DTA's

CTPD Secretariat

Presentation Outline

- Organization Background
- CTPDs mandate
- Study Objectives
- Key findings

Organizational Background

- CTPD is a not for profit organization
- We are a membership based economic think tank on trade & Investment policy and development.
- The organization was established in 1999 as the Civil Society Trade Network of Zambia (CSTNZ); but later rebranded in 2008

DOUBLE TAXATION AGREEMENTS-DTA's

- Double taxation occurs when the same transaction or income is subjected to tax in two or more tax jurisdictions.
- It can also take place within a country when different governmental units tax a single transaction or source of income.
- Double Taxation Treaties, these are conventions between two countries that aim at eliminating the double taxation.
- DTAs establishes framework for countries to divide the tax rights each country claims by its domestic laws over the same income and gains

3 core purposes of DTA’s

- To protect against the risk of double taxation
- To provide certainty of treatment for cross-border trade and investments
- To prevent excessive foreign taxation against business interests abroad.

Background to the DTA study focusing on Zambia's Experiences

- This study was conducted in 2015
- For a long time, there has been much discussion internationally and considerable debate locally in Zambia about the extent to which DTAs actually get realized in practice and the benefits for developing countries.
- Some arguments against DTAs include that these agreements generally do not bestow any meaningful benefits that make a difference in shaping the economic fortunes of developing countries like Zambia.

Study Objectives

- Providing simplified and policy-relevant empirical evidence about Zambia's experiences with DTAs, and to use the evidence as a basis for fostering advocacy, debate, discussion and broad-based awareness building for stakeholders
- Broadly, the study therefore sought to assess Zambia's past record in signing and implementing DTAs and the advantages and disadvantages (or benefits and costs) for the country in relation to the various DTAs

Why Zambia Participates in DTA's

- Some of the reasons for Zambia's participation in these DTAs have included the need to trigger higher flows of foreign direct investment (FDI)
- Greater development assistance
- Higher flows of goods and services (including labor), and better technological transfers and social-cultural exchanges

Two competing Models of DTAs

- DTAs generally tend to follow two models, The Organization for Economic Co-operation and Development (OECD) Model Tax Convention on Income and Capital
- The United Nations (UN) Model Taxation Convention between Developed and Developing Countries.

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- The OECD model was designed as a model to assist country-pairs in negotiating DTAs and sought to eliminate double-taxation by ensuring that contracting states harmonize definitions of important concepts, clarify which taxes are covered by the agreement and outline mechanisms to be used for removal of double-taxation where it occurs.

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- With the use of the OECD model, most of the tax conventions seemed to favor developed countries mainly because the country of source often had to give up taxing rights over income and capital. This was identified as a weakness by the Economic and Social Council (ECOSOC), of the UN which in 1968 set up an Ad Hoc Group of Experts (‘Group of Experts”)

Principles Underpinning Operations of FDI

- These principles determine a country’s jurisdiction or control over tax income.
- 1. Principle of residence: this principle states that “all income of persons domiciled or normally resident in a country is subject to that country’s income tax.” This implies that regardless of the source from which income originates, the basis for taxation is residence or nationality of the tax-payer.

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- 2. The principle of source: requires that "all income originating in a country, regardless of to whom such income accrues is subject to that country's income tax." This principle places greater importance on the location where revenue is generated from (source).

Key Findings from the study

- In Zambia, DTAs are implemented on the basis of the principle of sources, which essentially means Zambia, as the country in which the economic activity takes place, applies the taxation at the source of the activities, thus maintaining control over revenue programming.

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- Initiation of DTA's, In principle, any line ministry with external functions with a foreign governments can initiate a DTA on the Zambia side. However, the overall mandate to negotiate and enter into international agreements rests with the State presidency.
- This mandate is generally delegated to and discharged by the respective Ministers or Ministries

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- One of Zambia’s oldest DTAs pre-dates the country's independence in 1964 and is still in force today in the same form as when it was established in 1956, this is the agreement with South Africa
- Over time, the country has established bilateral DTAs with a total of about 23 partners around the world

DTAs signed up 2015

TDTAs entering in to force in Zambia, by time period and partner country							
	1950s	1960s	1970s	1980s	1990s	Post-2010	Year unknown
DTA Bilateral Partners	South Africa	Kenya, Tanzania, Uganda	Japan, United Kingdom, Ireland, Norway , Denmark, Germany, Sweden	India, Netherlands, Finland, Canada	Italy	Mauritius, Seychelles, Zimbabwe, France	Romania, Switzerland, Yugoslavia

Recent DTAs

- The recent African DTAs with Mauritius, Seychelles and Zimbabwe are most likely the most highly driven DTAs by the investment motive than any other DTAs. For Mauritius and Seychelles in particular, the island States have been making targeted investment in mainland African countries as a means to sort out their food production capacity limitations and thus address their food security challenges

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- Out of the 23 countries that Zambia has DTAs with, only four – Kenya, Tanzania, Uganda and Zimbabwe – are low income countries according to the World Bank's atlas method
- Thus, from the 22 countries for which data was available, 17 held per capita incomes higher than that of Zambia, with an annual average per capita Gross National Income

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- The advantage of having the majority of countries as relatively wealthier countries than Zambia is that it increases the chances that the partner countries will be more interested in securing FDI flows and related tax payment that are fairer for the investors than in revenue gains from taxation per se.
- On the other hand, wealthier countries often have stronger negotiating positions, backed by powered bureaucracies, high level technical expertise and great information

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- As of 2012, Most of Zambia's FDI stock came from developed economies, with Canada and the UK – two countries with which Zambia has DTAs in force
- Other significant sources of FDI stock included the Netherlands and Switzerland
- From among the African countries, South African and Mauritius dominate the investment profile with 7.9% and 2.1% of Zambia's 2012 world FDI stock.

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- By and large, the framework for DTA implementation in Zambia is the tax system. This system is robust and provides for detailed tracking of domestic tax sources and ensuring effective and efficient tax collection from formal sources. However, the system does not include an inherent subsystem for tracking or estimating tax revenue losses and leakages.

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- The country however has two critical internal weaknesses: firstly, it does not have an inclusive national process or system for forging common national positions on DTAs.
- Secondly, it does not have a framework for routinely or periodically reviewing the effects (costs and/or benefits) of DTAs to Zambia

Key Recommendations

- Firstly, the lead ministry, MOF, should initiate a structured process for routinely and systematically reviewing all the DTAs that Zambia is currently party to.
- This should be with a view of understanding their short- and long-term effects on the economy and if necessary, causing amendments to any DTAs with odious terms or significant disadvantages to the country such as tax revenue losses.

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- There is need to foster improved inter-ministerial coordination and consultations with MCTI, MoFA and other line ministries, towards ensuring that a wider set of the country's multi-sectoral economic, geo-political and social interests, of both offensive and defensive nature are catered for.
- This could also help the government to strengthen its negotiating position.

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- Monitoring system, the Government should institute an independent statutory system, with a clear mandate to monitor & evaluate the costs and benefits of DTAs, with authority to provide it findings as public information for transparency and correcting DTA design or implementation flows, and perhaps with powers of sanction (restriction, ban, penalty, injunction, etc.). This could be in the form of an appropriate Parliamentary Committee

Long presentation? Not to worry, I’m done Now!!!!!!!!!!!!!!!!!!

Thank you for listening!