

TAXATION AND DIGITALIZATION OF THE ECONOMY, AND THE TAXATION OF ODA-FUNDED PROJECTS

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FIRS
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PROTOCOL

- HIS EXCELLENCY Mr. Mahmadamin Mahmadaminov (Vice-President of the Economic and Social Council (ECOSOC).
- Mr. Elliott Harris, Assistant Secretary-General of ECOSOC.
- Mr. Eric Nii Yarboi Mensah, Co-Chairperson, Committee of Experts on International Cooperation in Tax Matters.
- Ms. Carmel Peters, Co-Chairperson, Committee of Experts on International Cooperation in Tax Matters.

I sincerely thank ECOSOC (Chair, members and the Secretariat) for inviting me to deliver a keynote address at this special meeting and to share Nigeria's experience on **TAXATION AND DIGITALISATION OF THE ECONOMY, AND THE TAXATION OF ODA-FUNDED PROJECTS.**

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Introduction

Taxation and the digitalization of the economy is, today, the big elephant in the house of taxation. A lot of effort has gone into developing relevant policy framework and taxing rules. Especially, how to deal with the pertinent issue of definition of tax presence (permanent establishment or fixed base), allocation of taxing rights among countries and collection of indirect taxes.

Currently developing countries do not seem to be exercising any taxing rights because there is no agreeable framework. Which is different from developing countries who have block actions to claim taxing rights. The decided case of Apple Inc. dealings in Ireland supports this (13bn Euros).

Taxing rights in my own view should be a shared affair between countries of origination and countries of consumption as there will be no practical value addition if there are no consumptions of innovations, products, and services from the developed world by the developing Nation. The OECD proposal on country by country (CBC) reporting indicated a threshold of turnover 750m euros for any MNEs to comply with CBC reporting which implies most of those entities operating in developing countries will not be under obligation to provide CBC reporting and therefore eroding the taxing rights of such developing countries.

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Introduction

While there appeared to have been some results on VAT/GST, it is still work-in-progress for direct taxes. This ongoing global challenge has equally attracted the attention of the OECD/G20/Inclusive Framework who's Task Force on Digital Economy submitted an interim report in April 2018. Expectedly, its findings were not conclusive.

Due to the absence of universally agreed taxing approach, countries have taken it upon themselves to adopt unilateral measures in dealing with the issue.

Some examples:

- **India** applies a 6% Equalization Levy for specified services provided by non-residents.
- The **Argentine Government** requires the foreign supplier to register for VAT in Argentina;
- The **City of Buenos Aires** applies a Levy through a withholding tax mechanism whereby debit and credit card companies are required to withhold 3% of the net amount on any payments remitted to them.

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Introduction

As countries search-out appropriate policies, rules, and processes that will engender effective and efficient taxation of a digitalized economy, care must be taken to strike a balance among the contending issues of taxation; such as honouring tax treaties, promoting innovation and attracting investment. Let us discuss the danger of this unilateral approach and call for a uniform and global approach to what is clearly a global problem.

I therefore commend the Economic and Social Council (ECOSOC) for providing a platform to be a part of the solution, and to address the issue at this special meeting.

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Overview

A digitalized economy is characterised by unparalleled reliance on intangible assets, use of massive data, and widespread adoption of multi-sided business models. All of these make it difficult for tax authorities to accurately determine where value creation occurs. They also raise fundamental questions about how enterprises in the digital economy add value and make their profits.

This therefore posts a challenge to the attainment of the 2030 agenda for sustainable development. The above explains why the Addis agenda focused on the transformation of the tax systems particularly in the developing countries.

Yet, Nigeria considers the digitalized economy as both a challenge and yet loaded with opportunities beneficial to tax administration. A distinctive feature of a digitalized economy is the elimination or reduction of cash transactions. This elevates the visibility of transactions; thus reducing tax evasion and improving tax compliance.

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Main Aims of The Addis Ababa Action Agenda

- Mobilizing additional domestic public finance and spending it more effectively
- Encouraging a shift in the financial sector towards long-term investment horizons and sustainability
- Facilitating development cooperation to support the implementation of the agenda, particularly in plugging funding gaps
- Fostering Trade policies as an engine for inclusive economic and sustainable growth and poverty reduction
- Creating fit-for-purpose international rules and institutions for sustainable development
- Accessing data that will allow policymakers to make more informed decisions and help them better implement their policies and programmes
- Specifically, Paragraph 29 of the Addis Ababa Action Agenda mentions the aim of improving the fairness, transparency, efficiency and effectiveness of our tax systems, including broadening the tax base and continuing efforts to integrate the informal sector into the tax system.

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Digital Tax Initiatives

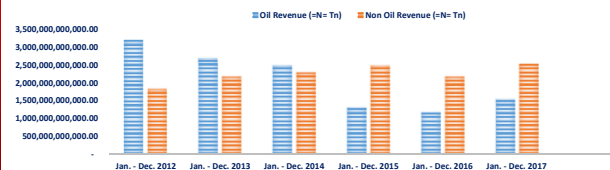
Nigeria's example

- In order to keep up with digital trends and adhere to global best practice, Nigeria has adopted the strategy of "digitalized taxation" to assist in tracking and taxing transactions conducted online and in real-time. Accordingly, Revenue services are being migrated onto various digital platforms and channels.
- The introduction of an end-to-end Tax Administration Platform as well as various electronic compliance and payment platforms contributed to the registration over 800,000 new corporate taxpayers in the last 12months thereby increasing the tax database over 50%, and corresponding tax revenue growth in the non oil sector for the period between 2015 – 2017 grew to an average of **64.3%** of total revenue collected compared to previous 3 year (2012 to 2014) average of about **42.8%**.

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Oil & Non Oil Revenue Performance

COMPARISON OF OIL & NON OIL REVENUE 2012-2017



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Digital Tax Initiatives

Nigeria's example

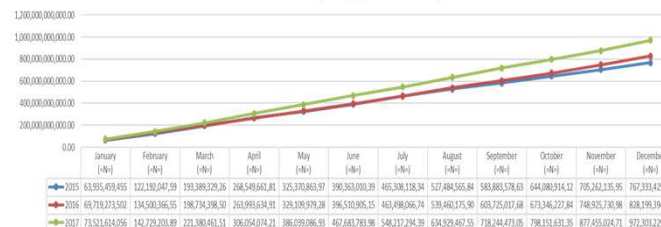
- Nigeria has also introduced innovative VAT collection at source platforms currently used by government agencies, airlines and power distribution companies.
- Furthermore, we are looking at how such platforms can be applied to capture VAT on online transactions which remain largely untaxed, particularly in Nigeria's large vibrant retail, hospitality and informal sectors.
- Pending review of the Act, the FIRS is collaborating with key internet gateway regulators and the Central Bank of Nigeria to install "virtual taxman" (a system for capturing VAT on online transactions). The proposed system will ride on existing tax legislation and e-tax products of the Service.

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VAT Performance

With the introduction of various VAT programs and Automation exercises, the VAT collection is on a steady increase. VAT Collection in 2015: **N767.33bn**; VAT collection in 2016: **N828.19bn**; VAT Collection in 2017: **N972.30bn**. This represents about **25%** growth for VAT since 2015.

Enhanced VAT Generation Capability by Month for 2015, 2016 & 2017



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Nigerian Digital Economy

- **International collaboration** will be valuable in the taxation of the digital economy in cases where Nigeria has established that VAT/income taxes accrue to it from digitalized transactions involving Nigeria tax residents and individuals or entities outside Nigeria's tax jurisdiction, and the taxes due are in the custody of non-residents, who have failed to remit such taxes in spite of being served demand notices. **This is supported by the recent judgment in the Vodacom Vs FIRS case on VAT liability of a non resident company.**
- Nigeria being a signatory to several Tax treaties such as the OECD Convention on Mutual Administrative Assistance in Tax Matters (MAC) which provides for 'Assistance in Tax collection', shall seek the assistance of our Treaty partners to collect such taxes from their tax residents and remit same to Nigeria.
- However, significant challenges still exist in trying to combat widespread tax evasion and taxpayer apathy. This include;

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Tax Administration Challenges

Peculiar challenges of developing countries.

- **Large Informal Sector;**
- **Poor Tax Culture;**
- **Lack of Tax Knowledge**
- **Non-judicious Utilization of Little Revenue Collected;**
- **Poor Legislation &**
- **Dearth of Skilled Man-power.**

Of significant challenge to Africa is the issue of **Illicit Financial Flows (IFF)** which in a large part involves Multinational Enterprises (MNEs) Which are involved in base erosion and profit shifting from the African continent to the developed world. Contrary to general perception about corruption in Africa the findings of Thabo Mbeki on IFF reveals that over 70% of IFF relates to base erosion and profit shifting by multinationals, and about 30% relates to corruption, money laundering etc. The estimated loss from IFF in Africa is in the tune of about \$50Bn annually.

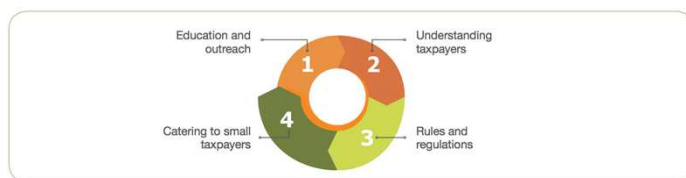
This calls for global attention and a global solution. In this respect I would like to commend the OECD through its inclusive framework for providing leadership on how to curb this menace that has ravaged the continent of Africa over a long period

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Informal Sector Overview For Africa

- The informal sector accounts for between 50% and 80% of GDP
- The informal sector accounts for between 60% and 80% of employment
- The informal sector accounts for up to 90% of new hires

There are various measures that are being implemented to address the informal sector as illustrated below

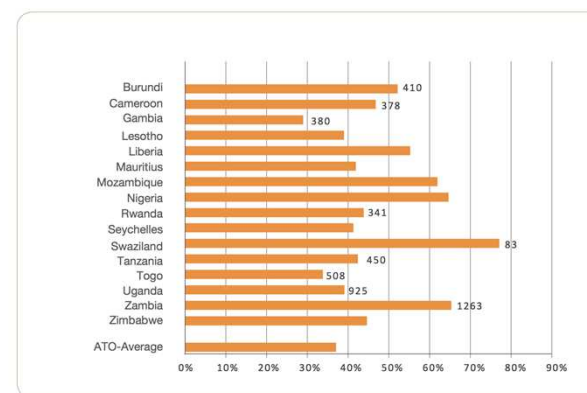


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Source : 2nd Publication African Tax Outlook
ATO 2017

Multinational Enterprises (MNEs) For Africa

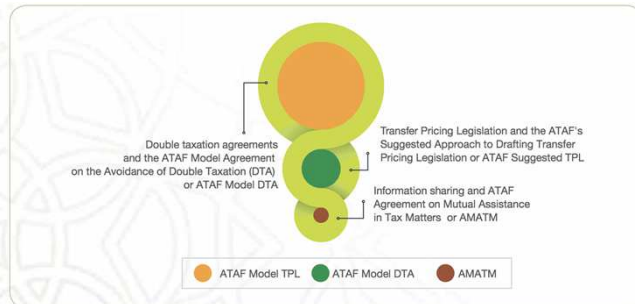
Most African countries rely heavily on tax revenue from MNEs. Indeed, large taxpayers account for over 50% of revenue from a number of African Nations as illustrated in the table below.



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Source : 2nd Publication African Tax Outlook
ATO 2017

Challenges -African Tax Administration Forum's (ATAF) Three-Pronged Approach To Aggressive Tax Planning



For each of the three tools, ATAF has built templates which can adapt to their needs and capacity. They are the "ATAF Models".

- Double Taxation Agreement
- Capacity Building in Transfer Pricing Prevention
- Transfer Pricing Legislation
- Exchange of Information / Agreement on Mutual Assistance In Tax Matters

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Source : 2nd Publication African Tax Outlook
ATO 2017

The Taxation of Official Development Assistance (ODA)-Funded Projects

- Nigeria currently has some generous tax incentives that can benefit ODA funded projects. These include VAT and customs duty exemptions for goods used in such projects, a general exemption from income tax for non-profit and charitable activities and special incentives for "pioneer" and public interest infrastructure projects.
- However, difficulties can arise when such activities generate commercial returns outside the original remit of the project and there are no specific exemptions for income tax on remuneration to staff (including expatriates).
- The process for applying for bespoke exemptions can be time consuming and cumbersome in Nigeria resulting in understandable frustration but following recent changes to the country's approach to identifying and granting incentives, these tensions should ease going forward.
- We certainly welcome suggestions on improving in this area.

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Conclusion

On that note, let me conclude this address by pledging Nigeria's commitment to the Addis declaration of improving the fairness, transparency, efficiency and effectiveness of the tax system.

Wishing the ECOSOC a very interactive and productive deliberation in this very topical subject of great interest to all the countries of the world.

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Thank You

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