



ccNSO Internet Governance Liaison Committee

Focus on Africa: part 1

Wednesday, 3 April 2024 at noon UTC

ICANN | ccNSO

Country Code Names Supporting Organization



AGENDA: IGLC session

Wednesday, 3 April 2024 at noon UTC

Session chair: Annaliese Williams (.au)

- Introduction and welcome
- Digital Tax from the perspective of Africa, by Khodani Sengwane (Faculty of Law, Pretoria University)
- 20-year review of the World Summit on the Information Society (WSIS+20): draft IGLC Action Plan
- IGLC session planning for the ICANN80 Policy Forum in Kigali, Rwanda
- Wrap-up & next meeting





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Lefapha la Molao

Digital Tax from the perspective of Africa

By: Khodani Sengwane

Make today matter

Contents

- Introduction
- Taxing the Digital economy
- International Developments
 - OECD Two-Pillar Solution
 - UN Article 12B
 - Digital services taxes
- Digital tax in Africa
- Q&A



Introduction

- International tax rules developed more than a century ago
- “Bricks and mortar” companies at time
- Tax nexus: physical presence
- Advances in technology and progression of 4IR
- Businesses no longer need to be “physically” present in a jurisdiction
- Operate digitally or virtually anywhere in the world
- Current tax rules ineffective
- New nexus rules required

Taxing the digital economy

Google



You Tube



amazon



yahoo!



International Developments: OECD-Pillar 1

- Global solution to be internationally consented to and implemented by countries
- New nexus and profit allocation rules that do not depend on physical presence
- Will only apply to MNE groups with a global turnover above 20 billion euros (and profitability above 10% calculated using an averaging mechanism).
- A market jurisdiction will be allocated the new taxing right in terms of the in-scope MNEs when such **MNEs derives at least 1 million euros** (250 000 euros for smaller jurisdictions with GDP lower than 40 billion euros) in revenue from that jurisdiction.
- 25% of residual profit (which is profit in excess of 10% of revenue) will be allocated to market jurisdictions with a nexus using various revenue-based allocation keys

OECD Concerns

- Reaching consensus might be difficult
- USA's buy-in
- Drastically deviates from the initial goal of the OECD in addressing the challenges posed by the digital economy
- Set the focus only on taxing highly profitable MNEs
- What is considered a smaller MNE from a developed country's perspective may differ from the perspective of developing countries
- Withdrawal of DSTs
- Complex rules
- No substantial revenue from developing countries

International Developments: UN

- New double tax treaty rule used to allocate taxing rights in respect of income generated from automated digital services (ADS)
- ADS = any service provided on the Internet or another electronic network, in either case requiring minimal human involvement from the service provider.
- Income from ADS is taxable in the state where the supplier of the ADS is resident and may also be taxable in the source country where the ADS arises
- Percentage of tax chargeable will be determined through bilateral treaty negotiations between contracting states

UN Concerns

- Does not cater for other digital economy business models and would be limited in addressing challenges posed by the digital economy
- Lack of thresholds may lead to disproportionate administrative burden for taxpayers and tax administrators
- Compliance issues
- Time consuming process negotiating treaty provision
- Reluctance of developed countries to agree to provision e.g USA
- Cannot co-exist with Pillar One
- Limited application

International Developments: Unilateral

- At domestic level, a number of countries from both developed and developing countries have opted to implement unilateral rules to address the challenges that the digital economy poses to the jurisdiction to tax rules
- Equalization levy: levy on a non-resident service provider upon the supply of digital products or services
- specific regimes that tax digital companies;
- withholding tax on digital transactions;
- digital services taxes (DST).
- Significant economic presence: the tax liability of a foreign entity is determined by the foreign entity having sustained presence in the country using technology and other automated tools



Unilateral Concerns

- Often uncoordinated
- Double taxation/ overtaxation
- Impact on investment, innovation and growth,
- Impact on welfare,
- Potential incidence of taxation on consumers and businesses,
- Possible difficulties in implementing a tax as an interim measure,
- Compliance and administration costs



Digital Tax in Africa

- Nigeria: “significant economic presence” test into their Finance Act = profits derived in Nigeria by digital service and e-commerce non-resident companies would be deemed to be derived from Nigeria
- Kenya: levies 1.5% DST on income derived or accrued to a resident or non-resident in Kenya in respect of services offered through a digital market.
 - 10% excise tax on mobile phone transactions.
 - In 2018, the tax rate was raised to 12% for money transfer services and to 15% for airtime services, which include SMS, voice, and mobile data services.

Digital Tax in Africa

- Tunisia: 3% tax is imposed on the sale of computer applications and digital services by non-resident companies.
- Sierra Leone: 1.5% DST
- Uganda recently proposed a 5% DST on services delivered over the internet, electronic network, or an online platform to take effect in July 2023.
 - However, the proposal was rejected by the members of parliament
 - 1% excise tax on mobile money transactions in 2018. However, the tax rate was later reduced to 0.5% and now applies only to withdrawals.
 - Daily levy of UGX 200 is imposed on social media platforms in Uganda
- Ivory Coast imposes a 0.5% tax on money transfers via mobile money services

Digital Tax in Africa

- Section 12(7) of the Zimbabwean Income Tax Act deems amounts received or receivable on behalf of foreign domiciled digital platforms from Zimbabwean residents to supply goods or services to the latter to be from a Zimbabwean source.
 - Zimbabwe imposes a 5% DST on gross income from satellite broadcasting services for the provision or delivery of television and/ or radio programmes, and on e-commerce operators for the provision of goods and services to persons resident in Zimbabwe.
 - The threshold for the levying of the DST is USD 500 000 for annual digital sales in any year of assessment
- Tanzania: media websites, online TV and radio channels, individual bloggers, and podcasters to pay registration and licensing fees.

Future of Digital Tax in Africa

- Pillar One or UN Article 12B?
- Withdrawal of DSTs?
- More African countries enacting DSTs?
- USA's response?

Thank You



20-year review of the World Summit on the Information Society (WSIS+20)

Proposed IGLC actions

To assess the level of impact, the IGLC uses 2 criteria, based on its Charter:
 1/ Added value to coordination and facilitation of participation of ccTLD in IG-related matters
 2/ Increase level of participation of ccTLD community in IG-related discussions

	ACTION	SUB-ACTION	EFFORT (HIGH / MEDIUM / LOW)	IMPACT (HIGH / MEDIUM / LOW)	COMMENTS	
1	IGLC to create messaging to ccTLDs, in addition to the previously created FAQ (Action Item by Council to IGLC)	1.a	create subteam of expert volunteers, who can build on existing efforts	medium	high	must do
1.b		IGLC to point out the differences between GDC and WSIS+20	low	medium		
1.c		identify potential joint positions by ccTLDs	low	medium		
2	IGLC leadership to ensure WSIS+20 is a standing item on the IGLC working session agenda	2.a	alert IGLC members and invite them to take action	low	medium (high)	
3	IGLC to provide voluntary guidance to ccTLDs, regarding potential government engagement approaches, including advocacy by ccTLDs to governments regarding WSIS+20	3.a	share examples how the engagement is being done	medium	high	note: dependent on action item 1.
		3.b	mapping the type of governance models	medium	medium (high)	
4	IGLC to use the relation between GAC and ccNSO (Council), to inform ccTLDs	4.a	schedule a session: potential joint meeting at ICANN80	low	medium (high)	
5	IGLC to share knowledge via an IGLC library (based on DASC, UAC example)	5.a	IGLC to track developments, and inform ccTLDs about them	high	high	alternative: loose coalition of ccTLDs might do the same

Quick wins (High impact, low effort)

- (1)**
IGLC to create messaging to ccTLDs, in addition to the previously created FAQ
 - (1.b.)**
IGLC to point out the differences between GDC and WSIS+20
 - (1.c.)**
IGLC to identify potential joint positions by ccTLDs
- (2)**
IGLC leadership to ensure WSIS+20 is a standing item on the IGLC working session agenda
 - (2.a.)**
IGLC members to inform each other about latest news (e.g. invite to join April 9 GDC consultation): Alert IGLC members and invite them to take action
- (4)**
IGLC to use the relation between GAC and ccNSO (Council), to inform ccTLDs
 - (4.a.)**
ccNSO Council to schedule a joint meeting between ccNSO and GAC at ICANN80, on among others WSIS+20

Major projects (high impact, high effort)

- (1)**
IGLC to create messaging to ccTLDs, in addition to the previously created FAQ
 - (1.a.)**
IGLC to create subteam of expert volunteers, who can build on existing efforts
- (3)**
IGLC to provide voluntary guidance to ccTLDs, regarding potential government engagement approaches, including advocacy by ccTLDs to governments regarding WSIS+20
 - (3.a.)**
IGLC to share examples how the engagement is being done
 - (3.b.)**
IGLC to map the type of governance models for ccTLDs
- (5)**
IGLC to share knowledge via an IGLC library (based on DASC, UAC example)
 - (5.a)**
IGLC to track developments and inform ccTLDs

Fill ins (low impact, low effort)

none

Thankless tasks (high effort, low impact)

none

IMPACT

Low effort

High effort

High impact

Low impact

Quick wins

Major projects

Fill-ins

Thankless tasks

2.a. IGLC members to alert each other and invite them to take action where appropriate

1.b. messaging to ccTLDs: explain differences between CDC and WSIS+2C

4. relation schedule joint ccTLD + CAC sessions at ICANN80

2. ens- WSIS+2C as a standing item on IGLC agenda

1.c. messaging to ccTLDs: identify potential joint positions by ccTLDs

1.a. massa to ccTLDs: create submit team of expert volunteers



3.a. guidance to ccTLDs: share examples

3.b. guidance to ccTLDs: mapping governance models

5. create WSIS+20 library, based on UAC/DASC example

EFFORT

Proposed action items at a glance

- (1) IGLC to create **messaging to ccTLDs**, in addition to the previously created FAQ ✓ (Council Action Item)
 - (1.a.) IGLC to create subteam of expert volunteers, who can build on existing efforts
 - (1.b.) IGLC to point out the differences between GDC and WSIS+20
 - (1.c.) IGLC to identify potential joint positions by ccTLDs
- (2) IGLC leadership to ensure WSIS+20 is a **standing item** on the IGLC working session agenda ✓
 - (2.a.) IGLC members to inform each other about latest news (e.g. invite to join April 9 GDC consultation): Alert IGLC members and invite them to take action
- (3) IGLC to provide voluntary guidance to ccTLDs, regarding potential **government engagement approaches**, including advocacy by ccTLDs to governments regarding WSIS+20 
 - (3.a.) IGLC to share examples how the engagement is being done
 - (3.b.) IGLC to map the type of governance models for ccTLDs
- (4) IGLC to use the **relation between GAC and ccNSO** (Council), to inform ccTLDs ✓
 - (4.a.) ccNSO Council to schedule a joint meeting between ccNSO and GAC at ICANN80, on among others WSIS+20
- (5) IGLC to share knowledge via an IGLC **library** (based on DASC, UAC example) 
 - (5.a.) IGLC to track developments and inform ccTLDs

Time for polling



IGLC planning for ICANN80

Thank you!

You are invited!

Coming next: IGLC focus on Africa, part 2
Wednesday, 8 May 2024 at noon UTC

The African Union Data Policy Framework, Sadia Rizvi