African nations stall global corporate tax deal

By Katja Hamilton

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The Organisation for Economic Co-operation and Development's global corporate tax deal, which was due to begin rolling out this year, has stalled.

Source: Supplied. Nigeria's finance minister, Zainab Shamsuna Ahmed.

The landmark deal, was agreed upon in principle by 136 countries and jurisdictions - with South Africa at the roundtable.- would otherwise have ensured that multinational enterprises (MNEs) would be subject to a minimum 15% tax rate.

In South Africa, for tax years ending before 31 March 2023, the corporate income tax (CIT) rate applicable to the corporate income of both resident and non-resident companies is a flat 28%.

The hold-out has been implemented by Nigeria's finance minister, Zainab Shamsuna Ahmed who, in November last year, went to the United Nations (UN) on behalf of other national African nations to put forward a motion at UN-level to go ahead and implement their own form of international tax reform.

Speaking at a 2023 World Economic Forum (WEF) session, held in Davos, Switzerland on 19 January entitled *Is Global Tax Stalling?* Ahmed said: "We're considering how this rule affects developing countries like Nigeria. The original intention, we were told, was to allow taxation of digital-enabled businesses in market jurisdictions and to understand the main challenges and obstacles facing implementation of tax agreements across the world. The current agreement does not deliver on the underlying objective."

The Davos session was attended by Mathias Cormann, secretary-general of the Organisation for Economic Co-operation and Development (OECD); Gabriel Zucman, director of the EU Tax Observatory and Faisal Alibrahim, minister of economy and planning of Saudi Arabia.

> ***The unfair design of the rules means developed countries will be subject to tax rules that will be used by developing countries to mop up taxes from our countries.***

Ahmed said: "We hope that the rules that are currently being designed to be "pro-developed countries" will take into account the needs of our countries. The unfair design of the rules and the limitation on developed countries who will be subject to tax rules that will be used by developing countries will simply be used to mop up taxes from our countries, and we will end up with very little or nothing at the end of the day. It's important to have global rules, but it's also very important that the rules should be fair."

Proposal of no taxation of Nigeria's digital SMEs

Ahmed went on to say that the rules within the historical agreement would bar the Nigerian government from taxing small to medium-sized digital enterprises that dominate their markets. "The outcome of this means that there will be discriminatory taxes within our own jurisdiction. If we sign up to this deal we will not be able to tax medium-sized and small-sized businesses, while we're taxing similar companies that are Nigerian companies operating in the same market," she said.

Cormann responded: "The global tax reform is difficult to achieve. It was never going to be straightforward. There was an agreement in principle in October 2021; it was a commitment to ensure that our international tax arrangements in a digitalised and globalised world economy are fairer and work better, and in particular that there is a fairer distribution of tax revenues in two market distributions."

However, Zucman interceded: "All of these discussions start from the premise that we need to have all countries and territories on board. If we have that approach, it gives a veto power to countries and territories that benefit enormously from the status quo; one that benefits from profit sharing, which benefits from tax competition."

> ***The risk of harmful tax competition is in relation to those activities where companies can shift their activities easily around the globe in order to get themselves the best possible tax arrangement.***

"The risk of harmful tax competition is in relation to those activities where companies can structure their affairs and shift their activities easily around the globe in order to get themselves the best possible tax arrangement," Cormann said.

"Many companies today pay less than 50% in taxes, at least in some of the countries where they book profits, and the reason for that is because there's widespread profit shifting to tax havens. We estimate that each year almost 40% of global multinational profits booked or shifted to tax havens, where they are subject to very low tax rates - 5% or so. The agreement is conceptually and philosophically flawed because the proposed tax rate of 15% is way too low," Zucman said.

> *I remain quietly optimistic that we will be able to reach the targeted implementation timetable of 2024 for Pillar One and Pillar Two.*

While OECD is addressing a history of tax evasion and tax avoidance "which has become much easier in a globalised, digitalised world economy" according to Cormann, he added it was important to achieve the right balance, making sure that those companies that are generating profits and market jurisdictions - but that are currently not paying their fair share of tax in those jurisdictions - pay their fair share of tax in those markets.

The first pillar of the proposed global tax deal gives market jurisdictions taxing rights on digital profits, the second pillar is a minimum corporation tax of 15 percentage points for multinationals.

The digital tax is expected to lead to annual global tax-revenue gains of between $13 to $36bn of profits. The minimum corporation tax should result in annual gains of over $220bn.

Said Cormann: "I remain quietly optimistic that we will be able to reach the targeted implementation timetable of 2024 for Pillar One and Pillar Two .27 European Union (EU) members have now agreed by unanimous consensus to implement the agreement which comes on top of countries like the UK, Switzerland, Indonesia, the EU, UAE, Singapore, Korea, and others. We believe there is now significant momentum around its implementation."

ABOUT KATJA HAMILTON

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