Driving Responsible Tax Policy in Developing Countries

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Thank you.

I thought I should start by acknowledging that this is a technical conference, and that most of you in the room today live and breathe tax, every day. Of course, as a former finance minister, tax and domestic resource mobilisation are issues that are dear to my heart. But I am not a technical tax expert - least of all on tax issues in the USA - so please forgive me if I focus on broader policy issues, and if I don't know all the acronyms of the tax community!

But it is for that reason that I was so pleased to be asked to address you today, because tax isn't simply the domain of tax professionals; it affects all of us, every day, and it is crucial to the future of developing countries around the world.

So if I may, I would like to take a step back and talk about tax from the perspective of the developing world, including my home continent of Africa.

The challenge

Contrary to what many believe – and contrary to the dominant narrative – Africa is not just a continent of Ebola and bad news stories, even though we need to acknowledge the challenges, it is also a continent of good news stories. Conflict is falling, diseases like HIV/AIDS and Malaria are being tackled, governance in most countries is improving, and over recent years, growth rates have surpassed those seen in most other parts of the world. 6 of the fastest growing countries in the world today are in Africa-- Ethiopia, Rwanda, Côte d'Ivoire, Tanzania, Senegal and Ghana.

Africa is a continent of opportunity, not least for business. To give just one figure that illustrates that reality, consumer expenditure on the continent has grown by 3.9 percent annually since 2010, reaching $1.4 trillion in 2015. This figure is expected to reach $2.5 trillion by 2030.

But of course, significant challenges remain. The Sustainable Development Goals - the ambitious development vision for 2030, as set out by the United Nations - articulate what remains to be achieved, and none of us should underestimate the scale of the challenge. Not least, development financing needs to be ramped up by an order of magnitude – from billions to trillions. Those sorts of numbers cannot be achieved through aid; resources need to be mobilised at a domestic level, by attracting investment, catalysing growth, and substantially increasing tax revenues.

In many African countries, tax to GDP ratios are much too low and remain stagnant. According to the OECD, the average tax to GDP ratio in Africa in 2016 was 18.2 – a little over half the level seen in OECD member countries. In my country Nigeria, it was 12% - already not so good, but when we rebased the economy to twice its size after 24 years of inaction, ratios all changed and the tax to GDP ratio halved to 6%. Who wants to be the finance minister of a country with such low ratios?

So we made domestic resource mobilisation a priority, because 15% is generally considered to be the minimum level necessary to provide basic services. If we are to have any chance of achieving the Sustainable Development Goals and creating the conditions necessary for business investment to grow further, current tax to GDP ratios in large parts of Africa are simply unsustainable.

Corporate tax - the solution?

So how then might we fix it? The answer is certainly not straightforward, but corporate taxes are a vital piece of the puzzle. This is because corporate income taxes make up a much higher proportion of government revenue in developing countries – an average of 16% compared with 8% in the OECD.

Let me say at this point that I am under no illusions: corporate taxation is not a panacea for Africa. And there are perhaps too many who suggest that if we simply squeeze corporates for more revenue, our development challenges will be solved. They won't. But that doesn't change the fact that corporate tax is crucial.

Since corporate taxes are relatively more important to African governments, it naturally follows that issues relating to corporate tax planning, tax avoidance and tax evasion are relatively more pressing in an African setting.

The UN Conference on Trade and Development estimated[1] in 2015 that developing countries lost around $100 billion per year in revenues due to

[1] https://unctad.org/en/PublicationChapters/wir2015ch5_en.pdf

corporate tax avoidance, whilst the High Level Panel on Illicit Financial Flows from Africa - set up by African Finance Ministers and led by former South African President Thabo Mbeki - estimated a figure of $50 billion[2] from Africa alone. I know that these figures are contested, and that the nature of tax avoidance is such that making such estimates with certainty is impossible. But I hope we can all agree that there is a significant problem.

In addressing tax avoidance, the leadership of the OECD over recent years has been very welcome. The BEPS process is addressing some of the most acute problems inherent in the international tax system, and has made tax avoidance more difficult. And I welcome the fact that the OECD is taking on the issue of digitalisation, on which we enjoyed a rich discussion this morning.

But acute challenges remain. Some companies continue to practice aggressive tax planning. Treaty shopping and the use of intermediary jurisdictions is depriving countries of revenue that they might otherwise expect. And tax incentives are too often granted – and accepted – without good cause.

So further change is needed.

The role of government

Much of this change needs to come from governments. The starting point must be creating a business-friendly environment. When I was Finance Minister in Nigeria, the governments that I was a part of enacted

[2] https://www.uneca.org/sites/default/files/PublicationFiles/iff_main_report_26feb_en.pdf

major reforms, liberalising markets and cutting unnecessary government interference. We need more businesses to invest in Africa and once they have, we need to allow them to thrive. After all, if businesses don't make any profit, then there is nothing for governments to tax.

So the answer isn't simply more or higher taxes, although in some cases there is a case for taxes to rise. But governments need to cultivate an environment in which they can raise more revenues from thriving, profitable businesses.

Governments can start by creating certainty and stability for private enterprise, allowing companies to plan on the basis of predictable, comprehensible taxation, and to innovate, invest, and take risks.

Research from the OECD, IMF[3] and others consistently shows that companies looking to invest in developing countries prioritise legal, political and economic certainty over incentives packages and lower tax rates. Furthermore, the OECD's ongoing work on tax certainty[4] indicates that companies operating in Africa appear significantly more likely to exploit tax uncertainty to reduce their tax liabilities, than they are in OECD countries. Therefore creating a stable investment environment is critical.

The capacity of tax authorities also needs to be improved, and I applaud the work of Tax Inspectors Without Borders – on whose Governing Board I serve – which is now helping over 25 countries to apply international standards in a consistent manner. Early results from this

[3] https://www.imf.org/external/np/g20/pdf/101515.pdf

[4] https://www.oecd.org/tax/tax-certainty-update-oecd-imf-report-g20-finance-ministers-july-2018.pdf

initiative are hugely encouraging – the OECD estimates that for every dollar spent on TIWB, developing countries can receive a return in excess of USD 1000 from taxes recovered[5].

The tax certainty survey also highlights that bolstering the capacity of tax authorities is a key request from companies, so I am encouraged that the OECD continues to work with revenue authorities to better understand what more can be done.

And of course, government has a role to play in boosting trust and accountability of institutions handling public resources, by demonstrating prudent fiscal management. There is a strong nexus between responsible tax and responsible spending; they are two sides of the same coin and ordinary citizens and corporates really understand and expect this.

The role of business

But governments cannot bear all of the burden for creating a better tax system. It is important to recognise that in many developing countries, there is an asymmetry of knowledge and capacity between multinationals and tax authorities. A straightforward system free of loopholes and unnecessary complication is the aspiration, but many tax authorities simply do not have the capacity – at present – to establish such a system, particularly when companies operating across borders have been able to create complex and ever-evolving corporate structures that are challenging to navigate.

[5] https://www.oecd.org/tax/tax-inspectors-without-borders-bolstering-domestic-revenue-collection-through-improved-tax-audit-capacities.htm

So businesses, too, have a big role to play.

And it is in their interests to be an active and constructive part of the solution, not least to address the mistrust that surrounds so many businesses today. Not just mistrust between taxpayers and tax authorities – albeit that remains an all too common reality – but also between businesses and wider society, including their customers.

I don't need to tell you that tax is increasingly a public concern. Seldom does a week go by when the media or political spotlight isn't on the tax affairs of a new company.

Many African economies rely heavily on commodity exports, so it's perhaps unsurprising that the tax affairs of mining companies attract a lot of scrutiny. When the Panama Papers were published, the operations of Heritage Oil in Uganda were placed in the spotlight, with allegations that the company avoided a $400 million capital gains tax bill through the use of Mauritius as an intermediary. But Heritage Oil is not unique - it was simply the latest in a long line of companies whose tax practices have been criticised.

And we see this not only in African countries but also here in the United States – the other country that I call home. We have even seen legislative proposals named after some of them – Google taxes, Netflix taxes, and the new acronym in Europe – 'GAFA' – which stands for Google, Apple, Facebook and Amazon. These are amongst the largest companies in the world, so when it comes to calculating their tax bills – with reductions, rebates, allowances and so forth – it is never going to be straightforward. Nevertheless, I think it is important to recognise that the criticisms levelled against them reflect a growing sense that profitable companies are not paying their fair share to the common pot. That will be true in some cases, and not in others. But is a systemic problem for the corporate sector - a problem of reputation, and of trust.

In this context of growing public attention to corporate tax behavior - and at a time of rising inequality - it is increasingly clear that that a responsible approach to tax must be embedded within corporate responsibility and sustainability strategies, and that tax is central to rebuilding trust.

Every business is different, so what constitutes a responsible approach to tax will differ across different companies. But businesses wanting to demonstrate that they are responsible taxpayers should be guided by a set of generally applicable principles.

That is where the B Team Responsible Tax Principles come in. For those of you not familiar with the B Team, it is an initiative formed by a global group of business leaders led by Sir Rochard Branson to catalyse a better way of doing business, for the wellbeing of people and the planet.

It is founded in the belief that the private sector can – and must – redefine both its responsibilities and its own terms of success, and I am pleased to be a part of it, because I know how important a thriving private sector is for the future of Africa.

Redefining business responsibilities on tax is central to the B Team's work, and the Responsible Tax Principles launched last year are the foundation of that work. The intention of the Principles is to help forge a new consensus around what responsible practice looks like. They articulate best practice in seven key areas from corporate governance and relationships with authorities, to tax incentives and transparency.

They're not a checklist for companies, nor are they a certification. Rather, by setting out a series of broad but nonetheless specific and tangible principles, they aim to raise standards and leadership over time. They are a foundation, providing a clear starting point for companies. Let me give you some examples:

- To promote **accountability**, they call on companies to publish a tax strategy and set of principles, approved at Board level.
- To promote **compliance**, they call on companies to commit that their tax planning is based on reasonable interpretations of applicable law, and aligned with the substance of the economic and commercial activity.
- And to promote **cooperation with government**, they call on companies to be open and transparent with tax authorities, responding to relevant enquiries in a straightforward and timely manner.

The Principles are ambitious, raising the bar on responsible tax. But they are also practical and readily achievable, if underpinned by genuine commitment from companies.

They are endorsed by companies as diverse as Vodafone and Unilever, Allianz and Shell. I'm particularly pleased that leading African businesses like Safaricom and KCB Bank are supporters, because the importance of responsible tax is nowhere more acute than it is in Africa. The initiative is only a little more than a year old, but more and more businesses are signalling their support, and I would encourage all businesses in the room to consider whether they, too, might get involved. We are building a movement, and we invite US businesses to come on board.

In some cases voluntary business action is no substitute for mandatory enforcement and a rules-based system, but the better that businesses can demonstrate a genuine commitment to responsible tax, the less governments will feel the need to enact more onerous legislation or regulation.

And of course, even with the best efforts of governments to establish clear rules, it is impossible for revenue authorities and international institutions like the OECD to anticipate every unintended interpretation or application of a rule. That is why the OECD Guidelines for Multinational Enterprises - a comprehensive, multilaterally agreed code of responsible business conduct - refer on the subject of tax to complying with *both* the letter *and* the spirit of the law, and why business conduct is such a vital part of the solution.

Ultimately, what we need is better collaboration and partnership between all actors – business, government, civil society and organisations like the OECD. That is why the B Team Principles aren't just about putting the burden on companies: business is the primary audience, but they include a call to action for governments and civil society too. Working in harmony, we believe that a better, fairer global tax system can be built.

Concluding remarks

Returning to my opening remarks, Africa is full of so much potential, and it will be Africans that realise that potential. But responsible businesses can play a part in that by doing what is fair to suport Africa to stand on its own two feet. That means investing, creating jobs and contributing to economic growth. But it also means businesses paying taxes in a fair way. Joseph Stiglitz said recently that "t*he first element of social responsibility should be paying your fair share of tax*" - I agree with him. But the idea that tax and good citizenship are intrinsically linked is not new - Thomas Paine, a Founding Father of this country, eloquently made the case that tax was central to a fair, well functioning society when he said:

> *"All accumulation of property, beyond what a man's own hands produce, is derived to him by living in society; and he owes on every principle of justice, of gratitude, and of civilisation, a part of that accumulation back again to society, from whence the whole came."*

Yes - taxes are a cost to be borne, but they should not be seen as a *sunk* cost. Paying taxes can lead to a virtuous circle, because tax allows countries to provide education for a skilled workforce, healthcare for productive staff, and infrastructure that facilitates commerce. In other words, it allows for the sort of environment in which businesses can thrive.

I know that when it comes to tax, you all face competing pressures. To comply with the law – both the letter and the spirit – and at the same time to contribute to business competitiveness by keeping tax costs low. But I am not suggesting that companies voluntarily pay more tax.

Rather, I am suggesting that companies committed to being responsible taxpayers should use a set of principles to underpin their tax strategies and governance, keeping them on the right path towards responsible tax and good corporate citizenship.

The B Team believes that responsible, committed businesses are part of the solution. The Principles provide a framework for companies seeking to travel such a path, so I hope you might explore how they could work for your businesses.

There are big challenges ahead, but through responsible taxation we can – all of us – make a significant and positive contribution.

Thank you.