

IMPACT OF DOUBLE TAXATION TREATIES ON FINANCING DEVELOPMENT IN UGANDA

CASE STUDY OF SOUTH AFRICA
AND UGANDA

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THE CASE FOR / AGAINST DTAs

Research indicates that DTAs:

- Are Conduits for tax avoidance by Multi-National Companies (MNCs)
- Allow aggressive tax planning schemes like ‘treaty shopping’ and ‘round tripping’.
- Have led to low taxation or ‘double non-taxation’ of MNCs,
- Facilitated Illicit Financial Flows and made it practically impossible for governments of these LDCs to impose and collect highly needed tax revenue from foreign businesses and individuals operating in their countries.

*IMF Policy paper; Spillovers in International Corporate Taxation, 2014

UGANDA SUSPENDS NEGOTIATION OF DTAs

- With ten DTAs in place and another 5 at different stages of negotiation, the Ministry of Finance, Planning and Economic Development (MOFPED) had by 2014 noticed that instead of attracting FDI, DTAs appeared to be having the reverse effect of eroding the narrow tax base.
- Negotiation of new DTAs suspended in 2014.

Background to the Study

- Earlier studies by SEATINI, TJNA on the *Implications of DTAs in Financing Development in Africa (2014)* recommended;
 - a review of existing Tax treaties and domestic legislation to;
 - identify areas where treaties are most vulnerable to revenue loss.
 - formulate ambitious national models by applying a “best available” approach.
 - identify red lines for negotiations from within these models
 - request renegotiations of treaties that have the greatest actual cost.
 - renegotiations should be conducted on the basis of an improved distribution of taxing rights, not a “balanced” negotiation.

Background cont..

- As part of the Scaling up Tax Justice Project, countries (Uganda, Zambia, Nigeria, Tanzania, Ghana) in partnership with Tax Justice Network Africa (TJNA) commissioned joint studies on the *“Implications of Double Taxation Treaties in Financing Development in Africa”*.
- This study is a follow up on the work done by CSOs in various countries like SEATINI Uganda and Action Aid Uganda, TJNA, Econews, Center for Trade Policy and Development (CTPD) and the Litigation work done in Kenya on the DTT between Kenya and Mauritius.

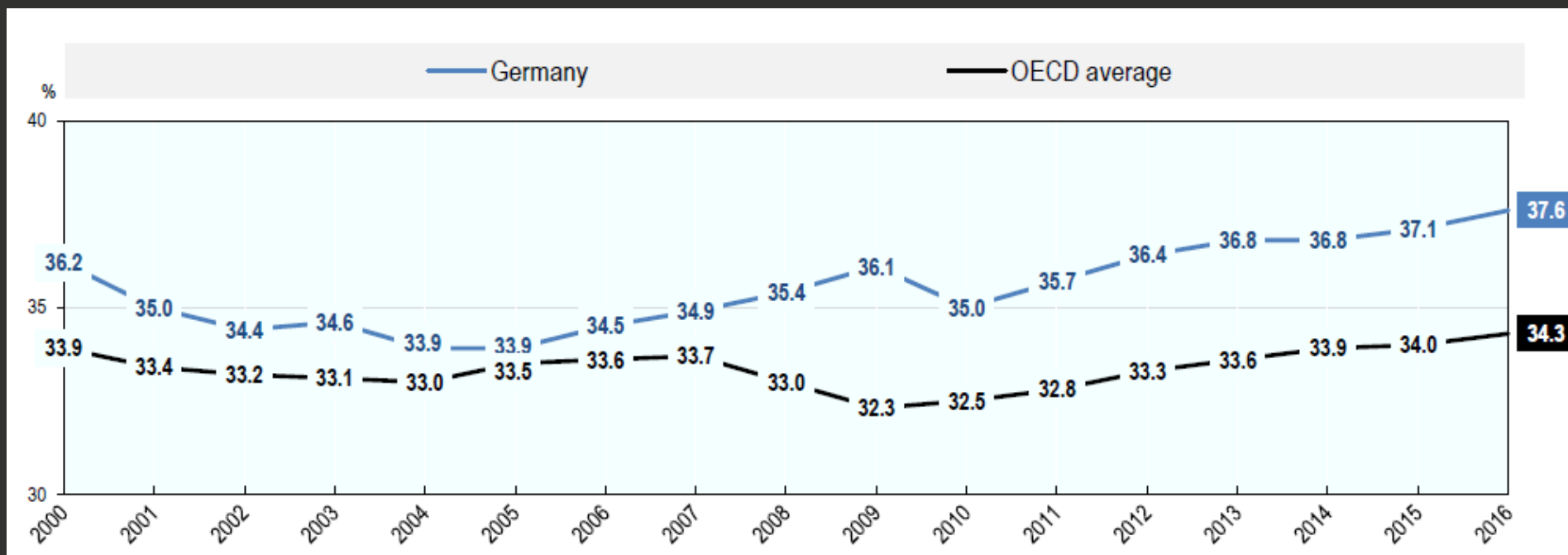
OBJECTIVES OF THE STUDY

- demystify the policy logic behind increased signing of various tax treaties
- review the provisions of the DTAs signed with India and South Africa
- analyze the role of DTAs in financing development
- identify and analyze the key tax risk areas
- make policy recommendations
- make recommendations as to which provisions of the treaties need to be re-negotiated.

FINANCING DEVELOPMENT

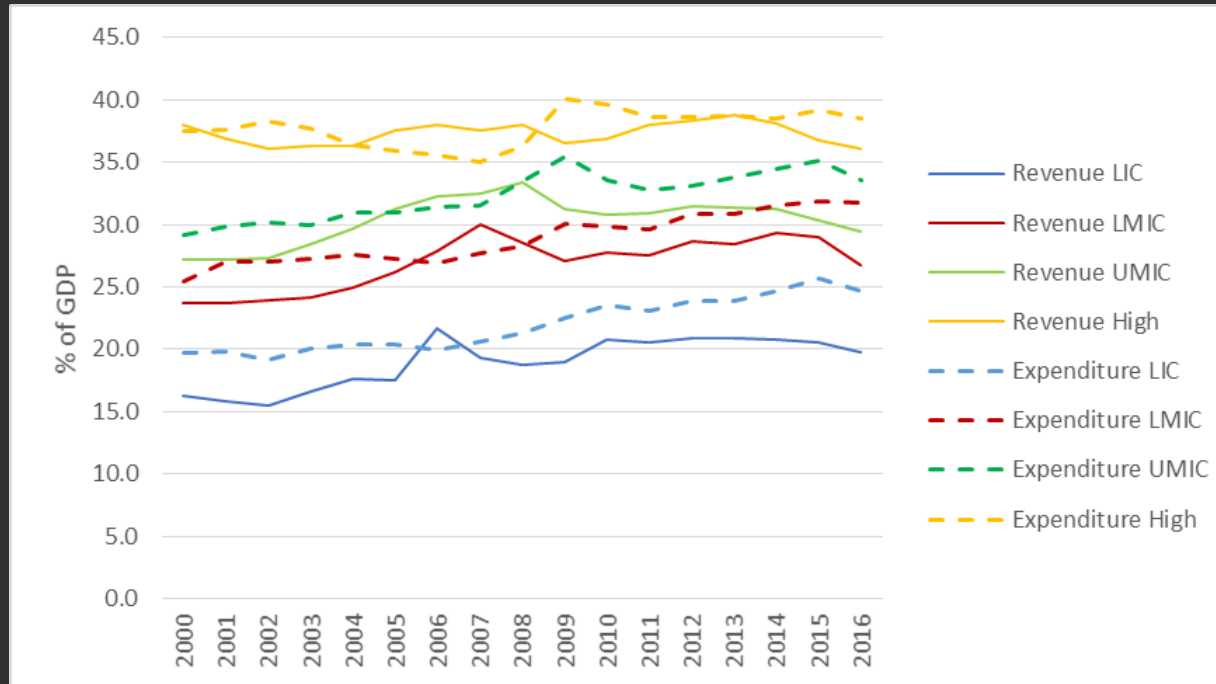
- Uganda's budget performance falls within the range of Low Income Countries(LICs)
- LICs normally have a shortfall in financing national programmes to the expected international standards
- Budget approved for the financial year 2015/2016 was Ushs 23,972 billion
 - Ushs 11,333 billion from domestic revenues
 - Ushs 5,649 billion from grants and loans
 - Ushs 1,384 billion from treasury bills and bonds.
- Taxes contributed 47.2% of the budget

Tax to GDP Performance in Developed Countries



*Source; OECD Revenue Statistics 2017, Germany

Tax to GDP performance in LICs



*Source; World Bank Data

MULTILATERAL INITIATIVES FOR DRM

❖ ATAF model:

- Establishing a well-functioning international organization.
- Building capable African tax administrations that develop, share and implement best practices.
- Becoming the African voice on tax issues to inform and influence the global dialogue.
- Fostering sustainable partnerships with stakeholders.
- Improving good governance and accountability between state and citizens.

MULTILATERAL INITIATIVES CONT..

❖ The Addis Tax Initiative:

- The ATI development partners committed to collectively double technical cooperation in the area of domestic revenue mobilization by 2020.
- The ATI partner countries committed to step up the mobilization of domestic revenue in order to spur development, in line with the Initiative's key principles.
- All ATI signatories committed to promote and ensure policy coherence for development.

MULTILATERAL INITIATIVES CONT..

❖ The African Union Agenda 2063:

- This Agenda aids in DRM through the development of a Resource Mobilization Strategy which identified key areas of intervention and their associated funding options.
- Steps will be taken to enact the strategies that the Agenda developed.

FINANCING OPTIONS

❖ Domestic borrowing

Pros

- Easy to mobilise
- Predictable
- Under full control of government

Cons

- Distortionary effect on economy
- Direct bearing on monetary policy
- Cannot support a significant portion of the total expenditure i.e. Savings of the productive sector

FINANCING OPTIONS CONT..

❖ External borrowing

Pros

- Grants are not interest bearing and unlike loans, do not have to be repaid.
- Loans from Multilateral Agencies (normally referred to as concessional loans) because they have low interest rates and are paid over long periods of time

Cons

- Low Income Countries have little access to international financial markets because of their high risk hence low credit rating
- Political implications hence unpredictability
- Economic downturn in the Western World (our biggest donors)
- Donor fatigue

FINANCING OPTIONS CONT..

❖ Taxes

The ratio of tax to GDP of most developed countries is above 25%

Pros

- Ownership of a country's own strategic development
- Better self-initiative and independence
- Better accountability between the government and its citizens

Cons

- No one wants to pay taxes
- Administrative challenges
- MNCs have more resources than the tax collecting agencies and sometimes have no physical presence in the country
- Little disposable income and low levels of expenditure,
- An informal, agrarian economy AND therefore a narrow tax base

RICH V POOR

- According to Germany's Federal Ministry of Finance:
“the federal Ministry of Education & Research had a total of 17.6 billion euros at its disposal in 2017, an increase of 1.2 billion euros over its budget for 2016”
- In the year 2017, Germany's budget for the Education Ministry was about five times the National Budget of Uganda for that year.

(<http://www.bundesfinanzministerium.de/Content/EN/Standardartikel/Topics/PublicFinances/Articles/2016-07-07-Draft-2017-budget-and-financial-plan-2020.html>)

KEY FINDING FROM STAKEHOLDER

- FDI inflows in Uganda are not substantially influenced by DTAs.
- An efficient and transparent tax administration system is more conducive to foreign investors than tax incentives in addition to a stable political Environment. *

*Source; Uganda Investment Authority

WHAT DO INVESTORS WANT?

- A predictable macro economy
- Adequate infrastructure
- Market
- Low cost of production

*source; Uganda Investment Authority

POLICY RECOMMENDATIONS

- **Maximum withholding tax rate should be renegotiated to 15% where it is 10%.**
- **No negotiation of treaties with countries with no income taxes or are considered to be tax havens.**
- **Anti-treaty abuse provisions should be strengthened in the domestic legislation and in renegotiation of existing treaties.**

POLICY RECOMMENDATIONS CONT..

- Before negotiating new treaties, detailed studies of the tax system of the potential partner state should be made to decide the economic benefits for Uganda and potential risks to the Ugandan tax base.
- Involve stakeholders including Parliament and civil society in the double taxation policy process.

POLICY RECOMMENDATIONS CONT...

- Renegotiate existing treaties on the basis that some of the anti-abuse provisions which were introduced in the domestic law may not bind the existing DTAs unless there is a negotiation.
- Publish the national policy for agreements for the avoidance of double taxation and prevention of fiscal evasion with respect to taxes on income.

POLICY RECOMMENDATIONS CONT..

- Carry out a quantitative study of the impacts of DTAs on FDI.
- Develop a Model Treaty with a Commentary.
- Training stakeholders.

END

**THINKING IS ONE THING NO ONE HAS EVER BEEN
ABLE TO TAX**

Charles Kettering