup>39</sup> For example, the DTA may provide for a specific rate of withholding tax on certain payments made to non-resident oil and gas companies, while Ugandan domestic tax laws prescribe a different rate. This conflict can create uncertainty for both the taxpayer and the tax authorities, as it is not clear which tax rate should be applied. *Lack of resources*; the implementation of DTAs requires significant resources, including skilled personnel and technology, which may not be readily available in Uganda. This is simply because international oil companies would not trust Ugandan tax experts in doing the same job as it was in the Heritage case, which ended in the London tribunal. The lack of resources, including skilled personnel and technology, can pose challenges in the implementation of Double Taxation Agreements (DTAs) in Uganda's oil and gas industry. This is particularly relevant when international oil companies engage in cross-border activities and require assistance in navigating the complexities of taxation and compliance, *Skilled Personnel*; The implementation of DTAs often requires specialized knowledge and expertise in international taxation. However, developing and maintaining a pool of tax experts who possess the necessary

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<sup>39</sup> Hasan, Indonesia's Petroleum Contracts (Oil, Gas and Energy Law Intelligence, 2005)

skills and understanding of both domestic tax laws and DTA provisions can be challenging. In the case of Uganda's oil and gas industry, the complexities of the sector require tax professionals with specific expertise in the industry's unique tax considerations. This includes understanding the intricacies of exploration and production costs, revenue allocation, transfer pricing, and the determination of permanent establishments<sup>40</sup>.

Furthermore, the lack of trust in Ugandan tax experts, as evidenced by the Heritage case, can further hinder the involvement and collaboration of international oil companies. In the Heritage case, an international oil company disputed the tax assessment made by Ugandan tax authorities, and the matter was eventually resolved through an arbitration process in London. Such incidents can erode confidence in the local tax administration and deter international companies from relying solely on local expertise. Technology and Infrastructure; Efficient implementation of DTAs requires robust technology systems and infrastructure to facilitate data sharing, communication, and coordination between tax authorities in different jurisdictions. Access to advanced tax software, databases, and electronic platforms is crucial for effectively administering and monitoring the tax obligations and benefits under DTAs.<sup>41</sup> However, the lack of adequate technological resources in Uganda can hinder the seamless exchange of information and impede the timely resolution of tax matters related to double taxation in the oil and gas industry<sup>42</sup>.

Non-compliance and treaty abuse. Companies may fail to comply with DTA provisions, resulting in disputes and potential penalties. In addition, Companies may attempt to abuse DTAs by using them to evade taxes, leading to challenges in identifying and

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<sup>40</sup> Laitos / Tomain, *Energy and Natural Resources Law* (West Publishing, 2022)

<sup>41</sup> Michaelis, P. (2004), 'Tanktourismus - eine Szenario-Analyse', *Zeitschrift für Verkehrswissenschaft* Vol. 75 No.2, pp.110-125

<sup>42</sup> Sterner (2017), 'Fuel Taxes: An important instrument for climate policy', *Energy Policy*, Vol.35.

preventing such abuse. Noncompliance with Double Taxation Agreement (DTA) provisions and the potential for treaty abuse can pose challenges in the context of Uganda's oil and gas industry and its efforts to address double taxation.<sup>43</sup> These challenges can arise from both inadvertent non-compliance and deliberate attempts by companies to exploit DTAs for tax evasion purposes in any of the following ways;

Non-compliance with DTA provisions can occur due to various reasons, including inadequate understanding of the provisions, errors in interpretation, or unintentional mistakes in tax reporting. In the oil and gas industry, which involves complex financial transactions and multinational operations, complying with DTA requirements can be particularly challenging<sup>44</sup>. For instance, failure to properly apply the rules related to permanent establishment or income sourcing can result in incorrect allocation of taxing rights between countries. This can lead to either under or overpayment of taxes, resulting in disputes with tax authorities. Non-compliance can also arise from issues such as incorrect application of withholding tax rates on cross-border payments or incorrect determination of tax residency.

Treaty Abuse. Companies may attempt to abuse DTAs by exploiting gaps or mismatches in tax laws and taking advantage of favorable provisions to artificially shift profits and minimize tax liabilities. This can involve practices such as treaty shopping, where companies establish intermediary entities in countries with favorable tax treaties to benefit from more advantageous tax treatment.

Limited coverage and the lack of coordination. DTAs may not cover all types of income or may have limitations on the types of income that can be exempted or reduced from taxation. More so, Different tax authorities may interpret and implement DTA provisions differently, leading to inconsistencies and potential disputes. The limited

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<sup>43</sup> Umar, Legal Issues in the Development of Nigeria's Production Sharing Contract (Oil, Gas and Energy Law Intelligence, 2015)

<sup>44</sup> Zimmermann, Royalties vs. taxation of profits (Oil, Gas and Energy Law Intelligence, 2014)

coverage of Double Taxation Agreements (DTAs) and the lack of coordination among tax authorities can create challenges and inconsistencies in the interpretation and implementation of DTA provisions. This has implications for Uganda's oil and gas industry in terms of the types of income covered by DTAs and potential disputes arising from inconsistent interpretations. For instance, limited coverage of income, DTAs typically specify the types of income that are covered and eligible for tax exemption or reduction. However, not all types of income may be included in the DTA provisions. For example, certain specific types of income, such as income from offshore services, royalties, or capital gains from the sale of certain assets, may have limited or no coverage under the DTA. This means that taxation of such income may be subject to the domestic tax laws of each respective country, potentially leading to double taxation or differing tax treatment.<sup>45</sup> In the context of Uganda's oil and gas industry, the limited coverage of certain income types in DTAs can create challenges. For example, if the DTA does not explicitly address income derived from offshore services, it may be subject to taxation in both Uganda and the foreign country, resulting in potential double taxation. Further, Inconsistent Interpretation and Implementation, Different tax authorities may interpret and implement DTA provisions differently, leading to inconsistencies and potential disputes. Each tax authority may have its own guidelines, administrative practices, and interpretations of DTA provisions, which can result in varying tax treatment for the same cross-border transactions or income streams. Inconsistencies in interpretation can arise in areas such as the determination of permanent establishment, allocation of taxing rights, or interpretation of specific provisions related to the oil and gas industry. These inconsistencies can create uncertainty for taxpayers and potentially result in disputes between taxpayers and tax authorities.

Changes in tax laws. Changes in tax laws and regulations may affect the implementation of DTAs and lead to conflicts in interpretation and application of DTA provisions. In the

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<sup>45</sup> Sterner (2017), 'Fuel Taxes: An important instrument for climate policy', *Energy Policy*, Vol.35.

oil and gas industry, double taxation can occur in a few different ways depending on the streams;

Upstream. Oil and gas companies pay corporate income tax on their profits at the country where the oil and gas is produced, and then again in their home country when the profits are repatriated<sup>46</sup>. This is because many oil and gas companies are multinational and operate in different countries, and each country has its own tax laws. Further, in the upstream sector of the oil and gas industry, double taxation can occur when multinational oil and gas companies pay corporate income tax on their profits in the country where the oil and gas is produced, and then again in their home country when the profits are repatriated. This is primarily due to the existence of different tax laws and rates in each country. Oil and gas companies often operate across borders, engaging in exploration, drilling, and production activities. The profits generated from these activities are subject to taxation in the host country where the oil and gas reserves are located. However, when these profits are repatriated to the home country of the company, they may be subject to further taxation at the corporate level or as dividends, resulting in double taxation.

Midstream. Double taxation can also occur in the midstream sector of the oil and gas industry, which involves transportation, storage, and processing of crude oil and natural gas<sup>47</sup>. In some cases, these midstream assets may be taxed at both the state and federal level, leading to double taxation. Double taxation can also occur in the midstream sector of the oil and gas industry, which involves the transportation, storage, and processing of crude oil and natural gas. In some cases, midstream assets such as pipelines, storage facilities, and processing plants may be subject to taxation at both the state and federal

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<sup>46</sup> David G. Duff and Alexandra Popova, *“Double Taxation of Income from International Joint Ventures in Upstream Oil and Gas Operations”* 2008

<sup>47</sup> Micheal Lang Josef Schuch and Claus Staringer, *“Double Taxation of Intermediary Income in the Midstream Oil and Gas Industry”* 2015

levels. This can lead to double taxation, as the same assets or activities may be taxed separately by different taxing authorities. The midstream companies may face tax liabilities in multiple jurisdictions, resulting in increased tax burdens and potential double taxation challenges and; Downstream. The downstream sector of the oil and gas industry involves refining and marketing of crude oil and natural gas products. In some cases, the downstream companies may also face double taxation<sup>48</sup> for example, when they purchase crude oil from an upstream company that has already paid taxes on its profits. Double taxation can arise in the downstream sector when companies purchase crude oil from an upstream company that has already paid taxes on its profits. The downstream companies may face tax liabilities on the purchase of raw materials, as well as taxation on their own profits. This can result in the same income being subject to taxation at multiple stages of the supply chain, leading to double taxation.

To avoid double taxation in the oil and gas industry, many countries have developed tax treaties and other measures to ensure that income is only taxed once or to provide credits or exemptions for taxes paid in other jurisdictions. Additionally, some countries have developed tax incentives to encourage oil and gas companies to invest in their country, such as tax holidays or reduced tax rates. To avoid double taxation in the oil and gas industry, countries have implemented various measures and tax incentives to ensure that income is not subject to taxation more than once from which Uganda should borrow the said strategies<sup>49</sup>. These measures aim to provide relief, credits, or exemptions for taxes paid in other jurisdictions and create a favorable investment climate for oil and gas companies. Additionally, tax incentives are often provided to encourage investment in the industry. The measures;

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<sup>48</sup> James Bamisebi and Evans Osabuohien, “*Double Taxation in the Downstream Oil and Gas Sector: A Comparative Analysis*” 2014

<sup>49</sup> Newbery, D.M., (2015), ‘Why Tax Energy?’ *Energy Journal* Vol.26 No.3, pp.1-39

Double Taxation Agreements (DTAs); Countries enter into DTAs to allocate taxing rights and prevent or minimize double taxation. These agreements provide rules for the taxation of income and capital gains arising from cross-border activities. DTAs typically include provisions to avoid double taxation through mechanisms such as exemption methods, tax credits, or reduced tax rates. By eliminating or reducing the risk of double taxation, DTAs provide certainty for businesses operating in multiple jurisdictions, including the oil and gas sector.

Tax Credits and Exemptions; Tax systems may provide tax credits or exemptions to alleviate the impact of double taxation. A tax credit allows taxpayers to offset taxes paid in one jurisdiction against their tax liability in another jurisdiction. This helps avoid double taxation by providing relief for taxes already paid. Alternatively, tax exemptions can entirely exclude certain

income or transactions from taxation, eliminating the risk of double taxation. These provisions ensure that income is not subject to multiple tax liabilities and encourage cross-border investments in the oil and gas industry.

Tax Incentives; Many countries offer tax incentives to attract investment in the oil and gas sector. These incentives can include tax holidays, reduced tax rates, or accelerated depreciation allowances. Tax holidays provide a temporary exemption from corporate income tax or reduced tax rates for a specified period, incentivizing companies to invest in exploration, production, or related activities. Accelerated depreciation allowances allow companies to deduct the cost of capital investments more quickly, reducing taxable income and lowering their tax burden. These incentives aim to attract oil and gas companies, stimulate economic growth, and promote domestic energy development.

Investment Promotion Programs; Some countries have established investment promotion programs specifically targeted at the oil and gas industry. These programs offer a range of incentives such as tax breaks, streamlined administrative procedures,

and support services to attract foreign direct investment<sup>50</sup>. By providing a favorable investment environment, countries aim to encourage oil and gas companies to invest in their jurisdiction, leading to economic development, job creation, and increased production.

### **Methods of Double Taxation.**

In the oil and gas industry, there are several methods of double taxation that can occur to wit;

**Corporate Income Tax.** This is the most common form of double taxation in the oil and gas industry. Companies are taxed on their profits by the country where they are headquartered or incorporated, and by the countries where they operate and earn income. In Uganda's oil and gas industry, double taxation can occur through corporate income tax. Companies engaged in oil and gas exploration and production may be subject to corporate income tax on their profits in Uganda, where the oil and gas reserves are located. Additionally, if these companies are multinational, they may also be subject to corporate income tax in their home country. This results in the same profits being taxed twice, once in Uganda and again in the company's home jurisdiction.

**Withholding Tax.** This type of double taxation occurs when a country imposes a tax on payments made to non-resident companies for services or goods rendered in that country. For example, a foreign oil and gas company may be subject to withholding tax on royalties or service fees paid to them by the host country. Withholding tax is another form of double taxation that can affect Uganda's oil and gas industry. Non-resident oil and gas companies providing services or receiving certain types of income, such as royalties, in Uganda may be subject to withholding tax. This tax is deducted by the payer of the income and remitted to the Ugandan tax authorities. The foreign company

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<sup>50</sup>. Radetzki, M., (2022), 'What will happen to producer prices for fossil fuels if Kyoto is implemented?', *Energy Policy*, Vol.30 pp.357-369

may also be subject to tax in its home country on the same income, resulting in double taxation.

Value Added Tax (VAT). Another form of double taxation in the oil and gas industry is the imposition of VAT on goods and services at each stage of the supply chain. This can result in multiple layers of VAT being imposed on the same product, leading to higher costs and reduced profitability. In the oil and gas industry, VAT can lead to double taxation through the imposition of taxes at each stage of the supply chain. Uganda imposes VAT on goods and services, including those related to the oil and gas sector.<sup>51</sup> This means that companies involved in exploration, production, transportation, and marketing of oil and gas products may incur VAT costs at various stages. As the products move along the supply chain, VAT is charged and paid, resulting in multiple layers of taxation on the same goods or services. This can increase costs for companies and reduce profitability. Therefore, Effective tax planning and compliance with VAT regulations are crucial for managing the impact of double taxation through VAT in Uganda's oil and gas industry.

Resource Rent Tax. Some countries impose a resource rent tax on companies that extract natural resources like oil and gas. This tax is typically calculated as a percentage of the value of the resources extracted, and is in addition to other taxes that may be imposed on the company. Uganda has implemented a resource rent tax in its oil and gas industry. This tax is typically imposed on companies that extract natural resources like oil and gas. It is calculated as a percentage of the value of the resources extracted and is in addition to other taxes that may be imposed on the company. The resource rent tax is intended to capture a share of the economic rent or surplus generated from the exploitation of these finite resources. However, if a foreign company is subject to a similar resource rent tax in its home country, it can result in double taxation on the same profits derived from oil and gas extraction.

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<sup>51</sup> HM Customs and Excise (2022), *Place of Supply of Services*, Notice 741

Capital Gains Tax. Companies that sell their assets, such as oil and gas reserves, may also be subject to capital gains tax in the country where the assets are located, as well as in the country where the company is headquartered. Companies in Uganda's oil and gas industry may also face double taxation through capital gains tax. When a company sells its assets, such as oil and gas reserves, it may be subject to capital gains tax in both the country where the assets are located (Uganda) and the country where the company is headquartered<sup>52</sup>. This results in the same gain being taxed twice. Finally, the different forms of double taxation can result in higher costs and reduced profitability for companies operating in the oil and gas industry. To mitigate this, companies may engage in tax planning and structuring, such as setting up subsidiaries in low-tax jurisdictions, negotiating tax treaties with host countries, and using transfer-pricing strategies to minimize tax liabilities.

### **Double Taxation Management and Modes of Mitigation.**

Indeed, Double taxation occurs when two different tax authorities, such as the government of two different countries, both tax the same income or asset of a taxpayer. This can lead to a significant financial burden on the taxpayer, and can deter cross-border investment and business activities in the petroleum industry. Therefore, there are several modes of mitigation to manage double taxation that are not limited to;-

Bilateral Tax Treaties. Bilateral tax treaties are agreements between two countries that aim to avoid double taxation by determining which country has the right to tax certain types of income or assets. These treaties often provide relief in the form of tax credits or exemptions<sup>53</sup>. This has already manifested in Uganda ahead of the oil and gas

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<sup>52</sup> Sections 51-54 of the Income Tax Act, 1997

<sup>53</sup> Department of International Economic and Social Affairs “*Manual for the Negotiation of Bilateral Tax Treaties between Developed and Developing Countries*”.

projects so much that the regulatory framework captures aspects of tax credits and foreign employment income.

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**Unilateral Measures.** Governments can also take unilateral measures to alleviate double taxation. For example, many countries provide unilateral relief in the form of a foreign tax credit, which allows taxpayers to offset taxes paid in another country against their domestic tax liability.

**Tax-efficient Structures.** Taxpayers can also structure their investments or businesses in a tax efficient manner to mitigate double taxation<sup>54</sup>. This may involve setting up a holding company in a jurisdiction with a favorable tax regime, or using transfer pricing to allocate profits and expenses between different entities in a multinational group.

**Advance Pricing Agreements (APAs).** APAs are agreements between a taxpayer and tax authority that establish an agreed-upon method for determining the transfer price of goods or services between related entities. This can provide certainty and predictability in cross-border transactions and reduce the risk of double taxation. However, it is at the option of the host states and multinational companies to enter and execute such an arrangement in the hydrocarbon sector to facilitate exploitation of the resource.

**Mutual Agreement Procedures (MAPs).** MAPs are dispute resolution mechanisms available under most tax treaties. They allow taxpayers to seek assistance from tax authorities in both countries to resolve disputes related to double taxation depending on the forum that parties ought to have agreed on. In the oil and gas industry, it is common that parties agree on arbitration and thus always choose the seat of arbitration and the Lex Arbitri.

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<sup>54</sup> Liski, M. & Tahvonen, O., (2014), 'Can carbon tax eat OPEC's rents?' *Journal of Environmental Economics and Management*. Vol.47 pp.1-12

From the foregoing, double taxation can be managed through a combination of bilateral tax treaties, unilateral measures, tax-efficient structures, APAs, and MAPs. Taxpayers should consult with tax advisors to determine the most appropriate mode of mitigation based on their specific circumstances since IOC's are taxpayers' world over and double taxation may apply to companies that subscribe to the national supplier database all of which need to appreciate where and how taxation affects their transactions financially issues of documentation and tax reporting and eventually develop models on how to overcome related challenges.

#### **2.4. Knowledge/Research Gap.**

There seems to be a research gap in the area of the scope and rights of international oil companies under double taxation agreements in Uganda to wit;

International oil companies (IOCs) operating in Uganda are subject to taxes, including income tax, withholding tax, and value-added tax. Uganda has signed double taxation agreements (DTAs) with various countries to prevent double taxation and facilitate trade between countries. However, there is limited research on the scope of these agreements and the rights of IOCs under these agreements.

#### **2.5. Summary of chapters**

The study is divided into five chapters. Each chapter has a short introduction giving a brief explanation as to what it contains.

1. The first chapter gives a general introduction to the study as a whole. It contain the background of the study, the statement of the problem, objective, scope, and significant of the study, Literature review, theoretical, empirical review and methodology of the study.
2. Chapter two analyzes the impact of double taxation on the industry, explore the various forms of double taxation that are prevalent in the oil and gas industry, such as corporate income tax, withholding tax, and capital gains tax.

3. Chapter three elaborates on the comparative analysis of the tax policy of the oil and gas industry focusing on double taxation concept.
4. Chapter four discusses the findings of the study
5. Chapter five is the suggestions, conclusion and recommendation.

## CHAPTER THREE

### SCOPE AND RIGHTS OF INTERNATIONAL OIL COMPANIES UNDER DOUBLE TAXATION AGREEMENTS TOWARDS INTERNATIONAL TAX POLICY IN THE OIL AND GAS INDUSTRY OF UGANDA.

#### 3.1. Introduction

Global oil enterprises (GOEs) are multinational corporations involved in the exploration, extraction, and refining of oil and gas reserves. GOEs conduct operations in various nations and legal jurisdictions, leading to difficulties regarding taxation and transfer pricing strategies. Double Taxation Accords (DTAs) serve a crucial function in alleviating these difficulties by eradicating double taxation and fostering tax predictability. This study seeks to undertake an empirical investigation concerning GOEs and DTAs.

#### 3.2. Double Taxation Agreements between Uganda, South Africa, Norway and Denmark a comparative analysis.

DTAs constitute mutual agreements between two nations to prevent the occurrence of double taxation on income earned by their citizens in both territories in this case Uganda and South Africa. These agreements outline the regulations for establishing the tax jurisdiction of a specific transaction, and they delineate the applicable tax rates for the income generated. IOCs have the potential to gain from DTAs by circumventing double taxation on their earnings acquired in diverse jurisdictions. Nevertheless, the execution of DTAs can be intricate, leading to potential disputes concerning the understanding and implementation of these agreements provisions<sup>55</sup>.

Forexample, the Double Taxation Treaty between Uganda and South Africa, effective 1<sup>st</sup> January 2002, serves as a pivotal agreement governing the taxation of various income streams, including those derived from the oil and gas sector. This treaty aims to prevent

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<sup>55</sup>Read more: Difference Between Oil and Gas Difference Between <http://www.differencebetween.net/science/nature/difference-between-oil-and-gas/#ixzz6zwC3crhF>

double taxation and fiscal evasion, thereby promoting cross-border trade and investment between the two nations. Specifically addressing the taxation of oil and gas activities, the treaty outlines principles for allocating taxing rights over income generated from such operations. For instance, it typically adopts the source principle, ensuring that income arising from oil and gas extraction within a specific jurisdiction is primarily taxed by that jurisdiction. This provision is crucial for countries like Uganda with emerging oil and gas industries, as it safeguards their right to tax income generated from their natural resources. Additionally, the treaty includes provisions for tax credits or exemptions to mitigate the impact of double taxation on multinational corporations operating in both countries, further facilitating investment and economic cooperation in the oil and gas sector<sup>56</sup>.

The primary objective of DTAs is to eliminate or reduce the instances where the same income is subject to taxation in both countries<sup>57</sup>. By doing so, DTAs promote cross-border trade, investment, and economic cooperation by providing greater certainty and favourable tax treatment to taxpayers<sup>58</sup>. International Oil Companies (IOCs) operating in multiple jurisdictions, such as the oil and gas industry in Uganda, can particularly benefit from DTAs.

In the case of Uganda, the Double Taxation Treaty it has entered into, for example, with South Africa, aims to prevent double taxation and fiscal evasion. Uganda, an emerging player in the oil and gas sector, benefits from such agreements by ensuring that income derived from its natural resources is taxed fairly and in accordance with international norms. The treaty provides guidelines for the taxation of income

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<sup>56</sup> See: Article 23 of the South Africa Uganda Treaty effective 1<sup>st</sup> January 2009

<sup>57</sup> Furrugia Sacco, D, (202) *“The aims and objectives of double taxation agreements”*

<sup>58</sup> J. Risk Financial Manage 2019, 12(4), 172,

generated from oil and gas activities, typically based on the source principle, where income arising from such operations within Uganda's jurisdiction is primarily taxed by Uganda. This helps to attract foreign investment into the Ugandan oil and gas sector by providing investors with greater certainty and confidence in the tax regime.

On the other hand, Norway, a well-established player in the global oil and gas industry, has a network of Double Taxation Treaties with numerous countries, including its key trading partners and significant investors in its oil and gas sector. Norway's DTAs often incorporate provisions that go beyond the mere elimination of double taxation. They may include measures to prevent tax evasion, promote exchange of information between tax authorities, and provide for tax credits or exemptions to encourage foreign investment.

In comparative analysis, while both Uganda and Norway benefit from Double Taxation Treaties in promoting cross-border trade and investment in their respective oil and gas sectors, Norway's extensive network of DTAs reflects its status as a mature oil and gas economy with established global partnerships. Uganda, as an emerging player, relies on DTAs to attract investment and ensure fair taxation of its natural resources, contributing to its economic development.

Comparing Uganda and Denmark's Double Taxation Treaties (DTAs) concerning mineral resources, both countries aim to prevent double taxation and foster economic cooperation. Uganda, with its emerging oil and gas industry, focuses on attracting investment and ensuring fair taxation of its natural resources through DTAs like the one with South Africa. These agreements typically follow the source principle, ensuring that income derived from mineral resources within Uganda's jurisdiction is primarily taxed by Uganda, thereby providing investors with certainty and confidence. Denmark, a mature economy with a well-established mining sector, utilizes its DTAs to maintain competitiveness and mitigate tax obstacles for its companies operating abroad.

DTAs like Denmark's agreement with Norway offer provisions for the taxation of mineral resources income based on international norms and may include measures to prevent tax evasion and promote information exchange. While Uganda seeks to leverage DTAs to develop its mineral resources sector, Denmark uses them to sustain its competitive edge and ensure compliance with global tax standards.

However, the implementation of DTAs can be complex, and challenges may arise in the interpretation and application of DTA provisions. Some key factors contributing to the complexity and potential disputes include; Divergent Domestic Tax Laws, Each country participating in a DTA maintains its own domestic tax laws and regulations. These laws may differ in terms of definitions, exemptions, deductions, and other tax-related provisions. Aligning these domestic laws with the provisions of the DTA can be challenging and may lead to disputes over the interpretation and application of DTA provisions<sup>59</sup>, Different Interpretations of DTA Provisions; The language and wording of DTA provisions can sometimes be subject to different interpretations. This can result in divergent views on how specific provisions should be applied in practice. Tax authorities and taxpayers may have varying understandings of certain provisions, leading to potential disputes and uncertainties, Complexity of Tax Treaties; DTAs are intricate legal documents that contain detailed provisions addressing various aspects of taxation. They cover a wide range of topics, including the definition of taxable income, determination of permanent establishment, allocation of taxing rights, methods for avoiding double taxation, and dispute resolution mechanisms. Navigating through these complex provisions requires expertise in tax law and can be a challenge for both taxpayers and tax authorities, Evolving Business and Economic Landscape; The business and economic landscape is constantly changing, and new business models and cross-border transactions emerge. These changes may not be explicitly addressed in existing

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<sup>59</sup> The Interpretation of double taxation agreements a comparative evaluation of recent South African Case Law 2016(3) TSAR 486

DTAs, leading to uncertainties regarding the application of tax rules to emerging business practices.<sup>60</sup> As a result, disputes may arise over the appropriate tax treatment of innovative transactions or structures, Disputes and Arbitration; Despite the existence of dispute resolution mechanisms in DTAs, disagreements between taxpayers and tax authorities may still occur. The resolution of disputes through arbitration or mutual agreement procedures can be time-consuming and resource-intensive. The interpretation and application of DTA provisions may vary, and reaching a consensus on complex tax issues can be challenging. Scholars have argued that DTAs can reduce the risk of double taxation and promote cross-border investment by providing greater tax transparency and reducing compliance costs<sup>61</sup>. However, they also noted that DTAs may not always provide complete protection against double taxation, and that disputes may still arise regarding the interpretation and application of DTA provisions. In the context of Uganda's oil and gas industry and Double Taxation Agreements (DTAs), the study conducted by Flanagan and Hendricks (2016) highlights the potential benefits and challenges associated with DTAs in promoting tax certainty for International Oil Companies (IOCs).<sup>62</sup> However, the study also highlights that DTAs may not always provide complete protection against double taxation, and disputes can still arise regarding the interpretation and application of DTA provisions. This can have implications for IOCs operating in Uganda's oil and gas industry, including;-

Interpretation and application challenges; Due to the complex nature of DTAs and potential differences in interpretations, IOCs and tax authorities may have varying understandings of DTA provisions. This can lead to disagreements and disputes regarding the tax treatment of specific transactions or arrangements.

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<sup>60</sup> Ibid.

<sup>61</sup> Flanagan and Hendricks (2016) explored the effectiveness of DTAs in promoting tax certainty for IOCs.

<sup>62</sup> Ibid.

Uncertainties in tax planning; Despite the existence of DTAs, uncertainties may persist in tax planning for IOCs. Changes in business operations, evolving tax laws, or emerging business models can create challenges in applying DTA provisions to new circumstances. This may result in difficulties in accurately assessing tax obligations and potentially lead to disputes with tax authorities.

Dispute resolution mechanisms; while DTAs often provide dispute resolution mechanisms, resolving tax disputes can be a complex and time-consuming process. Disputes may arise due to disagreements over the interpretation or application of DTA provisions. The effectiveness and efficiency of dispute resolution mechanisms can influence the overall tax certainty for IOCs in Uganda's oil and gas industry.

### **3.3. Rights of IOCs under DTAs.**

The right to claim tax treaty benefits. In the context of Uganda's oil and gas industry and double taxation, tax treaties play a crucial role in providing certain benefits and protections to taxpayers. These treaties are bilateral agreements between countries that aim to prevent or alleviate double taxation and promote cooperation in tax matters. One of the rights granted to taxpayers under tax treaties is the right to claim treaty benefits.<sup>63</sup>

For Uganda's oil and gas industry, tax treaties can provide benefits such as reduced withholding tax rates on cross-border payments, including royalties, interest, and dividends. This means that if an international oil company (IOC) operating in Uganda is a tax resident of a country that has a tax treaty with Uganda, it may be entitled to

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<sup>63</sup> The National Oil and Gas Policy, Objective 7 “To ensure optimum participation in oil and gas activities and Objective 8 “To support the development and maintenance of national expertise”.

lower tax rates on specific types of income. This reduces the risk of double taxation by ensuring that the same income is not excessively taxed in both countries.<sup>64</sup>

The right to claim tax treaty benefits is essential for IOCs operating in Uganda's oil and gas industry as it helps provide certainty and predictability in their tax liabilities. It encourages investment by reducing tax barriers and ensuring that taxpayers can access the advantages provided by tax treaties.

The right to obtain advance-pricing agreements, Advance-pricing agreements (APAs) are arrangements between taxpayers and tax authorities that determine the transfer pricing methodology for transactions between related entities. Transfer pricing refers to the pricing of goods, services, or intellectual property between entities of the same multinational group located in different tax jurisdictions. APAs help to prevent transfer pricing disputes and provide clarity on how profits should be allocated among related entities<sup>65</sup>.

In the context of Uganda's oil and gas industry and double taxation, APAs can be particularly relevant for IOCs that engage in cross-border transactions with related parties, such as the purchase or sale of petroleum resources, services, or intellectual property rights. By obtaining APAs, IOCs can proactively agree with the tax authorities on the appropriate transfer pricing methodology for these transactions. This reduces the risk of double taxation arising from differences in transfer pricing approaches between countries<sup>66</sup>.

Having the right to obtain APAs gives IOCs operating in Uganda's oil and gas industry a mechanism to establish certainty and avoid transfer pricing disputes. It provides a clear

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<sup>64</sup> Ibid.

<sup>65</sup> Expert consensus within the field of international taxation and transfer pricing practices, 2023

<sup>66</sup> Pablo Ferreri; *“Advance Pricing Agreements, (APAS), Bilateral Advance Pricing Agreements , Multilateral Advance Pricing Agreements”*

framework for determining taxable profits and ensures that the allocation of income between related entities is consistent and agreed upon in advance.

The right to seek resolution of disputes through Mutual Agreement Procedures (MAPs) is at the forefront. Mutual Agreement Procedures (MAPs) are mechanisms provided under tax treaties for resolving disputes between tax authorities of different countries<sup>67</sup>. In the case of double taxation, MAPs allow taxpayers to seek resolution when they believe that actions taken by one or both countries result in taxation not in accordance with the provisions of the tax treaty.

For Uganda's oil and gas industry, the right to seek resolution through MAPs is crucial for taxpayers, including IOCs. If a taxpayer believes that it is subject to double taxation due to inconsistent or conflicting tax assessments by Uganda and another country, it can initiate a MAP to resolve the dispute. The competent authorities of both countries will engage in discussions and negotiations to reach an agreement on the appropriate allocation of taxation and the elimination of double taxation<sup>68</sup>.

In addition, the right to seek resolution through MAPs provides a mechanism for IOCs operating in Uganda's oil and gas industry to address instances of double taxation and avoid prolonged tax disputes. It promotes cooperation between tax authorities and encourages the swift resolution of disputes in a fair and equitable manner, ensuring that taxpayers are not unfairly burdened by double taxation.

### **3.4. THE EFFECTS AND CHALLENGES IN IMPLEMENTING AND ENFORCING DOUBLE TAXATION AGREEMENTS UNDER INTERNATIONAL TAX POLICY AND REGULATIONS IN THE OIL AND GAS INDUSTRY OF UGANDA.**

#### **3.4.1. Effects of Double Taxation Agreements in the Oil and Gas Industry.**

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<sup>67</sup> Dorah Doeh "International Oil and Gas Industry Disputes"

<sup>68</sup> The Republic of Uganda Constitution, 1995. Article 40 and 45.

Double Taxation Agreements play a crucial role in promoting cross-border investments and trade by alleviating the burden of double taxation on income or profits earned by businesses operating in multiple jurisdictions. In the Oil and Gas industry, which often involves complex international transactions and significant investments, DTAs can have several positive effects to wit;

Avoidance of Double Taxation. DTAs ensure that income or profits earned by multinational oil and gas companies in Uganda and their home countries are not taxed twice<sup>69</sup>. This enhances the attractiveness of foreign investment and encourages companies to participate in the development of the country's oil and gas resources. The avoidance of double taxation is a fundamental objective of Double Taxation Agreements (DTAs) that aims to promote cross-border investment and trade by providing relief to taxpayers from being taxed twice on the same income or profits<sup>70</sup>. DTAs achieve this through; Jurisdictional Scope and Tax Credit Mechanism, when a multinational oil and gas company operates in different countries, it becomes liable for income tax in both its home country (the country of residence) and the foreign country (such as Uganda, where it conducts business activities).

Without a DTA, the same income could be taxed in both jurisdictions, leading to a situation of double taxation. DTAs address this issue through the concept of “jurisdictional scope,” which allocates the taxing rights between the two countries. Generally, the DTA ensures that the country of residence allows its taxpayers a tax credit or deduction for the foreign taxes paid on the same income, effectively eliminating the possibility of double taxation. Residency and Permanent Establishment (PE) Provisions, DTAs often define the criteria for determining the residency of a company and whether it has a permanent establishment in the foreign country. Residency rules in DTAs help identify the company's home country for tax purposes,

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<sup>69</sup> Bagaria, Saurabh, “*The Nature and Purposes of Double Taxation Agreements and the Issues which the interpretation of such Agreements May Give Rise*”, (March , 9, 2012)

<sup>70</sup> Sebastian Beer and Jan Leo Prick, “*The Cost and Benefits of Tax Treaties with Investment Hubs; Findings from Sub-Saharan Africa*” October 2018.

while the PE concept addresses situations where the company has a fixed place of business in the foreign country. These provisions help prevent the same income or profits from being taxed twice by both countries, as the income will be taxed only in the country where the company is a resident or has a permanent establishment. Tax Treaty Rates and Withholding Taxes, DTAs typically establish reduced tax rates on specific types of income, such as dividends, interest, royalties, and capital gains, to incentivize cross-border investment. For instance, if a foreign oil and gas company receives dividends from its subsidiary in Uganda, the DTA might stipulate a lower tax rate for such dividends than the standard domestic tax rate. Additionally, DTAs often reduce or eliminate withholding taxes (taxes withheld at the source) on cross-border payments, making it more attractive for foreign companies to invest in Uganda without facing excessive tax burdens.

Anti-Avoidance Measures, to ensure the proper functioning of DTAs and prevent abuse or misuse; these agreements often include anti-avoidance provisions. These provisions aim to prevent companies from artificially structuring their operations solely to take advantage of favourable tax treaty benefits without substantial economic substance or genuine business activities in the foreign country. Tax Transparency and Exchange of Information, DTAs often include provisions related to the exchange of tax-related information between the tax authorities of both treaty countries. This enhances tax transparency and helps prevent tax evasion and aggressive tax planning, further promoting a fair and conducive investment environment.

- a. Thus, by providing clarity on tax obligations, offering tax credits or reduced tax rates, and promoting transparency and cooperation between tax authorities, DTAs create a more favourable environment for foreign companies, including multinational oil and gas companies, to invest in Uganda. The avoidance of double taxation removes a significant barrier for investors, as they can retain a larger portion of their earnings and reinvest it in the development of Uganda's oil and gas resources. Additionally, the predictability and stability offered by

DTAs foster confidence in cross-border transactions and encourage long-term investments, benefiting both the host country and foreign investors.

- b. **Enhanced Tax Certainty.** The presence of DTAs provides greater clarity regarding the tax treatment of income and profits for investors, reducing uncertainty and mitigating tax related risks<sup>71</sup>. The primary goal of DTAs is to eliminate situations where the same income is taxed twice, once in the country where it is earned (the source country) and again in the country where the recipient resides (the residence country). **Facilitation of Cross-Border Trade.** DTAs foster an environment conducive to cross-border trade and investment by reducing tax-related barriers and administrative complexities. Double Taxation Agreements (DTAs) play a significant role in facilitating cross-border trade and investment by reducing tax-related barriers and administrative complexities.

### **3.5. Challenges in Implementing and Enforcing Double Taxation Agreements in the Oil and Gas Industry;**

While DTAs offer various benefits, their implementation and enforcement, can pose challenges, particularly in the context of the oil and gas industry;

- **Interpretation and Legal Complexity.** DTAs are often complex legal documents, and interpreting their provisions accurately can be challenging. Disputes may arise regarding the classification of income, the determination of permanent establishments, and the application of beneficial ownership principles<sup>72</sup>. Double Taxation Agreements (DTAs), also known as Tax Treaties, are bilateral agreements between two countries designed to prevent double taxation on the

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<sup>71</sup> IMF/OECD Report for the G20 Finance Ministers, March 2017

<sup>72</sup> Aseem Chawla, *“Interpretation of Tax Treaties; An Art Yet to be Mastered”* .... *It would be idle to expect every statutory provision to be drafted with divine prescience and perfect clarity*” Lord Denning.

same income and facilitate cooperation between the two countries' tax authorities. These agreements aim to promote cross-border trade and investment while reducing tax barriers. However, as rightly pointed out, DTAs can be complex legal documents, and their interpretation can lead to disputes, particularly in areas such as income classification, permanent establishments, and beneficial ownership principles.

**Classification of Income.** One of the fundamental aspects of a DTA is the allocation of taxing rights between the contracting countries concerning various types of income. DTAs typically specify which country has the primary right to tax certain types of income. Common types of income covered in DTAs include dividends, interest, royalties, capital gains, and business profits. However, determining the correct classification of income can be challenging due to the evolving nature of business transactions and the different tax treatment applied by individual countries<sup>73</sup>. For instance, a payment received by a company could be considered dividends in one country, attracting a certain tax rate, while the same payment might be classified as interest in another country, with a different tax treatment altogether. These differences can lead to disputes and double taxation if the income is not appropriately categorized under the DTA.

**Determination of Permanent Establishments.** Permanent Establishments (PEs) are a critical concept in DTAs as they define when a business presence in one country becomes taxable in that country. PEs typically include a fixed place of business, such as an office, branch, factory, or workshop, through which the business carries out its activities. When a foreign enterprise has a PE in another country, that country has the right to tax the income attributable to the PE. Determining whether a foreign entity has a PE in a country can be complex,

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<sup>73</sup> Konka Petkora, Andrzej Stasio & Martin Zagler *“International Tax and Public Finance”* (2020)

especially in the context of modern business practices that may involve digital and remote activities<sup>74</sup>. Factors such as the duration of presence, the nature of activities performed, and the level of authority exercised locally can influence the existence of a PE. Disputes may arise when tax authorities have differing interpretations of whether a PE exists, leading to potential double taxation or tax avoidance concerns.

**Application of Beneficial Ownership Principles.** Beneficial ownership is a critical concept, particularly concerning withholding tax rates on passive income (such as dividends, interest, and royalties) under DTAs. Generally, DTAs provide reduced withholding tax rates when income is paid to a beneficial owner who is a resident of the other contracting country. However, tax authorities are vigilant to prevent treaty abuse, wherein entities from third countries use favourable treaty provisions by establishing artificial structures solely to exploit the lower withholding tax rates. Determining whether an entity qualifies as a beneficial owner or is acting as a conduit requires a careful analysis of the specific facts and circumstances of each case<sup>75</sup>. As a result, tax authorities may differ in their interpretation of the beneficial ownership concept, leading to potential disputes.

**Tax Avoidance and Evasion Risks.** Some companies may attempt to exploit DTAs to minimize their tax liabilities artificially. This can lead to concerns about aggressive tax planning and tax base erosion. Tax avoidance and tax evasion are two different concepts, but both involve minimizing tax liabilities. Exploiting Double Taxation Agreements (DTAs) can create risks related to aggressive tax

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<sup>74</sup> Balazs Karolyi, *“The Challenges of Permanent Establishment Concept and the Response of Base Erosion and Profit Shifting Actions”*, 2017

<sup>75</sup> Commentary of Professor Dr. Robert J. Danon on 2011 OECD *“Discussion draft on the meaning of beneficial owner”*

planning and tax base erosion<sup>76</sup>. Tax avoidance refers to legal strategies that companies use to minimize their tax burden within the boundaries of the law. This involves taking advantage of various tax incentives, deductions, and loopholes to reduce tax liabilities. Some companies may use DTAs in a legitimate manner to avoid double taxation and benefit from lower withholding tax rates on cross-border transactions. However, there is a fine line between legitimate tax planning and aggressive tax avoidance. Aggressive tax planning involves pushing the boundaries of tax laws to gain unfair tax advantages, often exploiting loopholes or engaging in complex financial arrangements that lack economic substance. While it might not be illegal, aggressive tax, planning can raise ethical concerns and draw criticism from the public, policymakers, and tax authorities.

**Tax Base Erosion.** Tax base erosion occurs when companies engage in practices that erode the tax base of a country, reducing the amount of taxable income subject to taxation. Exploiting DTAs can be one of the methods used for tax base erosion. For instance, some multinational companies may use complex structures to channel profits from high-tax jurisdictions to low-tax or tax haven countries, taking advantage of beneficial provisions in DTAs. By shifting profits to low-tax jurisdictions, they effectively reduce their overall tax liabilities. This practice can lead to a loss of tax revenue for countries where economic activities genuinely took place. In light to concerns about aggressive tax planning and tax base erosion, governments and international organizations have been working to address these issues<sup>77</sup>. Measures such as the Base Erosion and Profit Shifting (BEPS) project led by the Organization for Economic Cooperation and Development (OECD) aim to combat tax avoidance and ensure that companies pay taxes where economic activities generate profits.

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<sup>76</sup> Sebastian Leduc and Geerten Michielse “*Are Tax Treaties worth it for Developing Economies*”

<sup>77</sup> Annet, Oguttu, “*Preventing Tax Base Erosion and Profit Shifting occasioned by offshore Indirect Transfer Assets; Perspective from Africa*” (August 8, 2022)

Capacity and Resources. Ensuring effective implementation and enforcement of DTAs requires sufficient capacity and resources within tax authorities. Developing countries like Uganda may face capacity constraints, limiting their ability to effectively administer and enforce the agreements. Effective implementation and enforcement of Double Taxation Agreements (DTAs) necessitate well-equipped and capable tax authorities. However, developing countries, such as Uganda, often face capacity constraints, which can limit their ability to administer and enforce DTAs effectively in the following ways; Limited Human Resources, developing countries may have a shortage of trained tax professionals, including tax specialists, auditors, and treaty experts. The complex legal and technical aspects of DTAs require knowledgeable personnel to interpret and apply the agreements correctly. The lack of adequate human resources can lead to delays in processing treaty related matters and may result in misinterpretations or errors in the application of treaty provisions, Insufficient Training and Expertise, Implementing and enforcing DTAs demands a thorough understanding of international tax principles and the specific provisions of each treaty. Developing countries may face challenges in providing comprehensive training and continuous professional development opportunities for their tax officials. Without up-to-date knowledge and expertise, tax authorities may struggle to effectively address complex cross-border tax issues, Limited Technological Infrastructure, Modern tax administrations rely heavily on advanced technology and information systems to efficiently manage taxpayer data, monitor compliance, and facilitate international cooperation. Developing countries may have limited access to sophisticated technological infrastructure, hindering their ability to manage and track cross-border transactions effectively, Budgetary Constraints, adequately resourcing tax authorities is crucial for ensuring effective DTA implementation. However, developing countries often have limited budgets and competing priorities. Insufficient funding can impede

the recruitment of skilled personnel, hinder investment in technology, and limit the capacity to engage in international cooperation and exchange of information.

Complexity of Cross-Border Transactions. Developing countries may lack the expertise and resources needed to address the complexity of cross-border transactions involving multinational companies. These transactions can involve intricate financial structures and transfer pricing arrangements, making it challenging tax authorities to assess and verify the accuracy of reported income and tax payments, Lack of Experience in Treaty Negotiation; Negotiating DTAs requires significant expertise and experience to ensure that the agreements are balanced and mutually beneficial. Developing countries may have limited experience in treaty negotiation, which could result in agreements that may not adequately protect their tax base or address their specific economic and tax-related concerns.<sup>78</sup>

Jurisdictional Disputes. Disagreements may arise between countries regarding the allocation of taxing rights, especially in cases involving offshore activities and shared resources. Jurisdictional disputes between countries can arise when there are disagreements over the allocation of taxing rights on income and activities that have cross-border implications, particularly in cases involving offshore activities and shared resources to wit;

Offshore Activities, Offshore activities refer to business operations or financial transactions that take place in a jurisdiction different from the country where

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<sup>78</sup> Rwengabo, S 'Efficiency, Sustainability, and Exit Strategy in the Oil and Gas Sector: Lessons from Ecuador for Uganda', (ACODE Policy Research Paper Series No. 81, 2017, Kampala).

the company is headquartered or the individuals involved reside<sup>79</sup>. Companies may engage in offshore activities to benefit from tax advantages or regulatory differences, Jurisdictional disputes can arise when multiple countries claim the right to tax income generated from offshore activities. Each country may argue that it has a legitimate claim to tax the income based on different aspects, such as where the management and control of the company are located, where the activities take place, or where the company is legally registered. These disputes can lead to double taxation or tax avoidance if not resolved properly, Shared Resources, Natural resources, such as oil and gas reserves, minerals, or fish stocks, often span across maritime boundaries and may be located in areas claimed by multiple countries. Each country may assert its right to tax the income generated from exploiting these shared resources<sup>80</sup>. In cases of shared resources, disputes can arise over how the revenues from the exploitation of these resources should be divided among the involved countries. The allocation of taxing rights may depend on factors like the location of the resource, the extent of each country's contribution to its extraction, and the agreements or treaties in place between the countries.

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<sup>79</sup> Cambridge University Press: 31 August 2017, "*Tax Treaty Disputes in Uganda from pat IV- Countries Beyond the OECD and BRICS*".

<sup>80</sup> United Nations Convention on Law of the Sea, 1982

## CHAPTER FOUR

### A COMPARATIVE ANALYSIS OF THE TAX POLICY OF THE OIL AND GAS INDUSTRY FOCUSING ON DOUBLE TAXATION CONCEPT.

#### 4.1. Introduction

The impact of international tax policy on double taxation on Uganda's oil and gas supply chain is significant, considering the country's burgeoning energy sector and its reliance on international partnerships. Understanding how tax treaties and agreements compare between Uganda and other countries involved in the oil and gas industry provides insights into the complexities of managing cross-border taxation issues. This comparative analysis aims to explore the similarities and differences in tax treaty frameworks, their effectiveness in mitigating double taxation, and their overall impact on Uganda's oil and gas supply chain operations<sup>81</sup>

#### 4.2. A comparative Analysis of the Tax Policy

Uganda has established tax treaties with several countries, including its key trade partners and investors in the oil and gas sector. These treaties typically follow the OECD Model Tax Convention framework and aim to prevent double taxation and promote cross-border investment. However, Uganda's tax treaty network in the oil and gas sector is relatively limited compared to more established oil-producing countries, potentially affecting the ease of doing business and investment attractiveness<sup>82</sup>.

In contrast to Uganda, established oil-producing countries like Norway and Saudi Arabia have extensive tax treaty networks designed to facilitate international investment and trade in the oil and gas sector. These countries often offer more favorable tax regimes,

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<sup>81</sup> Knoerna Corporation, World Data Atlas Uganda Adult (15+) literacy rate (2015), <https://knoema.com/atlas/Uganda/topics/Education/Literacy/Adult-literacy-rate> accessed on Wednesday 31<sup>st</sup> October 2023.

<sup>82</sup> Ibid.

including provisions for tax exemptions, credits, and stable fiscal regimes, which can incentivize foreign investment and enhance supply chain efficiency<sup>83</sup>.

Despite having tax treaties in place, Uganda faces challenges in effectively mitigating double taxation within its oil and gas supply chain. Limited treaty coverage and variations in interpretation and application of tax laws between treaty partners contribute to complexities and uncertainties for businesses operating in the sector. Additionally, differing tax treatment of upstream, midstream, and downstream activities can create further challenges for supply chain management<sup>84</sup>.

Comparing the provisions of tax treaties between Uganda and other countries reveals disparities in approaches to double taxation mitigation.<sup>85</sup> While some countries may prioritize tax credits or exemptions, others may opt for more flexible mechanisms such as mutual agreement procedures or advanced pricing agreements. Understanding these differences is crucial for assessing the competitiveness of Uganda's tax regime and its attractiveness to international investors.

The impact of international tax policy on double taxation extends beyond legal and regulatory frameworks to practical implications for supply chain operations.<sup>86</sup> In Uganda, complex tax regimes and uncertainties related to treaty implementation can hinder investment decisions, delay project timelines, and increase compliance costs for oil and gas companies. This contrasts with countries with more stable and predictable

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<sup>83</sup> Vidar (n 24).

<sup>84</sup>Shem Byakagaba 'Petroleum Revenue Management' (Presentation to Parliament, Kampala, 8<sup>th</sup> June 2019) 13

<sup>85</sup> Olivia Lwabukuna, 'Governing African Extractives for Development: Lessons from Ghana's Petroleum Revenue Management Law' (2020) 122 AISA 3.

<sup>86</sup> *ibid.* According to Vidar, the Ministry responsible for finances in any country is normally the owner of the sovereign wealth fund in trust for the government and ultimately the citizens. It determines the risk/return profile and the overall investment policy of the SWF and gives general instructions/guidelines to the entity assigned the responsibility for the day-to-day operations of the fund, often called the operational manager. See Vidar (n 24) p.22

tax environments, where supply chain operations are often smoother and more efficient.

Examining case studies from Uganda and other countries provides valuable insights into the real-world implications of tax treaties on supply chain operations in the oil and gas sector. By analyzing specific examples of successful tax treaty implementation or challenges faced by industry players, policymakers can identify best practices and opportunities for improvement in Uganda's tax policy and treaty network.

#### **4.3. Taxation Framework**

The taxation framework plays a crucial role in shaping the dynamics of Uganda's oil and gas supply chain, particularly concerning the international tax policy on double taxation. Understanding how Uganda's taxation framework compares with that of other countries involved in the oil and gas industry is essential for assessing its impact on supply chain operations. This comparative analysis aims to explore the similarities and differences in taxation frameworks, focusing on double taxation mitigation measures and their implications for Uganda's oil and gas sector.

Uganda's taxation framework for the oil and gas sector is primarily governed by the Income Tax Act and the Petroleum (Exploration, Development, and Production) Act. The country imposes corporate income tax, withholding tax, capital gains tax, and royalty payments on oil and gas activities. However, the effectiveness of Uganda's taxation framework in mitigating double taxation is limited, as it lacks comprehensive provisions for addressing cross-border tax challenges and harmonizing tax treatment with treaty partners.

In contrast, other countries involved in the oil and gas industry, such as Norway and the United Arab Emirates (UAE), have developed sophisticated taxation frameworks tailored to their specific needs. These countries often offer stable fiscal regimes, tax incentives, and special provisions for the oil and gas sector to attract investment and facilitate supply chain operations. Additionally, some jurisdictions may have more

favorable tax treaties and agreements in place to prevent double taxation and promote cross-border trade.

Uganda faces significant challenges in effectively mitigating double taxation within its oil and gas supply chain due to the complexity of its taxation framework and limited tax treaty network. Varying interpretations of tax laws, inconsistencies in tax administration, and uncertainties surrounding tax treatment of cross-border transactions contribute to operational inefficiencies and compliance burdens for oil and gas companies operating in Uganda.

The impact of the taxation framework on supply chain operations in Uganda's oil and gas sector is profound, affecting investment decisions, project economics, and overall competitiveness. Complex tax regimes and uncertainties related to double taxation can deter foreign investment, delay project development timelines, and increase transaction costs, thereby impeding the smooth functioning of the supply chain.

To enhance the competitiveness of Uganda's oil and gas supply chain and mitigate the adverse effects of international tax policy on double taxation, policymakers should consider several measures. These may include streamlining and simplifying the taxation framework, harmonizing tax laws with treaty partners, expanding the tax treaty network, and providing greater clarity and certainty for businesses operating in the sector. By addressing these challenges, Uganda can create a more conducive environment for investment and foster sustainable growth in its oil and gas industry.

#### **4.4. Administrative Procedures**

Administrative procedures play a vital role in implementing international tax policies and mitigating double taxation within the supply chain of Uganda's oil and gas products. This comparative analysis aims to explore the administrative procedures related to taxation in Uganda and compare them with those of other countries involved in the oil and gas industry. By examining the efficiency, transparency, and responsiveness of

administrative processes, we can assess their impact on supply chain operations and identify opportunities for improvement.<sup>87</sup>

In Uganda, the Uganda Revenue Authority (URA) oversees tax administration and enforcement, including tax collection, assessment, and dispute resolution. However, administrative procedures related to taxation in the oil and gas sector can be complex and prone to delays, leading to uncertainties and compliance challenges for businesses.<sup>88</sup> Despite efforts to enhance transparency and streamline processes, bureaucratic inefficiencies and capacity constraints within the URA continue to pose obstacles to effective tax administration.

Comparing Uganda's administrative procedures with those of other countries involved in the oil and gas industry reveals significant differences in approach and effectiveness. For example, countries like Norway and the United States have well-established tax authorities with specialized units for handling tax matters related to the oil and gas sector. These countries often prioritize efficiency, transparency, and taxpayer assistance, which contributes to smoother supply chain operations and greater investor confidence. In the case of High Court Civil Appeal, No, 14 of 2011; Heritage Oil and Gas Limited vs. Uganda Revenue Authority, the appellant entered into a Production Sharing Agreement (PSA) for petroleum exploration, development and production with the Government of the Republic of Uganda on 1<sup>st</sup> July 2004. The said agreement contained an arbitration clause to the effect that a dispute under the agreement which could not be settled amicably within sixty days would be referred to arbitration in accordance with the United Nations Commission for International Trade Law (UNCITRAL) Arbitration Rules.<sup>89</sup>

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<sup>87</sup> Halima Abdallah, 'Cultural Leaders Demand a Share' Oil in Uganda (Kampala, August 2012) 10. <[http://www.oiHnuganda.org/?file\\_id=2](http://www.oiHnuganda.org/?file_id=2)> accessed on 21st February 2018

<sup>88</sup> The Official Secrets Act, Cap. 302 s.4

<sup>89</sup> Application TAT 26 of 2010.

Efficiency and transparency are critical aspects of administrative procedures that impact supply chain operations in the oil and gas sector. In Uganda, bureaucratic red tape, cumbersome documentation requirements, and lengthy processing times can hinder business operations and investment decisions. Conversely, countries with more streamlined administrative procedures offer faster turnaround times, clearer guidelines, and better access to information, reducing compliance burdens and improving the overall business environment.

The responsiveness of tax authorities to taxpayer needs is another essential factor influencing supply chain dynamics. In Uganda, businesses often encounter challenges in obtaining timely assistance and guidance from the URA, particularly regarding complex tax issues or dispute resolution. In contrast, countries with more responsive tax administrations prioritize taxpayer education, provide dedicated support channels, and offer mechanisms for resolving disputes efficiently, enhancing the overall ease of doing business.

The impact of administrative procedures on supply chain operations within Uganda's oil and gas sector can be profound, affecting investment decisions, project timelines, and operational efficiency. Delays in tax processing, uncertainties in tax assessments, and disputes over tax liabilities can disrupt supply chain activities, increase costs, and undermine investor confidence. Conversely, countries with efficient and transparent administrative procedures often experience smoother supply chain operations and greater investment attractiveness.

To improve the effectiveness of administrative procedures and mitigate the impact of international tax policy on double taxation within Uganda's oil and gas supply chain, policymakers should prioritize several measures. These may include investing in capacity-building initiatives within the URA, enhancing taxpayer education and assistance programs, implementing digitalization initiatives to streamline processes, and strengthening mechanisms for resolving tax disputes promptly and fairly. By

addressing these challenges, Uganda can create a more conducive environment for business growth and investment in its oil and gas sector.

#### **4.5. Impact on Investment and Trade**

The impact of international tax policy on double taxation extends beyond regulatory compliance to influence investment decisions and trade dynamics within Uganda's oil and gas sector. This comparative analysis aims to explore how Uganda's tax policy compares with that of other countries involved in the industry, particularly concerning its impact on investment and trade within the oil and gas supply chain. By examining factors such as investment incentives, trade agreements, and tax treaty networks, we can assess the competitiveness of Uganda's oil and gas sector in the global market.

Uganda's tax policy and investment incentives in the oil and gas sector are crucial determinants of its attractiveness to foreign investors. The country offers various incentives, including tax holidays, accelerated depreciation, and investment allowances, to encourage investment in exploration, development, and production activities. However, concerns about regulatory stability, transparency, and consistency in tax administration may deter potential investors, particularly amid uncertainties surrounding international tax policies on double taxation.

Comparing Uganda's tax regime and investment incentives with those of other countries involved in the oil and gas industry reveals disparities in competitiveness. For example, countries like Norway and Qatar offer stable fiscal regimes, generous tax incentives, and comprehensive support for oil and gas investment, which attract significant foreign capital and expertise. In contrast, Uganda's relatively nascent oil and gas sector and evolving tax policy may present higher perceived risks for investors, affecting investment decisions and capital inflows.

Trade agreements and tax treaties play a crucial role in facilitating cross-border trade and investment in the oil and gas sector. Uganda's participation in regional trade blocs such as the East African Community (EAC) and its membership in international

organizations influence its trade relationships and tax treaty networks. However, the effectiveness of Uganda's tax treaties in mitigating double taxation and promoting trade may be limited compared to countries with more extensive treaty networks and established trade relationships.

The impact of international tax policy on double taxation on investment decisions within Uganda's oil and gas sector can be significant. Uncertainties surrounding tax liabilities, compliance costs, and the overall business environment may influence investors' risk perception and project economics. Countries with more favorable tax regimes and stable regulatory frameworks often enjoy greater investor confidence and attract higher levels of investment, leading to increased exploration, production, and trade activities within the oil and gas supply chain.

The impact of international tax policy on double taxation extends to trade flows within Uganda's oil and gas sector, affecting the movement of goods, services, and capital across borders. Complex tax regimes, administrative burdens, and uncertainties related to tax treatment can impede trade transactions, increase transaction costs, and hinder supply chain efficiency. Conversely, countries with more streamlined tax policies and efficient trade facilitation measures often experience smoother trade flows and greater integration into global value chains.

In conclusion, the comparative analysis highlights the complex interplay between international tax policy, investment decisions, and trade dynamics within Uganda's oil and gas sector. To enhance the competitiveness of Uganda's oil and gas supply chain and mitigate the impact of double taxation, policymakers should prioritize measures to improve regulatory stability, transparency, and consistency in tax administration. Strengthening investment incentives, expanding tax treaty networks, and fostering closer regional and international cooperation are essential steps toward creating a more conducive environment for investment and trade in Uganda's oil and gas sector.

#### **4.6. Case Studies and Best Practices**

Examining case studies and best practices from Uganda and other countries involved in the oil and gas industry provides valuable insights into the practical implications of international tax policy on double taxation. This comparative analysis aims to explore how different jurisdictions manage double taxation issues within their oil and gas supply chains, highlighting successful strategies and lessons learned. By identifying best practices and drawing lessons from diverse experiences, policymakers can develop informed strategies to enhance Uganda's competitiveness in the global energy market.

##### **Norway**

Norway stands out as a notable case study in effectively managing double taxation within its oil and gas sector. The country has a well-established tax regime and a comprehensive network of tax treaties aimed at preventing double taxation and promoting cross-border investment. Norway's tax system provides for various incentives, including generous deductions for exploration and development expenses, which incentivize investment in the oil and gas industry. Moreover, the Norwegian tax authorities prioritize transparency, efficiency, and taxpayer assistance, contributing to a conducive business environment and facilitating supply chain operations.

##### **Nigeria**

Nigeria presents a contrasting case study, characterized by challenges in managing double taxation within its oil and gas supply chain. Despite being a major oil producer, Nigeria faces issues related to regulatory instability, bureaucratic inefficiencies, and corruption, which complicate tax administration and enforcement. Double taxation disputes between the federal government and oil-producing states further exacerbate uncertainties for businesses operating in the sector. While Nigeria has made efforts to reform its tax system and improve transparency, significant challenges remain in mitigating double taxation and fostering investment in the oil and gas industry.

##### **Comparative Analysis; Uganda vs. Norway and Nigeria**

Comparing Uganda with Norway and Nigeria highlights both strengths and areas for improvement in managing double taxation within the oil and gas supply chain. While Norway's robust tax regime and proactive approach to tax administration contribute to a favorable business environment, Nigeria's challenges underscore the importance of regulatory stability, transparency, and good governance in attracting investment and facilitating supply chain operations. Uganda falls somewhere in between, with potential for improvement in tax policy, administrative procedures, and regulatory framework to enhance its competitiveness and mitigate the impact of double taxation.

### **Best Practices; Transparency and Collaboration**

One of the key best practices observed in successful jurisdictions is transparency and collaboration between tax authorities, industry stakeholders, and international partners. Countries like Norway prioritize open communication, stakeholder engagement, and information sharing to ensure clarity and consistency in tax administration and enforcement. Similarly, fostering collaboration with international organizations and neighboring countries can enhance Uganda's capacity to address cross-border tax challenges and promote harmonization of tax policies within the region.

### **Lessons Learned; Predictability and Consistency**

Another critical lesson learned from case studies is the importance of predictability and consistency in tax policies and administrative procedures. Uncertainties surrounding tax liabilities, regulatory changes, and dispute resolution mechanisms can deter investment and impede supply chain operations. Therefore, maintaining a stable and predictable tax environment is essential for fostering investor confidence and promoting long-term sustainability in the oil and gas sector.

Based on the comparative analysis and lessons learned from case studies, several recommendations can be made to enhance Uganda's approach to managing double taxation within its oil and gas supply chain. These may include strengthening tax policy

frameworks, enhancing administrative capacity, improving transparency and collaboration, and fostering regional and international cooperation. By implementing these recommendations, Uganda can improve its competitiveness in the global energy market and attract sustainable investment in its oil and gas sector.

In conclusion, the comparative analysis highlights the complex interplay between international tax policy, double taxation mitigation, and supply chain dynamics in Uganda's oil and gas sector. To enhance the competitiveness of Uganda's supply chain and attract more investment, policymakers should focus on expanding and refining the country's tax treaty network, harmonizing tax laws with treaty partners, and providing greater clarity and certainty for businesses operating in the sector. By addressing these challenges, Uganda can better capitalize on its oil and gas resources and contribute to sustainable economic growth and development.

## CHAPTER FIVE

### DISCUSSION OF FINDINGS

#### 5.1. Introduction

This chapter will critically analyze and discuss the findings regarding “An Analysis of How the Supply Chain for Uganda’s Oil and Gas Products Is Impacted by the International Tax Policy on Double Taxation” in Uganda. The supply chain of oil and gas has always been a key issue among resource rich countries especially where there are loopholes in the legal framework and taxation policy.

#### 5.2. An analysis of the international policy of the oil and gas industry focusing on the double taxation concept.

##### 5.2.1. Introduction

Uganda’s burgeoning oil and gas industry has the potential to significantly boost its economy. However, navigating the complexities of international tax policies, particularly double taxation, poses challenges to the industry’s supply chain. This analysis aims to explore how Uganda’s tax laws intersect with international tax policies, particularly focusing on the concept of double taxation, and its implications for the supply chain of oil and gas products in Uganda.

##### 5.2.2. Uganda’s Tax Law and Double Taxation

Uganda has a comprehensive tax regime governing its oil and gas sector. The Income Tax Act of Uganda addresses the taxation of income derived from petroleum operations. However, the issue of double taxation arises when income is subject to taxation both in Uganda and in another jurisdiction where multinational companies involved in oil and gas, operations may be incorporated or have operations. Uganda has entered into double taxation treaties with several countries to mitigate the impact of double

taxation<sup>90</sup>, but the effectiveness of these treaties in the context of the oil and gas industry requires scrutiny.

### **5.2.3. Impacts on the Supply Chain**

Double taxation can significantly impact the supply chain of Uganda's oil and gas products. Companies operating in the sector may face increased tax burdens, reducing their profitability and investment incentives. This, in turn, can affect the efficiency of the supply chain, leading to potential delays and increased costs in the production, transportation, and distribution of oil and gas products within Uganda and beyond its borders. Such challenges can deter foreign investment and hinder the growth of the industry.

### **5.2.4. International Tax Policy and Mitigation Strategies**

To address the challenges posed by double taxation, Uganda needs to align its tax policies with international standards and best practices. This may involve renegotiating existing double taxation treaties to ensure they provide adequate protection for companies operating in the oil and gas sector. Additionally, implementing mechanisms such as tax credits or exemptions for foreign taxes paid can help mitigate the impact of double taxation on companies bottom lines, thereby improving the efficiency of the supply chain<sup>91</sup>.

In conclusion, Uganda's oil and gas industry faces significant challenges stemming from international tax policies, particularly the concept of double taxation. Addressing these challenges requires a careful examination of Uganda's tax laws, its double taxation treaties, and their implications for the industry's supply chain. By aligning its tax policies with international standards and implementing appropriate mitigation

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<sup>90</sup> See; Section 88 of Uganda Income Tax Act, Cap 340

<sup>91</sup> Section 81 of Uganda Income Tax Act, Cap 340

strategies, Uganda can foster a conducive environment for investment in its oil and gas sector, thereby ensuring its sustainable growth and contribution to the country's economy.

**5.3. An analysis of the impact of double taxation on the industry and to identify ways to mitigate its effects and explore the various forms of double taxation that are prevalent in the oil and gas industry, such as corporate income tax, withholding tax and capital gains tax.**

#### **5.3.1. Introduction.**

The impact of double taxation on Uganda's oil and gas industry is significant, affecting the efficiency of the supply chain and hindering the sector's growth<sup>92</sup>. Various forms of double taxation, including corporate income tax<sup>93</sup>, withholding tax, and capital gains tax<sup>94</sup>, pose challenges to companies operating in the industry. This analysis explores the implications of double taxation on Uganda's oil and gas supply chain, identifies ways to mitigate its effects, and examines prevalent forms of double taxation in the industry.

#### **5.3.2. Impacts of Double Taxation on the Industry**

Double taxation increases the tax burden on companies operating in Uganda's oil and gas sector, reducing their profitability and investment incentives. Corporate income tax is levied on profits generated from petroleum operations, while withholding tax is

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<sup>92</sup> Part IXA of the Uganda Income Tax Act, Cap 340 on Special Provisions for the Taxation of Petroleum Operations.

<sup>93</sup> Section 18 of the Income Tax Act, Cap 340

<sup>94</sup> Sections 52 and 54 of the Income Tax Act, Cap 340

applied to various payments made by oil and gas companies, such as royalties, dividends, and interest. Additionally, capital gains tax may be imposed on the sale of assets<sup>95</sup>, further exacerbating the tax burden. These taxes not only affect the financial viability of projects but also disrupt the smooth functioning of the supply chain by increasing costs and potentially delaying operations.

### **5.3.3. Forms of Double Taxation in the Oil and Gas Industry**

In Uganda's oil and gas industry, double taxation can manifest in various forms. For instance, companies may face double taxation when their income is taxed both in Uganda and in the jurisdiction where they are incorporated or where their parent company is located. Additionally, double taxation may occur when payments such as royalties or dividends are subject to withholding tax in Uganda and are taxed in the recipient's country. Furthermore, capital gains tax may apply when companies dispose of assets such as oil and gas concessions or infrastructure.

### **5.3.4. Mitigation Strategies**

To mitigate the effects of double taxation, Uganda can adopt several strategies. One approach is to negotiate and enter into double taxation treaties with other countries to provide relief from double taxation by allowing tax credits or exemptions for taxes paid in one jurisdiction. Additionally, Uganda can explore the possibility of implementing unilateral measures such as unilateral tax credits or exemptions to provide relief from double taxation. Furthermore, promoting transparency and collaboration between tax authorities can help reduce disputes and ensure efficient tax administration.

### **5.3.5. Exploring Mitigation Measures in Uganda's Tax Law**

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<sup>95</sup> Tullow Uganda Ltd versus Heritage Oil and Gas Ltd 2014 Court of Appeal

Uganda's tax laws contain provisions aimed at mitigating double taxation in the oil and gas sector. For example, the Income Tax Act provides for the deduction of foreign taxes paid when calculating taxable income, thereby reducing the risk of double taxation. Additionally, Uganda has entered into double taxation treaties with several countries to provide relief from double taxation on income derived from petroleum operations. However, the effectiveness of these measures in practice requires continuous evaluation and adjustment to address evolving challenges.

Double taxation poses significant challenges to Uganda's oil and gas industry, impacting the efficiency of the supply chain and hindering the sector's growth. Various forms of double taxation, including corporate income tax, withholding tax, and capital gains tax, contribute to the tax burden faced by companies operating in the industry. Mitigating the effects of double taxation requires a combination of measures, including negotiating double taxation treaties, implementing unilateral relief measures, and promoting transparency and collaboration between tax authorities. By addressing these challenges, Uganda can create a more conducive environment for investment in its oil and gas sector, ensuring its sustainable development and contribution to the country's economy.

#### **5.4. A comparative analysis of the tax policy of the oil and gas industry focusing on double taxation concept**

##### **5.4.1. Introduction**

Comparative analysis of tax policies in the oil and gas industry, particularly focusing on double taxation concepts, provides valuable insights into the challenges faced by different countries and their approaches to mitigate them. This analysis will delve into Uganda's tax laws concerning double taxation in the oil and gas sector, comparing them with international tax policies to understand their impact on the industry's supply chain.

#### **5.4.2. Uganda's Tax Policy on Double Taxation**

Uganda's tax policy on double taxation in the oil and gas industry is primarily governed by the Income Tax Act, which addresses the taxation of income derived from petroleum operations. Uganda has also entered into double taxation treaties with various countries to provide relief from double taxation. These treaties typically allow for tax credits or exemptions to mitigate the impact of double taxation on companies operating in the sector.

#### **5.4.3. Comparison with International Tax Policies**

In comparison to international tax policies, Uganda's approach to double taxation in the oil and gas industry shares similarities with many other countries. Like Uganda, other jurisdictions often negotiate double taxation treaties to provide relief to multinational companies operating in the sector. However, the specifics of these treaties may vary, impacting the effectiveness of double taxation mitigation measures.

#### **5.4.4. Impact on the Supply Chain**

The international tax policy on double taxation directly influences the supply chain of Uganda's oil and gas products. Double taxation increases the tax burden on companies, affecting their profitability and investment decisions. This, in turn, can disrupt the efficiency of the supply chain by increasing costs and potentially delaying operations such as exploration, production, transportation, and distribution of oil and gas products within Uganda and internationally.

#### **5.4.5. Effectiveness of Mitigation Measures**

The effectiveness of mitigation measures within Uganda's tax policy depends on various factors, including the terms of double taxation treaties and the enforcement of tax laws. While double taxation treaties aim to provide relief, their effectiveness can vary

based on factors such as the interpretation of treaty provisions and the cooperation between tax authorities. Ensuring transparency and clarity in tax laws and promoting collaboration between jurisdictions are essential to maximizing the effectiveness of mitigation measures.

Uganda's tax policy on double taxation in the oil and gas industry shares similarities with international tax policies, particularly concerning the use of double taxation treaties to mitigate the impact on companies operating in the sector. However, the effectiveness of these measures in mitigating the impact on the industry's supply chain depends on various factors. Continuous evaluation and adjustment of tax laws and treaties are necessary to ensure they remain effective in promoting investment and facilitating the efficient functioning of the oil and gas supply chain in Uganda.

## CHAPTER SIX

### SUGGESTIONS, CONCLUSIONS AND RECOMMENDATIONS

#### 6.1. CONCLUSION

This dissertation examined an Analysis of How the Supply Chain for Uganda's Oil and Gas Products is impacted by the International Tax Policy on Double Taxation. Comparative studies were made both in Africa and international jurisprudence considered. Lessons to avoid oil curse

have been drawn from those countries. Uganda can adopt some of those provisions which may reduce double taxation and be beneficial to her current and future generations. While the recommendations in this dissertation may not be impeccable, it is believed that their adoption will go a long way to improve Uganda's economic development and maximization of oil benefits for current and future generations. Oil is infinite and therefore Uganda must manage this petroleum wealth cautiously for betterment of Ugandan society.

In this chapter, the study made key research findings and recommendations on key policy and legal steps that can be taken by Uganda to ensure proper oil and gas supply without double taxation. The study analyzed the current law on the international policy of the oil and gas industry focusing on the double taxation concept, the impact of double taxation on the industry and to identify ways to mitigate its effects and explore the various forms of double taxation that are prevalent in the oil and gas industry, such as corporate income tax, withholding tax and capital gains tax and a comparative analysis of the tax policy of the oil and gas industry focusing on double taxation concept.

#### 6.2. RECOMMENDATIONS

In view of the findings above, there are already signals that the controls in the management of petroleum revenues are inadequate. This is evident from the way URA has been keeping revenue collected from employees of petroleum companies in form of PAYE in the consolidated fund instead of petroleum fund as unearthed by the Auditor

General. There is also no transparency in the sector, among many loopholes. The study therefore recommends as follows:

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Guard Bank of Uganda from political interference. There is need to amend Bank of Uganda Act cap 51 and the PFMA to give Bank of Uganda independence in the operational management of the Petroleum revenue investment reserve account. This will insulate it from political interference from the Minister of Finance, who has been given powers to direct it on policy. In Norway, operational independence to the manager of the fund/Norges Bank prevents political interference in the operations of the fund.

EITI should make Uganda's membership compulsory. To boost public confidence and enhance transparency in the workings of petroleum sector, Uganda needs to join the Extractive Industries

Transparency Initiative and amend the PFMA to make it mandatory for the government to join the initiative just like in Tanzania since as of now, it is still a policy question, which does not oblige her to act and join. This will oblige Uganda to adhere to good governance of transparency; accountability and fighting of corruption hence attain intergenerational equity in the management of oil revenues as Ugandans will keep abreast of how much is being collected as petroleum revenue and how it is used. The PSAs too need to be disclosed to the public. This will restore public confidence in government and work together with government to achieve economic development than fighting it.

There is need for a new law on taxation in the supply of oil and gas. There is need for strict observance of the law by all stakeholders involved in the generation of tax revenue and there is need to revise in the law relating to management of petroleum revenue and ring-fencing oil revenues from being accessed by the Executive without Parliamentary resolution. The analysis of international best practices in the

management of petroleum revenues revealed that putting the legal framework and rules in place per se does not necessarily translate into efficient and effective management of petroleum revenue unless it is coupled with the support and will of political leaders and all the stakeholders to implement it to the letter. Introducing ring-fencing laws on oil revenue expenditures will limit the Executive desire to solve all her problems using oil revenues sharing the six percent royalty allocated to local governments. There is need to amend the Local Government Act and the PFMA to provide the formula for sharing the six percent allocated to local governments in oil producing districts and how it will trickle down to lower local governments at sub-county and town council levels. This is because, these are areas where petroleum activities are taking place whereby people were displaced to this, there is need to devise ways of making sure that companies dealing in petroleum are not over taxed. This will guard against regional imbalances and likely conflicts.

### **6.3. SUGGESTIONS**

#### **Introduction**

Addressing the impact of international tax policies on double taxation is crucial to ensuring the efficiency and sustainability of Uganda's oil and gas supply chain. This analysis presents solutions and recommendations based on Uganda's tax laws to mitigate the adverse effects of double taxation on the industry's supply chain, fostering its growth and development. To suggest solutions and recommendations to ensure the supply chain for Uganda's oil and gas products its impact by the international tax policy on double taxation.

**Enhance Double Taxation Treaties.** Uganda should prioritize renegotiating and updating its double taxation treaties with key partner countries to ensure they provide adequate relief from double taxation for companies operating in the oil and gas sector. These treaties should include provisions for tax credits, exemptions, and dispute

resolution mechanisms to minimize the tax burden on companies and promote certainty in tax outcomes.

**Streamline Tax Administration Processes.** Efforts should be made to streamline tax administration processes within Uganda to reduce compliance costs and administrative burdens for companies in the oil and gas industry. Simplifying tax filing procedures, enhancing transparency, and providing clear guidance on tax regulations can improve compliance and minimize the risk of disputes between taxpayers and tax authorities.

**Promote Collaboration and Information Sharing.** Collaboration and information sharing between Uganda and other jurisdictions are essential to effectively address double taxation issues. Uganda should actively engage with other countries and international organizations to exchange best practices, share tax information, and harmonize tax policies where possible, ensuring consistency and coherence in tax treatment across borders.

**Invest in Tax Capacity Building.** Investing in tax capacity building initiatives is crucial to enhancing Uganda's ability to address double taxation challenges effectively. This includes providing training and technical assistance to tax officials, improving data collection and analysis capabilities, and strengthening institutional frameworks for tax administration and enforcement.

**Encourage Investment in Infrastructure.** Investment in infrastructure, such as transportation networks and storage facilities, is essential to optimize the efficiency of Uganda's oil and gas supply chain. By improving infrastructure, the country can reduce logistical costs, minimize delays in product transportation, and enhance overall competitiveness in the global market.

**Diversify Revenue Streams.** To reduce reliance on oil and gas revenues and mitigate the impact of fluctuations in commodity prices and tax policies, Uganda should prioritize diversifying its revenue streams. This can be achieved by promoting

investment in other sectors of the economy, such as agriculture, tourism, and manufacturing, to create alternative sources of income and employment opportunities.

**Strengthen Regulatory Frameworks.** Uganda should strengthen its regulatory frameworks governing the oil and gas sector to promote transparency, accountability, and sustainable development. Clear and enforceable regulations can help attract investment, mitigate risks, and ensure that oil and gas operations adhere to environmental and social standards, minimizing negative impacts on local communities and ecosystems.

**Engage Stakeholders and Civil Society.** Engaging stakeholders and civil society in the policy-making process is essential to ensuring that the interests of all relevant parties are considered and addressed. Consultations with industry players, local communities, non-governmental organizations, and other stakeholders can help identify concerns, build consensus around proposed solutions, and foster a conducive regulatory environment for Uganda's oil and gas supply chain.

By implementing these solutions and recommendations, Uganda can mitigate the adverse impact of international tax policies on double taxation and ensure the efficiency and sustainability of its oil and gas supply chain. Through collaboration, capacity building, infrastructure development, diversification, regulatory strengthening, and stakeholder engagement, Uganda can create a favorable environment for investment and growth in its oil and gas sector, contributing to the country's economic development and prosperity.

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# UGANDA CHRISTIAN UNIVERSITY

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## DISSERTATION CORRECTION COMPLIANCE REPORT BY THE CANDIDATE (POST VIVA FORM)

Date: 02<sup>nd</sup> May 2024

Name of Candidate: KUSHABA KENEDY Reg.No: S22M23/012

Title of Dissertation; - AN ANALYSIS OF HOW THE SUPPLY CHAIN FOR UGANDA'S OIL AND GAS PRODUCTS IS IMPACTED BY THE INTERNATIONAL TAX POLICY ON DOUBLE TAXATION.

SN	COMMENTS BY EXTERNAL EXAMINER	ACTION TAKEN	INDICATOR
1	The Topic is timely.	Obligated	Obligated
2	The citations are lacking some References are not complete. For instance, foot Note 5 seems to be incomplete "International Energy Charter, Natural Resources Precepts on the impact of Double Taxation", 2018"	This concern was fully addressed. I modified the citation to capture the intention of the author; towards Liberalization of Trade in Energy sector and the protection of investors all in light of the International Energy Charter.	Page 4, corrected
3	The research questions are clear. However, question 3 should be rephrased. Also include	This was complied with as the modification was made in respect of the correction. The countries on	Page 35, 36 and

	the countries you want to consider for a comparative analysis and give the reasons for choosing that country, i.e. “What is the comparative analysis of the tax policy of the oil and gas industry focusing on double taxation concept?	comparative analysis are well captured to include; - South Africa, Norway and Denmark.	37, corrected
4	Under sub section 1.8 on geographical scope, simply, mention the country. The other information you added regarding land/water area etc. is not necessary.	The said information as instructed was excluded and only the country; - Uganda was maintained.	Page 9-10, corrected.
5	The Literature Review should be in an independent chapter	This was corrected and placed in its own independent chapter as now envisaged in Chapter 2.	Pages 13-16, corrected.
6	Under the Literature review cite, more scholarly work on the subject matter. Additionally, some work you mentioned is not cited. Please add the reference in the foot notes.	This was done by adding Brown A. on Taxation and Economic Development, Smith J. on Navigating International Taxation among others. References were equally added as footnotes.	Pages 13 14 & 16 corrected.
7	Be consistent with the footnoting style in this research. Use OSCOLA for referencing throughout the dissertation.	Action Taken.	Pages 14-15, corrected,
8	The research has relevant information, however, it is not well organized. The Legal analysis should be in a different chapter. Chapter one is un-necessarily long. There is information in this chapter which should be in independent chapters (for instance the Literature review).	This was also complied with as Organisation of the Research has been complied with, Chapter One has been reduced, and the Literature Review has since been aligned.	Pages 1-8, 13-16 rectified,
9	Chapter two has good information, and it reveals the student’s knowledge and understanding of the subject matter.	Obliged	Obliged

10	With respect to the legal knowledge, there is good statement of the law.	Obligated	Obligated
11	Regarding application and evaluation, the student has demonstrated the ability to evaluate the relevant laws. The Literature review section also spotlights the student's research efforts.	Obligated	Obligated
12	The work is generally good. However, it could benefit from re-organization of the relevant chapters. Chapter three which points to the comparative analysis, could be re-organized to identify the exact aspects that the student is comparing.	This has been complied with and the said chapter has been beefed up with a comparative analysis in respect of Uganda and South Africa, Uganda and Norway and then Uganda and Denmark	Pages 35-37, corrected.

SN	COMMENTS BY VIVA VOCE PANNEL	ACTION TAKEN	INDICATOR
1	Dr. Christopher Lubogo Asked the student 8 questions in which were answered to his satisfaction. No more comments were given in that regard.  The student was encouraged to go ahead and study a PhD	Obligated  Obligated	Obligated  Obligated
2.	Dr. Edgar Baguma Clearly state the countries of comparative study	This, has been corrected specifically with Chapter Three to include South Arica, Norway and Denmark all in comparison with Uganda in terms of Double Taxation Treaties	Pages 35-37 corrected,

2	The time scope is too wide try narrowing it down to bring out a certain period of time.	Action Taken	Page 9-10 corrected,
3	Narrow down general objective (be precise)	This was correction was made.	Page 7 corrected.

**KUSHABA KENEDY**



Candidate's Name

Signature

**MUGABI IVAN**



Supervisor's Name

Signature