

Taxation in Africa

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Agenda

- ✦ Introduction
- ✦ Increasing waves of change in tax
- ✦ Key cross-cutting tax issues
- ✦ Challenges in tax Administration
- ✦ Selected tax reform efforts

Introduction

Public Finance Management (PFM)

- ✗ PFM deals with the management of public resources: the collection, the allocation and use of resources collected from the economy.
- ✗ PFM is an instrument to deliver public policies, is not a policy;
- ✗ Public finance related policies
 - ✗ Public expenditure policy
 - ✗ Tax policy
 - ✗ Debt policy
- ✗ PFM is an important instrument to implement government policies

Public finance and tax

- ✖ 3 basic elements of public finance:

- ✖ Public expenditure

- ✖ Revenues

- ✖ Government debt

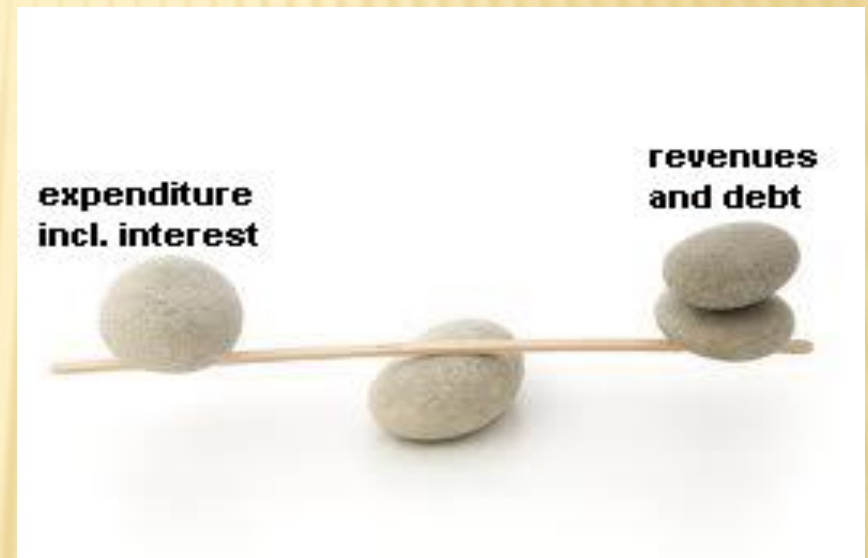
- ✖ Government revenues

- ✖ Tax revenues

- ✖ Non-tax revenues

- ✖ Government debt

- ✖ revenue from government-owned corporations, sovereign wealth funds, sales of assets



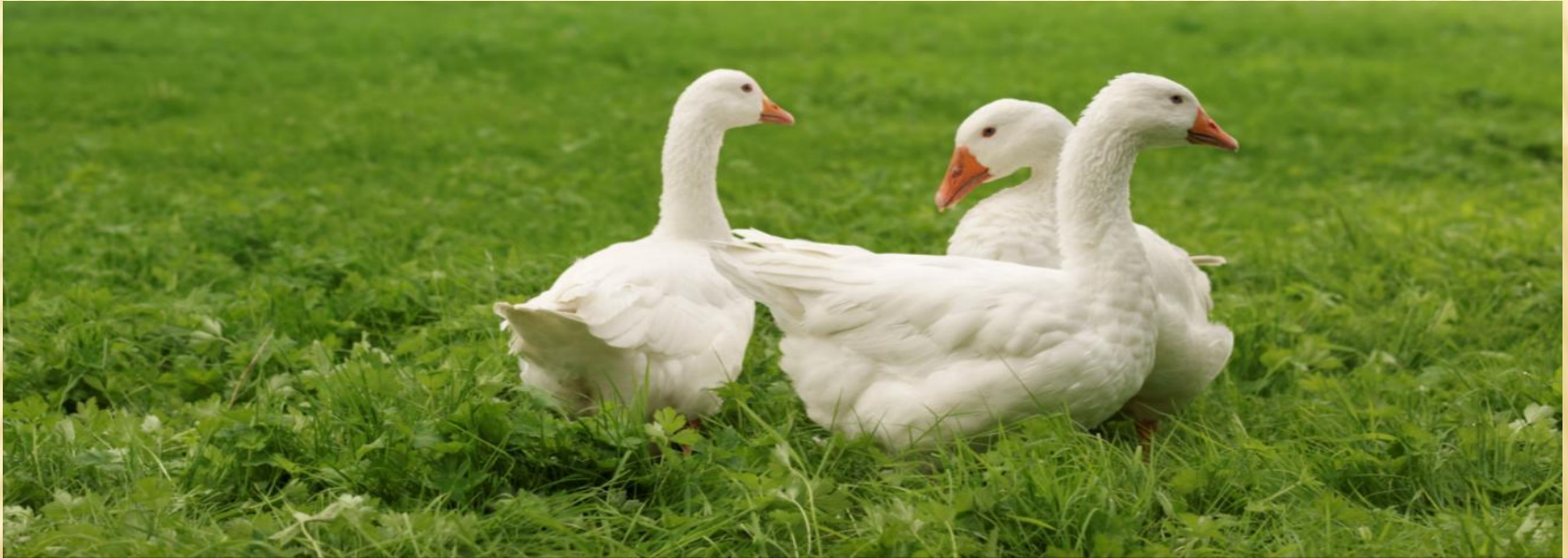
Public finance and tax

- × Choice of financing by a government:
 - × distribution of income and wealth (income redistribution); and
 - × efficiency of markets (effect of taxes on market prices and efficiency).
- × Besides being a reliable source of revenue, tax is critical in facilitating:
 - × Resource redistribution - wealth and income
 - × Re-pricing of products
 - × Representation

Tax revenues streams

- ✖ Domestic and custom taxes,
 - ✖ Domestic - both direct and consumption taxes on domestic goods derived locally
 - ✖ Customs - both import duties and consumption taxes (Value added tax and excise taxes) on imported goods
- ✖ Direct and indirect taxes.
 - ✖ Direct taxes - personal income tax (PIT) and corporate income taxes (CIT)
 - ✖ Indirect taxes - Value added tax (VAT), import duties, and Excise taxes

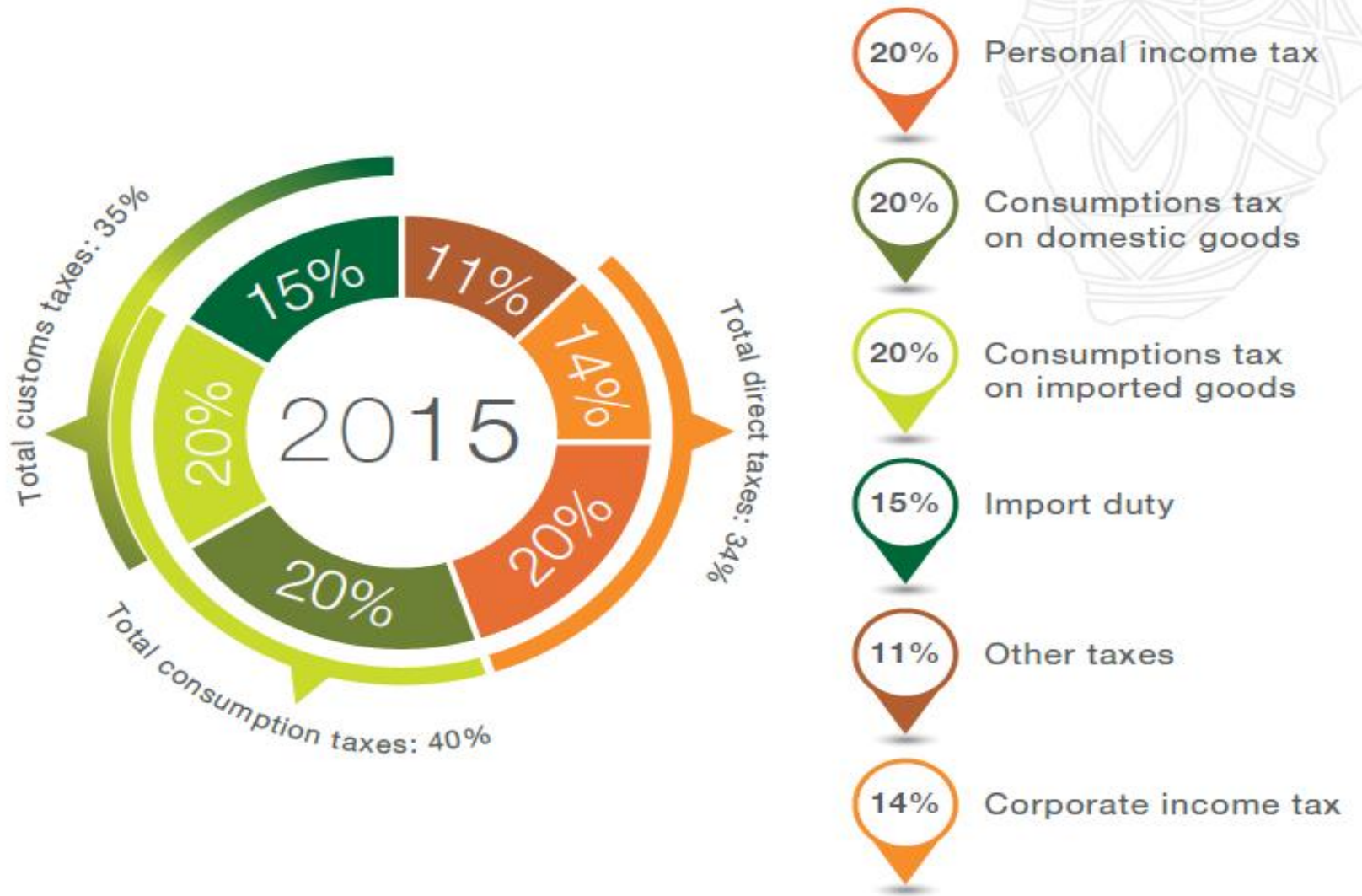
The art of taxation



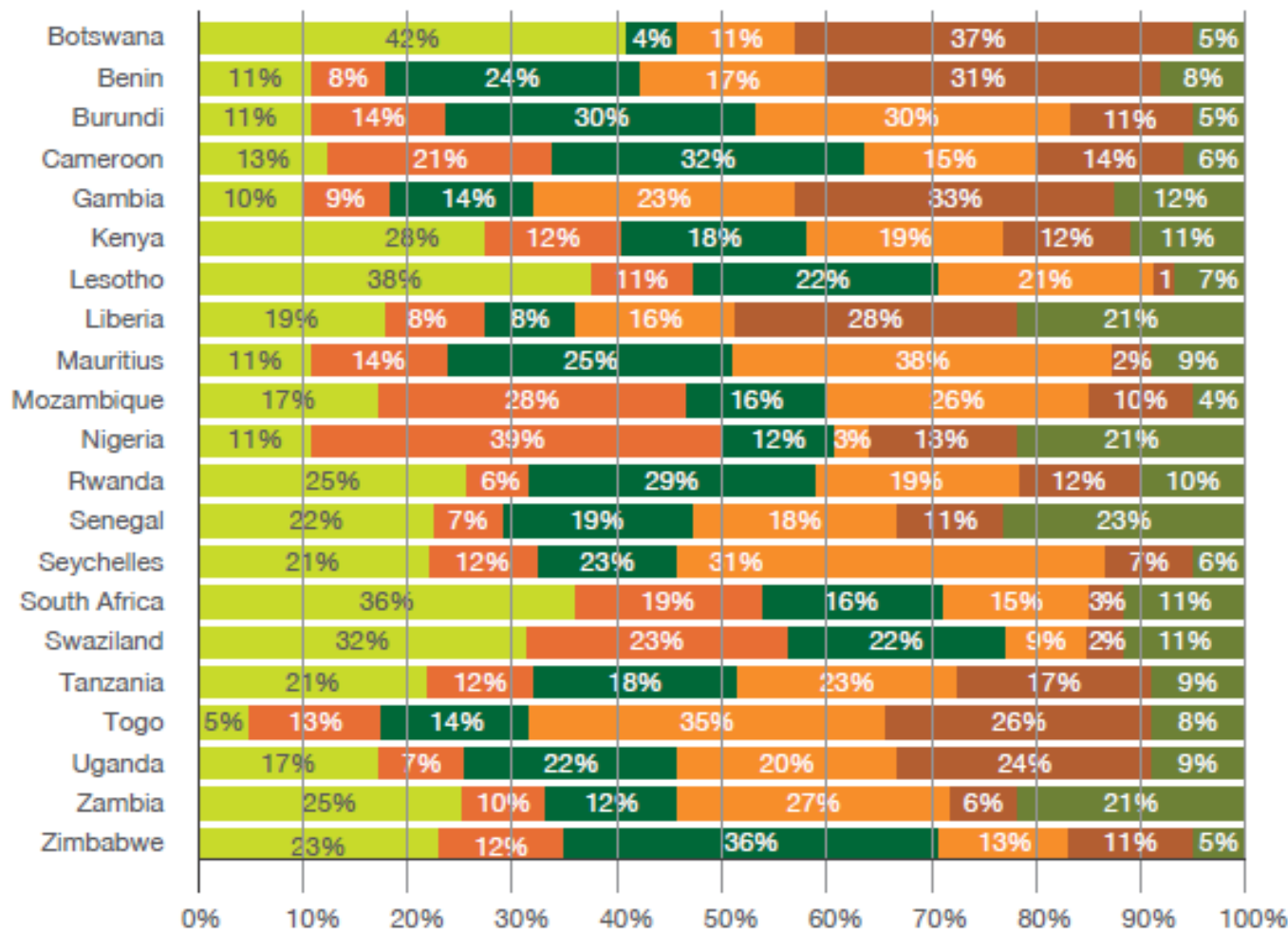
“The art of taxation consists in so plucking the goose as to obtain the largest possible amount of feathers with the smallest possible amount of hissing”

Jean Baptiste Colbert- Minister of Finance in France under King Louis XIV of France

The composition of tax revenues



The composition of tax revenues



Personal income tax

Corporate income tax

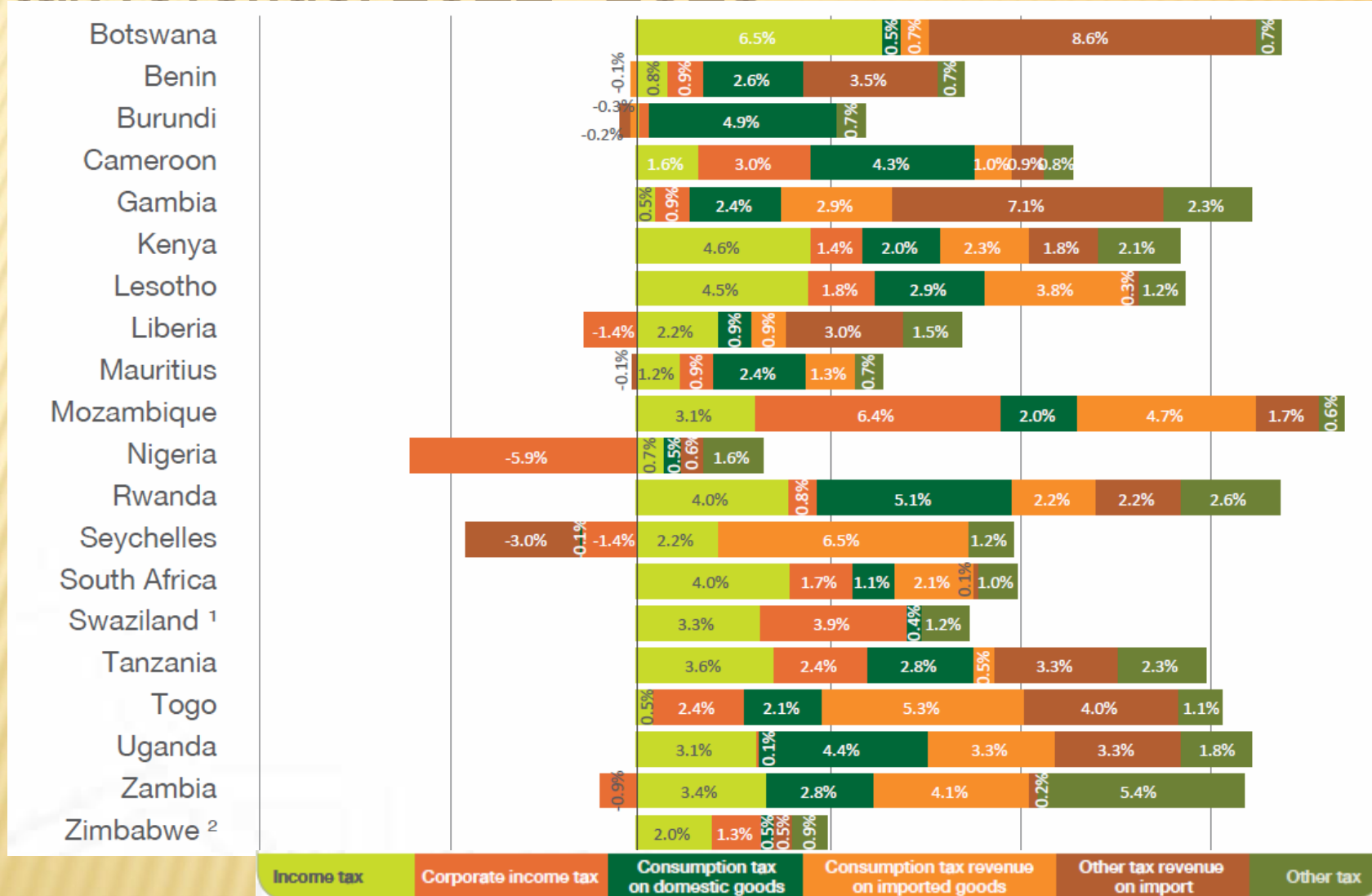
Consumption tax on domestic goods

Consumption tax on imported goods

Import duties & other taxes on imports

Other taxes

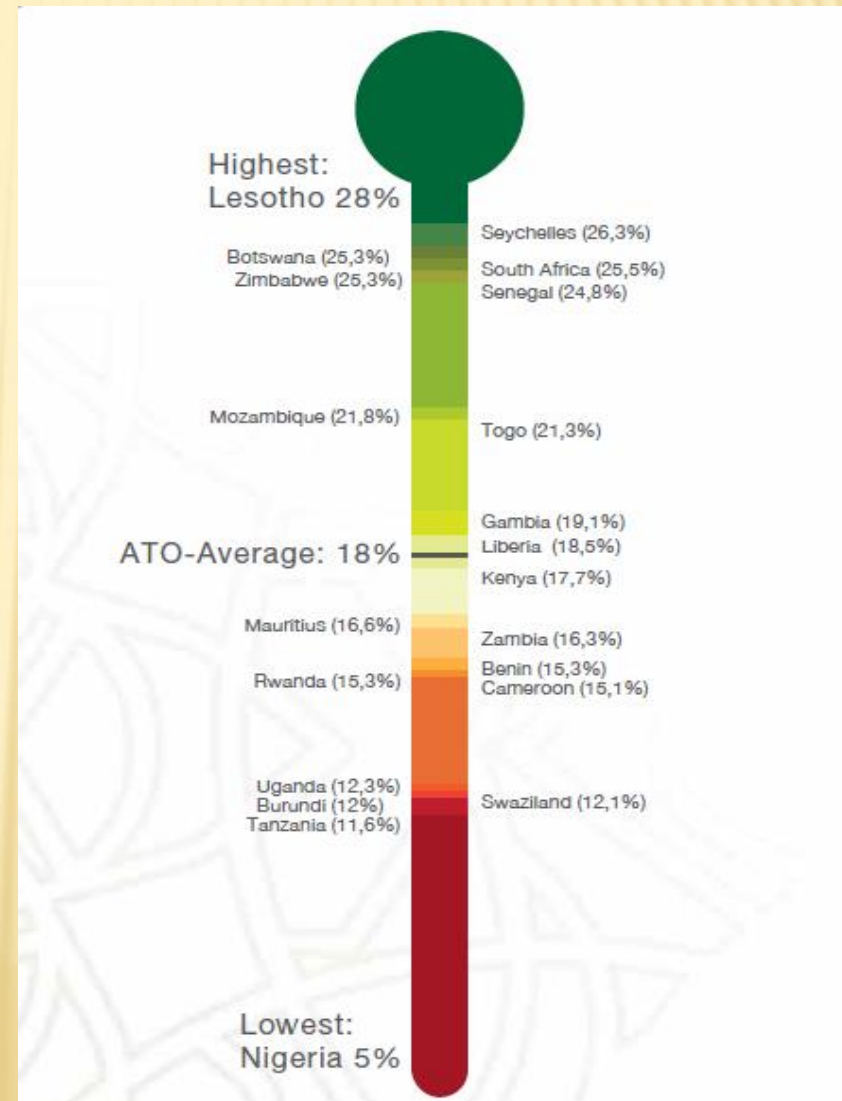
Different taxes' contribution to growth in total tax revenue: 2011 - 2015



Increasing waves of change

Widening financing gap

- ✖ Increasing financing gap
 - ✖ Tax revenue in Africa countries accounts for shares of GDP ranging from 28% in Lesotho to 5% in Nigeria,
 - ✖ An average ratio of tax revenue to GDP of 18% - well below the OECD average of 25.1%.



Increased tax transparency

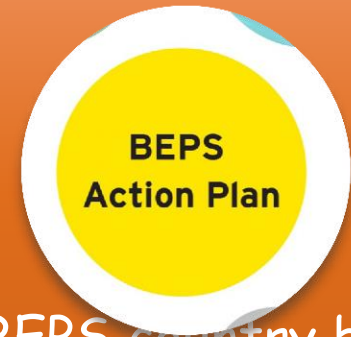


Increased inter-state
collaboration to
counter tax avoidance
(aggressive tax
planning) -

OECD's Multilateral
Instrument (MLI)



UK mandatory
requirement for
businesses to
publish tax
strategy



BEPS country by
country reporting -
which provides
transparency of
global business
entities
transactions

Tax transparency

Profit shifting inquests

THE FINANCIAL EXPRESS

www.thefinancialexpress.com

Read to Lead

Apple, Starbucks and Fiat's tax affairs examined by European commission

Brussels is looking into the tax affairs of Apple, Starbucks and Fiat. "It is particularly important that large multinationals pay their fair share of taxes," said the European commission's top competition regulator, Joaquín Almunia.

THE FINANCIAL EXPRESS

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Read to Lead

Anger as Starbucks boss says: We may not pay UK tax for up to three years

- Chief Executive Mark Fox said chain aimed to be profitable by 2017
- Mr. Fox insisted there was 'nothing abnormal' about the way firm was run
- Starbucks slated in 2012 after paying just £8.6m in tax on £3bn of sales
- Coffee chain remains under investigation by the European Commission
- It volunteered to pay £20 million tax payment in 2012 after complaints

Profit shifting inquests

FINANCIAL TIMES

WOMEN'S BUSINESS

WORLD BUSINESS NEWSPAPER

ISSN 0950-0804 (Print) ISSN 1360-7322 (Online) Founded in 1888

Apple hit by Brussels findings over Irish backroom tax deals

European Commission to accuse Ireland of providing illegal state aid to the iPhone maker

Google agrees €306m Italian tax settlement

Tech giant settles after probe but remains in dispute with other countries



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Acacia falls 17% as Tanzanian government demands \$190bn in tax dispute

Key cross-cutting tax issues

Transfer pricing

Transfer pricing concepts

Transfer price

- The price charged in a transaction between two associated enterprises

Controlled transaction

- Transaction between two associated enterprises or related parties

Uncontrolled transaction

- Transaction between two independent enterprises or parties

Arm's length principle

- Transactions valued as if they had been carried out between unrelated parties, each acting in his own best interest

Transfer pricing application

× Focus

- × Dealings and transactions between related parties
- × Products, services, intangibles, loans, etc.

× Why

- × Related parties can influence prices if not regulated
- × Pricing will impact taxable profits of companies involved

× How

- × Transactions with related party to be made under conditions comparable to those agreed by independent parties in similar circumstances

Reflecting the growth & importance of transfer pricing in Africa over the last 10 years

1995-2000

- ✗ South Africa
- ✗ Zambia

2001-2005

- ✗ Namibia
- ✗ South Africa
- ✗ Zambia

2006-2010

- ✗ Algeria
- ✗ Egypt
- ✗ Kenya
- ✗ Malawi
- ✗ Namibia
- ✗ South Africa
- ✗ Zambia

2011-2013

- ✗ Algeria
- ✗ Angola
- ✗ Egypt
- ✗ Cameroon
- ✗ Ghana
- ✗ Kenya
- ✗ Malawi
- ✗ Nigeria
- ✗ Namibia
- ✗ Senegal
- ✗ South Africa
- ✗ Uganda
- ✗ Zambia

Driven by ATAF's focus on transfer pricing, there has been an almost 100% increase in growth in transfer pricing regulation, within 3 years.

Countries in Africa have placed a greater emphasis on arm's length compliance regarding cross-border transactions

Transfer pricing: Africa footprint

ALGERIA: TP legislation based on OECD, documentation requirements, 25% penalty on TP adjustment

IVORY COAST: TP legislation based on OECD, documentation requirements

SENEGAL: TP legislation, documentation requirements

BURKINA FASO: TP legislation based on OECD, documentation requirements

GHANA: TP legislation based on OECD, documentation requirements, thin cap

NIGERIA: TP legislation based on OECD, documentation requirements, thin cap, APA program

CAMEROON: TP legislation based on OECD, documentation requirements, thin cap

ANGOLA: TP rules finalised in October 2013, documentation requirements if revenues exceed USD 70m.

SOUTH AFRICA: TP legislation based on OECD, documentation is strongly recommended, thin cap, active revenue authority

REST OF AFRICA: TP is regulated through general anti-avoidance or arm's length principles

EGYPT: TP legislation, documentation requirements, thin cap, active revenue authority, APA program

UGANDA: TP legislation based on OECD, documentation requirements, severe penalty provisions, thin cap

KENYA: TP legislation based on OECD, documentation requirements, thin cap rules, active revenue authority

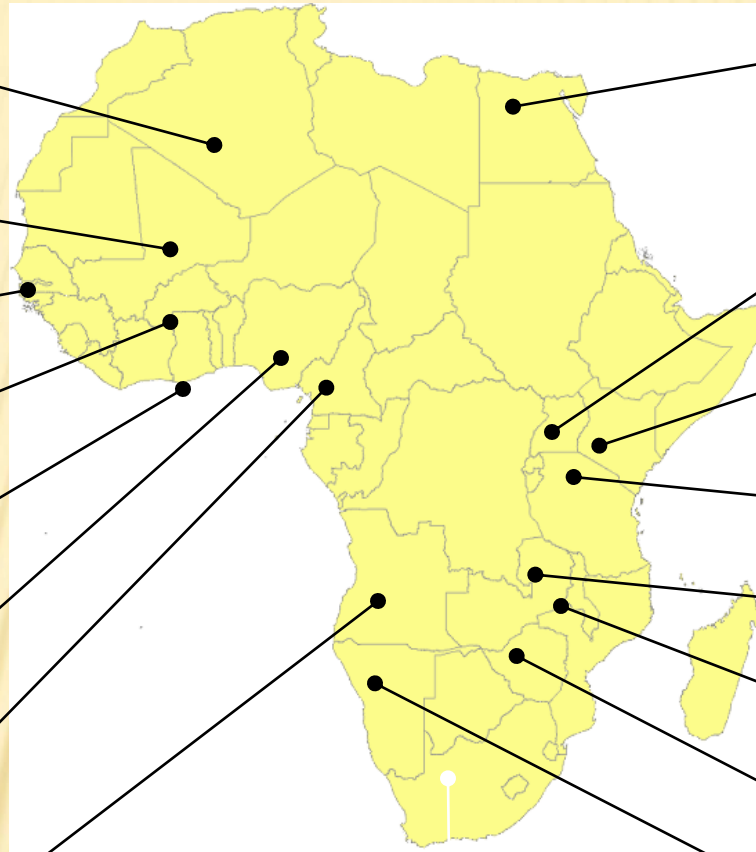
TANZANIA: New TP rules came into effect in 2014

ZAMBIA: TP legislation based on OECD, thin cap

MALAWI: TP legislation based on OECD, documentation requirements, thin cap

ZIMBABWE: TP legislation based on OECD, thin cap

NAMIBIA: TP legislation based on OECD, thin cap



Transfer pricing: audit landscape



- ✗ Increased need for TP documentation in Africa, however there are differences...
- ✗ Sophistication levels of revenue authorities vary i.e.: New legislation; new practice
- ✗ 54 countries each with different requirements
- ✗ Limited availability of comparable data
- ✗ TP documentation required for exchange control purposes
- ✗ TP legislation and practice in Africa - based on the OECD Transfer Pricing Guidelines.
- ✗ The momentum on TP controversy is increasing.

Double taxation Agreements (DTAs)

Basis of International taxation

International income

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graph TD; A[International income] --> B[Residence principle]; A --> C[Source principle];
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Residence principle

- ▶ Owning property/deriving income within taxing country

Source principle

- ▶ Income arises within its jurisdiction

Double taxation in international tax

How does double taxation arise ?

- ▶ Deriving income from multiple countries
- ▶ Dual residency

Economic double taxation

- ▶ Same income
- ▶ Different taxpayers

Juridical double taxation

- ▶ Same income
- ▶ Two or more countries
- ▶ Same taxpayer

Africa DTAs overview

✦ Top 10 African countries in terms of DTAs in force:

- ✦ South Africa: 75
- ✦ Egypt: 56
- ✦ Tunisia: 54
- ✦ Morocco: 52
- ✦ Mauritius: 42
- ✦ Algeria: 29
- ✦ Seychelles: 19
- ✦ Ethiopia: 14
- ✦ Senegal: 13
- ✦ Nigeria: 12

Africa DTAs overview

- ✖ During the period covered (from 2000 to 2015):
 - ✖ Noticeable increase of the tax treaties concluded and ongoing negotiations with African countries.
 - ✖ The African countries DTA partners are :
 - ✖ in 2000: mainly European countries
 - ✖ as of 2012: apart from European countries, new countries are interested in Africa such as China, the Gulf states, Turkey, India , Singapore and other African countries.
- ✖ African countries negotiate more treaties with other countries than among themselves. Probably the result of a lack of initiative from other African countries.

Africa DTAs overview

- ✦ As of 2012, the most active African countries in terms of tax treaty negotiation are Mauritius, South Africa, Morocco, Ghana, Ethiopia, Seychelles, Egypt, Tunisia, Nigeria and Kenya.
- ✦ From 2012 to 2015, African countries actively negotiating with other African countries are:
 - ✦ Morocco negotiated with 14 other African countries (Cameroon, Burkina Faso, Ghana, Guinea, Mauritius, Mali, Congo (Rep), Guinea Bissau...)
 - ✦ Mauritius negotiated with 13 other African countries (Rwanda, Gabon, Cape Verde, Algeria, Malawi, Tanzania...)
 - ✦ Egypt negotiated with 6 other African countries (Mauritius, Ethiopia, Mali, Ghana, Kenya and Namibia)
 - ✦ South Africa negotiated with 4 other African countries (Mauritius, Zimbabwe, Lesotho, Cameroon)

Value added tax (VAT)

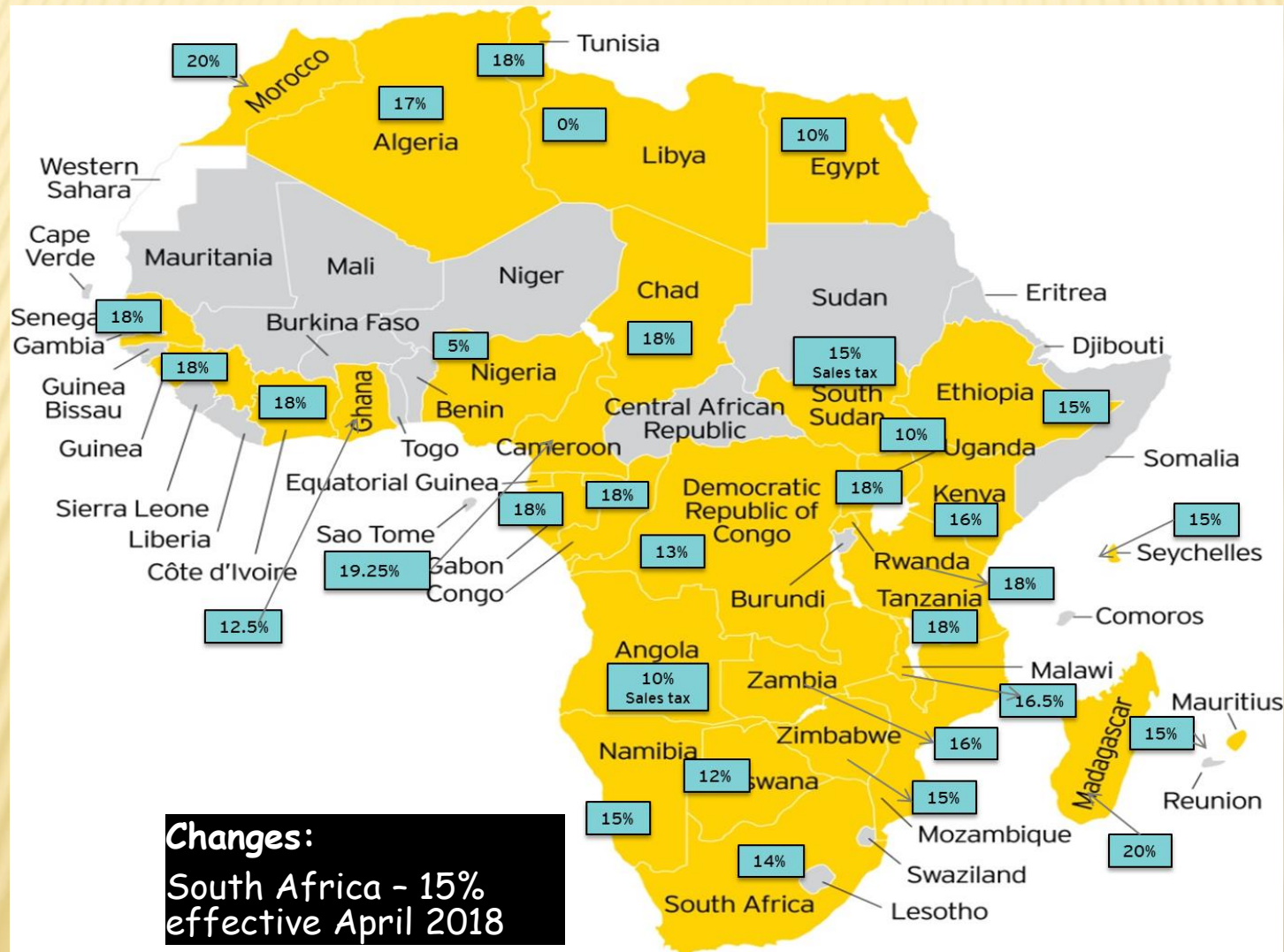
VAT – a pro-growth tax, but is it a fair one?

- ✗ In Africa, consumption taxes are the biggest source of revenue - the most widely used being VAT
 - ✗ VAT accounts for over 90% of consumption tax revenue.
- ✗ Pro and con:
 - ✗ Pro:
 - ✗ reliable sources of revenue.
 - ✗ VAT is levied and collected along the whole supply chain, thus more difficult to avoid and so reduces leakage.
 - ✗ Con:
 - ✗ Regressive as the poor spend a higher proportion of their income on consumption than the rich.
 - ✗ collection is more costly, involving many individuals and firms.

VAT – a pro-growth tax, but is it a fair one?

- ✗ VAT coverage in Africa is patchy
 - ✗ Due to the scale of the informal sector - countries must formalize the informal economy.
- ✗ VAT revenue's share of GDP:
 - ✗ Highest in Lesotho, Senegal and South Africa exceeding 10%.
 - ✗ Lowest in Nigeria, with less than 1%, attributable to very low tax rate of 5% and no VAT threshold.
 - ✗ Fall short when there are too many exemptions and/or do not have robust refund mechanisms.
 - ✗ The tax base narrows, effective tax rates may fall to zero and considerable revenue is lost.
 - ✗ Uganda and Tanzania fell into that trap before legislating in 2015 to reform VAT.

Tax rates across Africa



VAT developments across Africa

✖ Electronic fiscal devices

- ✖ The device transmits a daily report of tax information to the Revenue Authority - seal VAT revenue leakage
- ✖ Currently in use in Kenya, Tanzania, Rwanda, Ethiopia, and now Uganda VAT amendment bills 2018

✖ Withholding VAT

- ✖ Effective in Kenya and to be introduced in Uganda, July 2018

✖ Refund challenges

Increasing exchange of information

Africa tax administration forum (ATAF)

Launch

- November 2009 in Kampala, Uganda, ATAF provides a platform for cooperation among African tax authorities

Aim

- To promote efficient and effective tax administration to improve the living standards of the people of Africa

Mission

- To provide a platform to improve the capacity, capability and performance of tax administrations in Africa

Objective

- Building capable African tax administrations that develop, share and implement best practices

ATAF member countries



ATAF - objectives

- ✘ Promote efficient, effective and economic tax administrations across the African region
- ✘ A platform to promote and facilitate mutual cooperation
- ✘ Established work program and appointed intermediary secretariat
- ✘ Established three committees, including:
 - ✘ Indirect taxes
 - ✘ Exchange of information
 - ✘ Transfer pricing - effective management of transfer pricing risk

Forum on Tax Administration (FTA)

- ✦ A forum for co-operation between revenue bodies at Commissioner-level with participation from 46 countries;
- ✦ Its vision is:
 - ✦ "to create a forum through which tax administrators can identify, discuss and influence relevant global trends and develop new ideas to enhance tax administration around the world".
- ✦ Forum work programme is overseen by a Bureau comprised of 13 commissioners from a number of the participating revenue bodies.
 - ✦ The Forum is also supported by **subject-matter experts** from participating revenue bodies.
- ✦ Kenya and South Africa are members of the FTA

FTA coverage and programmes

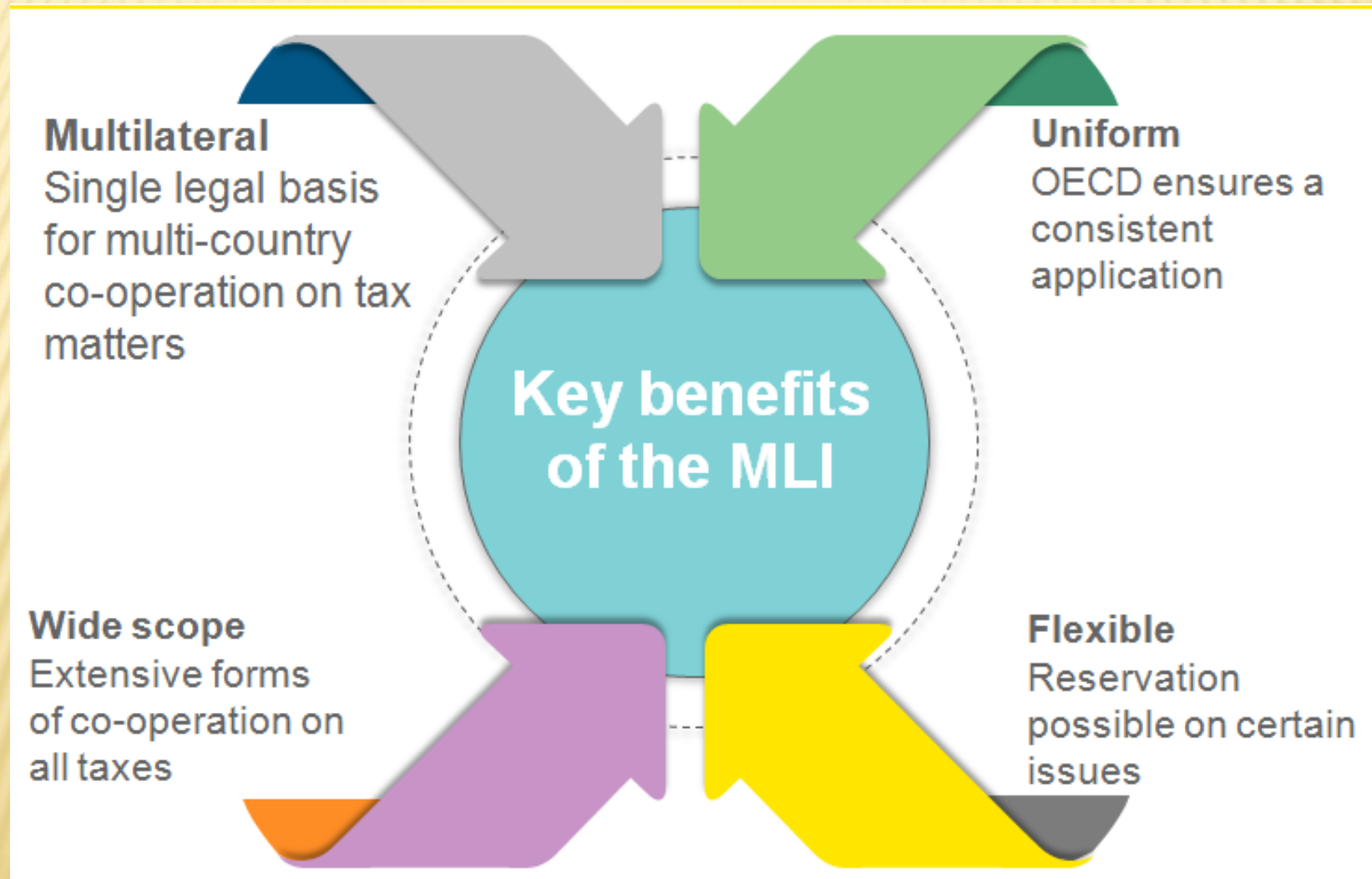
✖ Segments covered

- + individuals
- + small and medium enterprises (SMEs) including self-employed
- + high net worth individuals
- + large businesses including banks

✖ Programme examples

- + Capacity Building Network
- + Mutual Agreement Procedure (MAP) Forum

OECD Convention on Mutual Administrative Assistance



Challenges

Informal sector compliance challenge

- ✗ Africa countries continue to grapple with the challenge of the informal sector accounting for:
 - ✗ 50% to 80% of GDP,
 - ✗ 60% to 80% of employment, and
 - ✗ as much as 90% of new jobs.
- ✗ Clearly, revenue authorities are foregoing huge amounts of revenue.

Lack of transparency

- ✗ Internally with RAs, corruption – a question of culture
 - ✗ Studies show tax and customs rank third after government procurement and land administration on the corruption scale.
- ✗ Government expenditure?
- ✗ Effects?
 - ✗ Reduced moral in tax compliance
- ✗ Action?

Capacity building

- ✖ Limited staff resources

- ✖ A persistent challenge to RAs' efforts to coax and coerce compliance is the inadequate ratio of tax administrators to taxpayers.

- ✖ Gender?

- ✖ RAs widely overlook women in employment and promotion.
 - ✖ Discrimination robs them of the chance of achieving their full potential and robs RAs of potential tax administrators.
 - ✖ For instance the average male-to-female staff ratio in Togo is 4/1.

Tax-related reforms

Africa revenue authorities (RAs)

✖ Internal restructuring of RAs

✖ Segmentation of taxpayers by size and economic activity,

- ✖ E.g. extractive industry and financial sector.

- ✖ Some RAs also use special criteria, like multinational corporations (Lesotho) or large taxpayers (Kenya and Uganda).

✖ Set up of special units to deal with special tax matters:

- ✖ International and Transfer pricing units

- ✖ Tax Investigations

Modernising for compliance

- ✖ Modernization to cut the cost of compliance.
 - ✖ All Africa countries have modernized (switched to automation), albeit to varying degrees.
 - ✖ Mauritius and Uganda systems enable taxpayers to pay and file returns from anywhere at any time.
 - ✖ Most countries allow taxpayers to file their returns and pay electronically.
 - ✖ Kenya, Tanzania, Togo and Uganda - have made it compulsory,
 - ✖ Other countries only for large taxpayers, for the payment of income tax and VAT, and in PAYE systems.

Modernising for compliance

- ✗ Share information on taxpayers
 - ✗ Gambia, Mauritius, Nigeria, Seychelles and Zimbabwe
 - systems are interfaced / integrated with government and other systems (like the financial sector).
 - ✗ Domestic tax returns and payments are automatically compared with export and import data to detect underreporting.
 - ✗ RAs identify unregistered taxpayers doing business with registered taxpayers and any sales or income not declared

Collaboration with international tax bodies

- ✖ Increased assistance to RAs in Africa in capacity building
 - ✖ Tax Inspectors Without Borders (TIWB)
 - ✖ Joint initiative of the OECD and the United Nations Development Programme (UNDP) supporting countries in building tax audit capacity.
 - ✖ OECD
 - ✖ ATAF

Questions/ Comments

