

of the vast majority that do not enjoy significant windfalls.⁴⁹⁴ It is, therefore, a less burdensome means of raising revenue.

The foregoing provides efficiency reasons for capturing windfalls: if properly implemented they improve social welfare. It should however be noted that windfall taxation should be imposed judiciously as windfall profits are uncommon and by definition are not recurring events.⁴⁹⁵

Although tax incentives continue to dominate Zambia's efforts of attracting FDI, they have largely been challenged by policy makers, academics and economists for not being effective and efficient means of attracting FDI.⁴⁹⁶ Granting tax incentives means that a country has to forego some or all of the revenue which was due to the country.⁴⁹⁷ If the benefits of the FDI do not outweigh the costs of revenue foregone, then the whole investment issue becomes nothing but a drain of the country's resources.⁴⁹⁸

It is clear that developing nation's competition for attracting FDI using tax incentives does not add any value to their economies. However they still continue to use them. Zambia has promulgated favourable laws and policies to create a favourable investment climate. It however, failed to capture the windfall profits that came with the rise in the copper prices as has been outlined above. This begs the question, what should Zambia (and other developing countries do) to avoid being caught up and losing out.

6.1 Recommendations:

It is important that the country addresses other problems/challenges that make them not attract foreign capital inflow. The following recommendations if properly implemented provide a guideline as how a country can benefit from its resource wealth;

⁴⁹⁴ Ibid

⁴⁹⁵ Ibid

⁴⁹⁶ Nyika paper part II

⁴⁹⁷ Ibid

⁴⁹⁸ Ibid

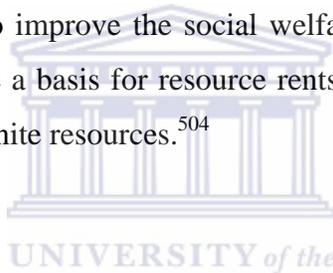
1. Deliberate measures must be taken to improve the macroeconomic policies of the country through reduced external debt which impacts on the balance of payments, improve human and physical infrastructure such as education, transportation/road network and telecommunication networks. A windfall tax alone, cannot be used to improve social welfare, it will work in the wider context of other economic policies.
2. In considering whether or not to implement a windfall tax, a proper analysis must be made whether current prices reflect a structural or permanent change that would justify a new fiscal intervention.⁴⁹⁹ Some countries, such as South Africa, have established Task Teams to look into whether there are windfall profits and recommend possible interventions by Government.
3. Reforms must be undertaken to the tax system of the regime well in advance, by creating efficiency and transparency in tax collection. Ideally this should combine some upfront revenue with sufficient progressivity to provide government with an adequate share of economic rent under variable conditions of profitability.⁵⁰⁰ This can be achieved through a tax based system combining a corporate income tax with a rate of return based resource rent (or a progressive profit tax) and desirably a royalty to secure some upfront revenue.⁵⁰¹
4. The period for tax holidays (which have a distortionary effect) should be reduced so that existing investments are used to foster fiscal stability, build infrastructure and spend on health, education and training for the labour force.
5. Since the rationale for using tax incentives is that they help to compensate for a country's negative investment climate in terms of political risks, countries must be proactive in the dissemination of accurate information so that investors do not negotiate for incentives on the basis of risk which may be non- existent.

⁴⁹⁹ National Treasury, 2007 Windfall Taxes on the Liquid Fuels Industry: Response to the Task Team Report on Windfall Profits in the Liquid Fuels Industry, available at www.treasury.gov.za/publications/other/windfall2007080602

⁵⁰⁰ Baunsgaard Thomas 2001 A Primer on Taxation IMF Working Paper WP/01/139

⁵⁰¹ Ibid

6. Regional groupings should be encouraged which may agree on acceptable rules for the promotion of FDI and not left to individual countries.
7. The capacity of a country to competently administer a complex taxation based system must be taken into account when designing the fiscal regime, and attempts should be made to keep the legislation and administration as simple as possible while maintaining sufficient safeguards to counter tax avoidance.⁵⁰²
8. Mineral extraction will have intergenerational consequences that should be taken into account. Extraction of minerals reduces the net wealth of a country to the detriment of future generations.⁵⁰³ This can be addressed through the establishment of a separate fund for the revenue generated from mineral extraction to be invested for future generations. A stabilization fund can also be established for the revenue that is captured during windfall periods that can be used to improve the social welfare in times when prices are down. Stabilisation Funds provide a basis for resource rents to support long term development beyond the exhaustion of finite resources.⁵⁰⁴



The proponents of windfall taxes claim that such a tax would not distort economic decisions or markets because the profits to be taxed are both abnormally high and unanticipated.⁵⁰⁵ By this reasoning when a company's profits are unusually high, government can tax those higher profits without reducing the resources needed to finance ordinary expenses and investment, and consequently, without constraining a company's ability to generate normal rates of return.⁵⁰⁶ It is further claimed that taxing unanticipated profits will not distort investment and production decisions, because unanticipated profits cannot be a factor in the company's decisions and investments.⁵⁰⁷ Based on this reasoning, a tax on windfall profits seems to provide a unique way

⁵⁰² Ibid

⁵⁰³ Ibid

⁵⁰⁴ Possible Reforms to the Fiscal Regime applicable to windfall profits in South Africa's Liquid Fuel Energy Sector with particular Reference to the Synthetic Fuel Industry 2006 - A discussion document for public comment.

⁵⁰⁵ Shapiro Robert and Pham Nam 2005, The Economic impact of a Windfall Profit Tax for Savers and Shareholders, Investors Action Foundation.

⁵⁰⁶ Ibid

⁵⁰⁷ Ibid

of raising substantial revenues without distorting economic efficiency. Proper implementation of a windfall tax, taking into account the recommendations outlined above will achieve sustainable economic development, improve social welfare and enhance the flow of foreign direct investment to a country.



BIBLIOGRAPHY

BOOKS

Bostock Mark and Harvey Charles 1972 *Economic Independence and Zambian Copper. A Case Study of Foreign Investment*. New York: Praeger Publishers

Burdette, M 1984 *Was the copper nationalisation worthwhile?* in Woldring K (ed), *Beyond political independence: Zambia's development predicament in the 1980s*. Berlin, New York and Amsterdam: Mouton Publishers

Cook P and Patrick Kirk C 1988 *Privatisation in less developed countries* Wheatsheaf Books, Sussex, England.

Fraser, A and Lungu, J 2006 *For whom the windfall? Winners and losers in the privatisation of Zambia's copper mines*. Lusaka: Civil Society Trade Network of Zambia and Catholic Centre for Justice, Peace and Development Printec, Lusaka

Kibuta O.(1991) *The Taxation of Income from Foreign Investments, A tax study for some developing countries*, Boston,Kluwer Law and Taxation Publishers

Muna Ndulo 1987 *Mining Rights in Zambia* Kenneth Kaunda Foundation, Lusaka

Shah A. (ed) (1995) *Fiscal Incentives for Investment and Innovation*,Newport, Oxford University Press.

Slinn Peter 1972, *The Legacy of BSA Company: The historical Background" Economic Independence and Zambian Copper; A Case History of Foreign Investment* Bostock Mark and Harvey Charles NY, Praeger Publishing Co.

Sornarajah M (1995) *The International Law on foreign Investment*, London Cambridge University Press.

Tangri R 1999 *The politics of patronage in Africa* Oxford: James Currey Ltd.

Todaro M. P 1989 *Economic Development in the Third World* , Longman Publishers New York

Action for Southern Africa (ACTSA) Christian Aid and Scottish Catholic International Aid Fund (SCIAF) 2007 *Undermining Development? Copper Mining In Zambia*, London, Cardiff and Glasgow: ACTSA Christian Aid and SCIAF

PAPERS /ARTICLES/SPEECHES/REPORTS

Avishir A 2000 A positive Theory of Privatisation *Journal of Applied Economics* Vol. III No. 1

Bank of Zambia, Quarterly Reports, various issues, 1975–2007.

Bank of Zambia, Quarterly Report 2007

Bantubonse Fred 2007 Taxation of Zambia's mining sector, *ZIPPA Journal* October – December

Baunsgaard Thomas 2001 IMF working Paper Fiscal Affairs Department A Primer on Mineral Taxation

Bennel P 1997 Privatisation in Sub Sahara Africa ;Progress and Prospects during 1990's *World Development* Vol 25. No. 11

Berts Manders Ups and Downs in Zambia Copper mining

Bratton, M, & Nicolas Van De Walle 1997 Democratic experiments in Africa: Regime Transitions in Comparative Perspective, Cambridge: Cambridge University Press

Bull Theo 1994 ZCCM : Corporate Confusion Multiplied *Profit*

Burdette Marcia 1977 Nationalisation in Zambia; A critique of bargaining theory, *Canadian Journal of African Studies* vol. XI No. 3 published by Canadian Association of African Studies

Burdette Marcia 1984 The Class, Power and Foreign policy in Zambia, *Journal of Southern Africa Studies*, Vol. 10 No.2

Burdette Marcia 1984 The dynamics of Nationalisation Between Multinational Companies and Peripheral States; negotiations between AMAX Inc, the Anglo American Corporation of South Africa Ltd , and the Government of the Republic of Zambia, Ph D thesis, Columbia University

Campbell B (ed) 2004 Regulating Mining in Africa; for whose benefit? Uppsala: Nordiska Afrikainstitutet

Chadwick J 1993 African Anglo American, *Mining Magazine*

Chipimo Elias 2008 Taxing the Mining Sector

Chennells Lucy 1997 Labours Windfall levy commentary No.59, Institute for fiscal studies London

Craig J 2001 Putting privatisation into practice; the case for Zambia Consolidated Copper Mines limited *Journal of Modern African Studies*, 39, Cambridge University Press

Crompton Rod et al 2006 Possible reforms to the fiscal regime applicable to windfall profits in South Africa's liquid fuel energy sector, with particular reference to the synthetic fuel industry A discussion document for public comment

Curry Robert 1984 Problems in Acquiring Mineral Revenues for Financial Economic Development: A case study of Zambia during 1970-78. *American Journal of Economic and Sociology*, Vol.43 No.1

Danstan Kaunda 2008 Zambia: Sharing the Copper Windfall *Inter Press Service*

Dymond, Abi (ed) Action for Southern Africa (ACTSA) Christian Aid and Scottish Catholic International Aid Fund (SCIAF) Undermining Development? Copper Mining In Zambia, London

Girma et al 2003 Do Exporters Have Anything to Learn from Multinationals? Leverhulme Center Research Paper No. 22 The University of Nottingham.

Grenfell Morgan 1994 Emerging Markets Equity Research *Africa Review*, Issue 2, London: Morgan Grenfell and Co. Limited.

Greenaway D et al 2001 Do Domestic Firms Learn to Export from Multinationals Leverhulme Center Research paper No. 11 The University of Nottingham.

Hwedie Bertha Development Policy and Economic Change in Zambia: A re-assessment *DPMN Bulletin* Vol. X No. 2

IMF Country Report 1980 – Zambia based on IBRD, Economic and Social Data Division,” External Public Debt Service, 1969/1980

Kades Eric 1999 Windfalls, *The Yale Law Journal*, Vol. 108. No. 7, Yale Law Journal Co. Inc

Kebonang Zein 2006 NEPAD: Drawing Lessons From Theories of Foreign Direct Investment *Indian Journal of Economics and Business*.

Leigh Andrew 2008 Sharing the Boom, Lucky Miners Can Dig Deep, *Australian Financial Review*

Levmore Saul 1993 The Case for Retroactive Taxation 22 *Journal of Legal Studies*

Lipmann Anthony 2008 Can Resource –rich Zambia keep more Wealth? *Reuters*, Commentary

Lungu John 2008 The politics of reforming Zambia’s mining tax regime, A Paper presented at the Minewatch Zambia Conference: Politics Economy Society Ecology and Investment in Zambia Oxford University

Lungu John 2008 Copper Mining Agreements in Zambia Renegotiation or Law Reform. Review of African Political Economy Vol. 35 issue 3

Makgetla Neva 1986 Theoretical and Practical Implications of IMF conditionality in Zambia, *The Journal of Modern African studies*, 24, 3

Magande Ngandu 2008 Budget speech delivered to National Assembly on 25th January 2008,

Maxwell, Philip (2004) Chile’s recent copper-driven prosperity: Does it provide lessons for other mineral rich developing nations? *Minerals and Energy*, Vol.19 (1):16-31.

Mupimpila Christopher and Nicolien Van der Grijp 2007 Global Product Chains, Northern Consumers, Southern Producers and Sustainability: Copper from Zambia Report prepared for United Nations Environmental Programme

Muweme Muweme 2004 Factors that attract FDI (Foreign Direct Investment in Zambia) *Business and Economy in Zambia*.

Mining Development Agreement between Mopani Copper Mines and The Government of the Republic of Zambia.

National Treasury, 2007 Windfall Taxes on the Liquid Fuels Industry: Response to the Task Team Report on Windfall Profits in the Liquid Fuels Industry,

NEDCOR Securities 1995 Zambia Consolidated Copper mines: Fiddling while Chile booms *Mining Research* NEDCOR Bank Limited, London

Nunnenkamp P 2004 To What Extent Can Foreign Direct Investment Help Achieve International Development Goals? *World Economy* Vol. 27

Nyika Paper part II

OECD 2000 revision Guidelines for Multinational Enterprises

OECD 2002 Global Forum on International Investment: Attracting Foreign Direct Investment for Development, Shanghai, China.

Otto James 2006 Mining Royalties: A Global Study on the Impact on Investors, Government and Civil Society. The World Bank, Directions in Development: *Energy and Mining Series*

Palmer W. Thomas Jr. 1920 A Study of the Mining Law of Chile. University of Pennsylvania *Law Review and American Law Register* Vol. 69, No. 1

Pawlett Sam (ed) 1999 Copper in Chile *Pen-L: 10927*

Przeworski Joanne Fox The Decline of the Copper Industry in Chile and the Entrance of North America Capital

Rakner Lise 1998 Reforms as a Matter of Political Survival. Political and Economic Liberisation in Zambia 1991-1996 Ph D Dissertation University of Bergen

Ralph M. Jeker 1978, Assessment of the Risks of borrowing from a Developing Country's Point of View: Zambia, *Aussemwirtschaft* 33, (1-2)

Shapiro Robert and Pham Nam 2005, The Economic impact of a Windfall Profit Tax for Savers and Shareholders, Investors Action Foundation.

Simutanyi Neo 2007 State Mining and Development in Zambia's Third Republic paper presented to the University of Leeds Centre for African Studies and Review of the political economic conference on state, mining and Development in Africa.

Simutanyi Neo 2008 Copper mining in Zambia; The Developmental Legacy of Privatisation occasional paper 165, Institute for Security Studies

UNCTAD 1994 A Review of the Major Developments in the World Copper Market and Industry from 1980 to 1992 and Future Prospects, Geneva.

Vicuna Orrego Francisco 1973 Some International Law Problems Posed by the Nationalization of the Copper Industry by Chile, *The American Journal of International Law*

World Bank 1992, Strategy for African Mining, World Bank technical working paper No. 181 Africa Technical Department series Industry and Energy division Washington DC: World Bank

World Bank Findings, October 1996, Times of Zambia, October 15

World Bank 2002, Zambia: Country Assistance Evaluation, Report No. 25075, Washington DC. OED.

World Bank 2004 World Development Report 2005 A Better Investment Climate for Everyone
The World Bank, Washington, DC

Zambia Mining Year Book, 1977-79

Reuters News Services, 1994

ZCCM Annual Report, 1994

Sunday Telegraph, 1995

Mining Journal, 1998

Times of Zambia, 1999

The Economist, 1978

STATUTES

Mines and Minerals Act

WEBSITES

www.minewatchzambia.com

www.zambiabudget.zm

www.christainaid.org

www.forbes.com

www.zambiabudget.zm

www.investopedia.com

www.dpmf.org

http://findarticles.com/p/articles/mi_m1

www.christainaid.org

www.ic.gc.ca/eic/site/crs-rse.nsf/eng/rs00143.html

www.chr.up.ac.za/academic_pro/llm2/documents/Nyika%20Paper%20Part%20II.doc

<http://www.netnewspublisher.com/imf-zambia-new-tax-mining>



www.bicusa.org/en/Article.3672.aspx

[www.iflr1000.com/LegislationGuide/150/Taxing-the mining-sector.html](http://www.iflr1000.com/LegislationGuide/150/Taxing-the%20mining-sector.html)

www.ipsnews.net/africa/

<http://archives.econ.utah.edu/archives/pen-1/1999m09.c/msg00068.htm>

<http://books.google.co.uk/books>

