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Digital Tax Landscape in Latin American Countries

By Nupur Jalan[*]

DIGITAL ECONOMY AND LATIN AMERICAN COUNTRIES

The Latin American (LATAM) region has in recent years become an emerging market for the information and communication technologies (ICT) applications.[1] Also, the number of internet users has grown substantially due to many factors including the growing use of social networks, e-commerce websites, etc. With these trends, Latin America has become an increasing e-commerce market in the world, and e-commerce is expected to grow by 30% every year through 2025.[2]

Also, owing to various reasons (some of which were mentioned earlier), and most importantly, an ever-increasing user base, more and more multinational enterprises (MNEs) are aiming to expand their operations in LATAM countries. For example: In Mexico, Amazon launched its first-ever debit card. In Brazil, Uber launched its first digital wallet.[3] Even though some countries in the region — e.g., Brazil and Mexico — are more prominent locations for MNEs than others, digital businesses such as Google, Spotify, and Netflix have been exploring smaller markets.[4] For example, the start-up ecosystems in Colombia, Chile, and Uruguay have gained traction. Additionally, there has also been a rise in the local digital companies. This testifies how the digital economy is progressing in LATAM — it accounts for approximately 3.4% of global revenues from the digital economy by 2021, while LATAM electronic commerce of goods accounts for 2.8% of global sales.[5]

DIVERSITY AMONG THE LATAM COUNTRIES

Different countries in the region vary on account of various factors such as level of economic developments, market size, political stability, etc., and hence may have different priorities in terms of tax policy.

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Many countries in Latin America have implemented some form of unilateral digital tax levy to cope with the taxation of the digital economy, as have several other countries in other regions of the world. This article first discusses how the digital economy has progressed in Latin American countries. It then discusses the digital tax landscape in these countries, summarizing the unilateral measures they have implemented and the impact on multinational companies. It then discusses the value-added tax toolkit, *VAT Digital Toolkit for Latin America and the Caribbean*, released by OECD et al. in 2021. Towards the end, it discusses the impact of OECD's Pillar solutions on Latin American countries and the role an effective regional organization can perform in building a uniform tax landscape in the region.

[1] ECLAC, The Digital Economy for Structural Change and Equality (2013).

[2] *How Digital Payments and e-Commerce Are Gaining Traction in Latin America*, EBANX (2021–2022).

[3] Estelita Hass, 'Latin America's Digital Economy Looks Like China Ten Years Ago,' Says IDB Lab Chief Investment Officer, Latin Am. Bus. Stories (20 July 2019).

[4] Selling Digital Goods in LATAM — Exclusive Interview With Philipp Bock, allpago, The Payers (3 Apr. 2019).

[5] Juan Pablo Jiménez and Andrea Podestá, Leveling the Playing Field in Times of Crisis: Indirect Taxation on the Digital Economy in Latin America and Its Potential Revenue, Inter-American Ctr. of Tax Admins. (29 Apr. 2021).

There are differences at a socio-economic and geographical level, and not all countries in the region are at the same level of development. Countries in the region require a better coordination mechanism to drive a more competitive regional digital market and promote sustained development.[6] Several coordination/integration initiatives were taken in the past, but most failed to achieve desired results (discussed below). Further, most of these countries are capital importing countries and source jurisdictions because of their vast user base and other factors.[7]

UNILATERAL MEASURES IN LATAM COUNTRIES

Variants of unilateral measures adopted by different LATAM countries are general revenue tax, turnover tax, withholding taxes (WHT) and value-added taxes (VAT) (some of these have been tabulated in Appendix 1).

VAT seems to be the more prominent measure adopted in the region to tax the digital economy. However, the modalities and other design features of VAT vary between the countries. However, in most cases in relation to VAT imposed on digital goods or services, if the non-resident provider of goods/services is only into the B2B segment, VAT rules don't apply to non-residents, and in such cases, usually, a reverse charge is applicable to the service receiver. While, when non-residents supply digital goods or services to consumers or unregistered businesses, a non-resident may be required to register for and dispose of the VAT liability in that jurisdiction. The other prominent feature of such VAT collection in the region is that, in some cases, it is collected by financial intermediaries. The table below reflects VAT collection on digital services for some LATAM countries.

Country	Period	Collection *(in Million USD)*	Percentage contribution to GDP
Argentina	2018	53.0	0.01
	2019	79.0	0.02
Chile	June–December 2020	119.6	0.04
Colombia	June–December 2018	12.2	0.004
	2019	77.0	0.02
Costa Rica	October 2020	1.7	0.003
Uruguay[1]	2018	2.7	0.004

[1] Data does not include taxation of transport applications

Source: Jiménez and Podestá (2021) based on official figures.

Like other digital taxes, VAT as a means for taxing the digital economy is not free from criticism (some of them being enforceability, characterization issues, determining in-scope supplies of services and intangibles, early communication and guidance, prioritizing simplicity and focus on net revenues, incentivizing compliance by digital platforms and rewarding a strong track record of compliance etc.). Some countries indeed are trying to simplify the procedure through the use of local/financial intermediaries. In certain countries, the choice is left to the non-residents as to whether they want to use the financial intermediaries (The Bahamas, Chile, and Costa Rica), while in some countries (e.g., Paraguay), it is mandatory to use financial intermediaries. These mechanics of levying VAT on digital transactions have made the VAT system of LATAM a hybrid nature system (i.e., where VAT policy can be based on origin and destination principles both).

Separately, a VAT digital toolkit[8] from the OECD et al. provides some guidance to Latin America and the Caribbean (LAC) tax authorities in designing and implementing robust VAT policies for various lines of digital trades and services (discussed in the next section).

Regarding WHT, proper clarity should be provided for transactions covered in WHT. The scope should be clearly defined to provide clarity to taxpayers to discharge their obligations. For instance, in business-to-consumer (B2C) transactions making individual retail consumers responsible for withholding taxes may not be ideal, and it would be difficult to enforce their compliance. Thus, for the most part, WHT is limited to business-to-business (B2B) situations. Many countries are using financial intermediaries (local intermediaries/payment intermediaries) to ensure

[6] Essential Regional Consensus to Boost the Digital Economy in Latin America, CAF (17 May 2019).

[7] Andrea Laura Riccardi Sacchi, Taxing the Digital Economy in Latin America and the Caribbean: What Can Be Done, Afronomicslaw (2020).

[8] OECD/WBG/CIAT/IDB, VAT Digital Toolkit for Latin America and the Caribbean (OECD, Paris 2021).

ISSN 0090-4600

compliance with WHT. In some cases, it may be an easy and straightforward solution, but it creates double taxation risks when withholding tax is non-creditable. The documentation and compliance requirements for obtaining a withholding tax credit can be very burdensome.

Like DST in many European countries, for example, Argentina has also implemented taxes in the nature of DST. This applies to the gross revenue generated in the country. An MNE's perspective is that it is now double taxed, as it will have to pay corporate taxes in its home country in addition to such revenue-based tax on the same income in the market country.[9]

Needless to say, the effect of these levies (on global and regional competition and competitiveness, contribution to tax revenues, etc.) is varied based on various micro factors (supply chain/value chain/business model, computation complexity, price structure, etc.) and macro factors (foreign direct investment, business sentiments, etc.). These diverse taxes directly or indirectly reduce trade competitiveness (per-capita trade/competitiveness).[10]

VAT DIGITAL TOOLKIT FOR LATIN AMERICA AND THE CARIBBEAN

In June 2021, the OECD, in collaboration with the World Bank, the Inter-American Center of Tax Administration (CIAT) and the Inter-American Development Bank (IDB), released its VAT Digital Toolkit for Latin America and the Caribbean (the ''Toolkit''). The Toolkit aims at assisting tax authorities across the LAC region by providing comprehensive and detailed guidance on the design of VAT policy and implementation framework for various categories of digital trade and services.

[9] Young Ran (Christine) Kim, *Digital Services Tax: A Cross-Border Variation of the Consumption Tax Debate*, 72(1) Ala. L. Rev. 131 (2020).

[10] Erik van der Marel Peer Schulze, Taxing Digital Services — Compensating for the Loss of Competitiveness, ECIPE Policy Briefs (2021).

Toolkit's Main Framework

Category	What Toolkit Says	Comments
International Supply of Services and Intangibles	This includes digital services such as streaming services for film and television content and digital products such as e-books and computer software that are available for download onto consumer electronic devices.	Determination of place of consumption is not straightforward in all cases, especially in the case of digital services, as countries have been using different proxies for determination of customer's usual place of residence. Such difficulty would be less in the case of physical goods because the physical destination of the goods can clearly be identified.
	The modality suggested for levying VAT for this category is based on the destination principle, per which internationally traded services and intangibles are subject to the VAT rules of the jurisdiction where their consumption takes place. The recommendation provided is to determine the place of taxation based on the country of the customer's usual place of residence.[11]	Separately, in such cases where the non-resident supplies goods, the non-resident may be liable to register, collect and remit VAT, which adds a compliance burden on the non-residents.
Import of Low-Value Goods	Most jurisdictions, including many in the LAC region, exempt VAT on importing low-value goods.[12] However, with the growth in digital trade, it is often argued that such VAT reliefs for low-value consignments impact the principle of VAT neutrality. The Toolkit recommends extending the VAT regime for international supply to low-value imported goods.[13] In such cases, non-resident suppliers and/or digital platforms will be obligated to collect the VAT on such goods when sold to private consumers and remit the same to the tax authorities in the country of importation.	There may be a few practical challenges when applying VAT to low-value items because of the quantum of the transaction and the materiality amount in the transaction. There may be a risk of losing the consumers, thus reducing consumption. However, if proper automated systems are developed, which bring lesser challenges for the suppliers to comply with these rules, extending VAT to low-value goods would be less challenging.

[11] Guideline 3.6 of OECD VAT/GST Guidelines, 2017.

[12] A low-value good threshold is typically set between USD 25 and USD 300.

[13] OECD, BEPS Action Report 1, Tax Challenges Arising from Digitalisation (2015).

ISSN 0090-4600

Category	What Toolkit Says	Comments
Sharing and Gig Economy	The emerging diverse digital business models have raised questions about whether existing VAT frameworks are sufficiently equipped to capture this new economic reality efficiently, notably to protect VAT revenues. The report does refer to the earlier work of OECD on sharing/gig economy and lays down a range of possible measures and approaches to support an effective policy response. Regarding how most digital platforms operate, the prominent ones are those where the digital businesses act either as a principal or an agent.[14] The Toolkit highlights the potential possibility of taxing such new businesses, especially the sharing of data in these platforms' business models, creating significant opportunities for VAT collection. However, quite reasonably, the considerations for developing a VAT strategy in response to a sharing/gig economy shall differ across jurisdictions and depend on various factors.	They are diverse business models in sharing economy, and various new business models are coming up. Different actors of such businesses are usually located in different countries. Hence, designing the correct VAT policy with the right metrics may be challenging in such business models. Separately, if different countries (i.e., the country of the user, country of actual consumption and the country of provider levies VAT on different models) levies VAT on a different basis (i.e., some on origin and some on destination principle); the VAT system may not work properly, and there may be situations of double taxation.

[14] *See* OECD 2021 (above, n. 8) at 133.

Other Considerations: Administrative and Operational Efficiency

The Toolkit provides detailed guidance and practical insights on developing administrative and operational infrastructure to implement the recommended framework successfully. It suggests adopting a project-based approach to develop the operational and IT infrastructure necessary to support reform implementation.

The suggestion revolves around adopting a simplified compliance procedure (for example, installing an online portal through which non-resident suppliers may carry out their key VAT compliance obligations — registration, return filing, and payment of the VAT due). It recommends considering the open-source software developed by CIAT, namely the "Digital Economy Compliance" tool, to implement a simplified compliance regime for non-resident suppliers.

Another proposal of significant importance mentioned in the Toolkit is the implementation of a lead time for tax administrations and non-resident suppliers to ensure proper communication/consultation and allow for necessary changes to compliance systems and processes. The Toolkit considers a lead time of 6–12 months as appropriate between adopting the reform and entry for VAT reform directed at online sales of services and intangibles. Similarly, a lead time of 12–18 months has been approved for VAT reform targeted at imports of low-value goods.

IMPACT OF DIGITAL SERVICES VAT ON MNEs AND THE CONTINENT AS A WHOLE

The diverse variant of unilateral measures discussed above reflects that there is no consistent basis for levying taxes to tackle the challenges of the digital economy taxation in LATAM countries. These diverse laws have added complexities and compliance challenges for MNEs. Bnamericas stated: "VAT registration will also impose challenges on suppliers. Each jurisdiction may have its own rules and procedures for registration. There may be differences in filing requirements, deadlines, tax rates, invoicing requirements, and even languages."[15] Further, even under VAT or other indirect taxes, the complexities, collection mechanisms, and in-scope activities covered by different countries vary. For example, in Argentina, local payment intermediaries (including local credit cards, banks, and payment aggregators) usually act as liquidation agents before the tax authority. The other option is to require the foreign suppliers to register in the country, collect and file the VAT, and comply with some reporting obligations. Even in some countries, tax administrations have implemented continuous transaction control mandates (CTCs) that require suppliers of services and products to issue electronic invoices that are pre-cleared from tax authorities to keep track of transactions on a real-time basis.[16] Even for the VAT, which would be collected from the customers, the non-resident entities may have to incur compliance costs for payments and submission of VAT returns in several countries. These compliance costs will be factored into the companies' operating expenses and affect the pricing decision for the goods/services. At the same time, VAT can reduce retail investing and lower the GDP. VAT could have significant redistributional effects across generations,

[15] Bnamericas, Latin America's Digital Tax Conundrum (25 July 2019).

[16] Ramon Frias, Latin American Countries Lead World in Taxing Digital Services, CPA Practise Advisor.

ISSN 0090-4600

reducing real-time income and employment of current workers. Further, VAT could result in significant tax increases for middle-income families. Also, there are distributional concerns that VAT is borne disproportionately by lower-income households. VAT is shifted to consumers at higher consumer prices; this may reduce consumption.

From the tax revenue side, no doubt that levying these taxes increases the tax revenue. For example, in Mexico, which began taxing digital services by levying VAT in mid-2020, tax revenues increased by $304 million. Meanwhile, from June 2020 to June 2021, Chile has secured more than $194 million of VAT from digital services. Ecuador is expected to collect more than $19 million for the same services during 2021.[17] The 2019 report published by CEPAL highlights that not taking care of digital economy could lead to giving up of significant fiscal resources - per the report this could range to $580 million ($572 million from VAT and $8 million from tax on digital services) considering the big digital companies (Netflix, Spotify, Apple and Uber).[18]

It seems VAT levied on digital services is to stay — even with the proposed Pillar solutions, it is not certain that indirect taxes like VAT which were adopted for covering the digital supply of goods and services will be scrapped.

ROLE OF REGIONAL ORGANIZATIONS IN LATAM IN TAXATION

In Latin America, multiple regional organizations/bodies exist for various trade and other matters, some potentially covering specific aspects of the digital market. Most of these organizations/bodies focus their efforts on research, capacity building or creating forums for exchange. Some of the regional blocs are briefly discussed in Appendix 2, below.

How Successful Were These Regional Blocs? Experiences From Past Regional Blocs

Various regional blocs have played some role in promoting development in some of the other areas in the region (for example, information on free trade zones, promotion of mobility across borders, decreasing trade barriers, etc.) or trying to bring more integration in the region. Some of them have also contributed to promoting the region's digital economy. However, the mandate of many of these regional organizations overlaps — this has led to the proliferation and overlap in the objectives and initiatives of the regional blocs/organizations, thereby creating a lack of harmonization in the functioning of these blocs. Also, the integration process in Latin America has not been free from uncertainties. Klaveren rightly stated: "Integration efforts in Latin America have undergone numerous vicissitudes, each accompanied by fervent enthusiasm, only to backslide eventually with a long list of pledges to deeper integration remaining unfulfilled."[19]

For example, Mercosur[20] remains the most significant trading bloc in Latin America and has achieved higher degrees of intra-regional trade than any other integration scheme. However, it was not successful in bringing complete harmonization in the region. Further, UNASUR's entrance into a regional architecture with the presence of institutions — such as OAS,[21] Mercosur, the Andean Community, the Rio Group, or ALADI[22] created friction both between and within them.

Integration in Latin America presents a complex and disorderly pattern. In the past, some partial agreements have proven to be more effective for removing barriers and strengthening mutual interdependence than elaborate common market structures. Accordingly, regional integration alternatives are not pursued in a deliberate sequence and do not necessarily represent steps that follow a logical order. The present reality in Latin America seems closer to segmented regionalism. It is still unclear how the regional architecture will evolve and what the emergence of a multifaceted pattern of overlapping regional organizations will imply.

Digital Single Market in LATAM and Ongoing Sentiments Around Digital Single Market in LATAM

The concept of a digital single market (DSM) was adopted for the first time by the European Union (EU), and various regions around the world after that got inspired by it. A DSM strategy mainly "aims to create an environment for digital networks and services by providing high-speed, secure and trustworthy

[17] Ramon Frias, Latin American Countries Lead World in Taxing Digital Services, CPA Practise Advisor; Drs. Robert Carroll et al., The Macroeconomic Effects of an Add-on Value Added Tax, E&Y (2020).

[18] *See* Políticas tributarias para la movilización de recursos en el marco de la Agenda 2030 para el Desarrollo Sostenible, CEPAL (2019).

[19] Alberto van Klaveren, Regionalism in Latin America. Navigating in the Fog, Working Paper No. 25/2017 (Dec. 2017).

[20] Mercado Común del Sur (Southern Common Market): Argentina, Brazil, Paraguay, and Uruguay.

[21] Organization of American States.

[22] Associación Latinamericana de Integración.

ISSN 0090-4600

infrastructures and services supported by the right regulatory conditions.''[23]

The Economic Commission for Latin America and the Caribbean (ECLAC) proposed[24] a regional DSM for LATAM countries which would allow taking advantage of network and scale economies to compete in a world of global platforms.[25] There were several other discussions in the LATAM for forming a DSM system, but it was never successfully implemented. There are various reasons for this, and one of the most significant ones is the lack of a strong organization/regional integration like the EU.

Further, it is pertinent to note that, unlike the EU, various countries in the LATAM do not have strong and thriving economies. They are lagging behind in reaping the benefits of robust regional trade and are not yet equipped to establish economic and social development policies in a coordinated way. Further, LATAM countries also lack a common institutionally binding framework and an effective means of adequate consensus methodologies and governance mechanisms. Various countries have their individual issues as well. For instance, Brazil's divisive government and troubled democracy have often led to conflicts and political instability. Also, Argentina has been suffering from bankruptcy for a while now, and since 1980, foreign debt payments have been suspended five times in the country.[26] Such factors hinder effective commercial dialogue between nations, which is a prerequisite if a DSM is to be implemented.

The most important hindrance in the LATAM is the lack of a clear consensus among LATAM nations today on the desirable level of regional integration, i.e., there is a lack of a ''single'' regional vision for the integration of nations. The very concept of the EU is based on the consensus amongst the member states for regional integration. Without such a vision to achieve regional integration, implementing a DSM system would be extremely difficult.[27]

A step towards achieving a DSM would entail greater coordination and institutional harmonization at the regional level. It would also require strong political commitment from the states to overcome the hurdles in such integration.

In the next section, the author discusses the possibility of regional integration for digital taxes. The author has taken the case of VAT as most countries in the region implemented VAT as a mechanism for digital taxes.

Regional Integration for VAT for Digital Taxes in LATAM: Is This a Possibility? (Drawing Experiences From EU Mini-One-Stop Solution)

In the EU, the single VAT system was extended to the online sale of physical goods, and a common EU VAT threshold for assisting small e-commerce businesses was introduced. As per the rules, the VAT is paid in the Member State of the end customer, which promotes fair distribution of tax revenues across the EU. Further, the EU mini-one-stop solution (MOSS) scheme that was implemented also eased the method of paying taxes, as it encouraged the registration, filing and payment of VAT in only one nation for all the transactions carried out with several EU nations. Thus, MNEs in such cases are not required to register with tax authorities in every EU country; instead, it requires the registration for VAT, filing of VAT returns and making payments in one single country.[28] The registered person must electronically submit quarterly MOSS VAT returns. The identification state subsequently transmits these returns to the consumption state via a secure communications network.[29] EU VAT system is one of the most harmonized VAT systems in the world.[30]

Similarly, for LATAM, it is important to understand that harmonization is the only way to achieve an efficient VAT system for cross-border transactions (especially if LATAM countries wish to continue levying VAT on digital transactions). One of the ways of attaining such harmonization and implementing a VAT system in the LATAM would entail the presence of some effective regional body that can help form a regional VAT system (like that of the EU).

Need for an Effective Tax Organization in LATAM for Promotion and Integration of Regional Needs

Considering the discussions in the previous paragraphs, it seems that there is no active regional body solely dealing with the issues relating to taxation mat-

[23] Eurostat, What Is the Digital Single Market About?

[24] ECLAC, The New Digital Revolution: From the Consumer Internet to the Industrial Internet (2018).

[25] ECLAC, To Compete in the Global Economy the Creation of a Digital Single Market in Latin America and the Caribbean Is Required, (2015).

[26] Enric Gonzales, Argentina's Perpetual Crisis (2021).

[27] CAF Dev. Bank of Latin Am., Regional and Subregional Approaches to the Digital Economy: Lessons from the Asia Pacific and Latin America (CAF 2018).

[28] Your Europe, VAT on Digital Services (MOSS Scheme).

[29] Your Europe, VAT on Digital Services (MOSS Scheme).

[30] Agnès Bénassy-Quéré, et al., *Tax Harmonization in Europe: Moving Forward*, Les Notes du Conseil d'Analyse Economique, Vol. 14, No. 4 (Cairn Info Int'l Ed. 2014).

ISSN 0090-4600

ters in LATAM (for example, ATAF in Africa or the EU in Europe). Although various bodies have taken the effort to promote dialogue within the nations, they predominantly focus on promoting trade and other areas. Thus, none of them currently caters specifically for the tax arena or in the area of addressing challenges arising from the digital economy except CIAT, which to some extent is trying to focus more on the LATAM region, yet it caters to mostly tax administrations. For example, with the working paper *Taxation, Digitalization of the Economy and the Digital Economy*, published on 6 October 2018, CIAT aimed to provide an understanding of the economic dimension of the digital challenge and the challenges that are posed within the tax sphere with specific emphasis on administration the providing possible options to respond thereto. Overtime, CIAT has also been working with WorldBank, OECD etc., on different tax areas (for example, the VAT Toolkit discussed above is the result of joint efforts of OECD, Worldbank and CIAT). Countries did try in the past to bring some fragmented integration, but failed mostly because of political instability and lack of institutionality.

It can thus be understood that for the effective implementation of a unified tax system, a central regional body performing the function of coordination, promoting dialogue, and suggesting tax reforms in the member countries is critical for bringing the available resources to focus on certain important areas.

There are currently no Latin American supranational authorities capable of efficiently articulating matters related to taxation in the region. Creating them will require supporting the work of subregional integration blocks to promote a common vision based on priorities, objectives, goals, specific milestones, resources, governance, and a clear timetable. In addition, effective coordination and financing mechanisms, dialogue with the various subregional organizations, adequate technical staffing and monitoring, and evaluation mechanisms will be needed to ensure implementation.[31]

GLOBAL TAX DEAL AND ITS IMPACT ON LATIN AMERICAN COUNTRIES

From the Pillar 1 perspective, the revenue threshold applicable for invoking Pillar 1 may also not help the LATAM region as the GDP of many countries in LATAM is much lesser — and most of the companies would not meet the threshold for Pillar 1 applicability.[32] Only in some LATAM countries where certain companies cross the threshold for applicability of Pillar 1 are hopeful that they may gain something from Amount B.

Further, considering that the most prevalent mechanism of levying digital taxes in the regions is VAT, and VAT may subsist even after Pillar 1 and Pillar 2 solutions come into force, most of the LATAM countries might not need to revoke VAT regulations imposed to cover digital transactions.

On the other hand, tax incentives seem to be a prominent feature of the tax systems of various countries in the region. It is yet to be seen how the implementation of Pillar 2 will be able to couple up with the existing tax incentives of LATAM.

WAY FORWARD

Similar to other regions in the world, Latin American countries are also recovering from the Covid-19 pandemic. Compared to the lockdown-heavy year of 2020, FDI in Latin America and the Caribbean rose in 2021 by 56% to $134 billion, sustained by strong inflows in traditional target industries such as automotive manufacturing, financial and insurance services, and electricity provision, and pushed up by record high investments in information and communication services across the region[33] — so domestic resource mobilization has become an increasingly high priority in developing countries. Further, considering that LATAM countries are at unequal levels of development, they need to undertake various efforts to create a competitive regional digital market and promote sustainability. Thus, effective policy measures that aim at bringing more harmonization need to be brought in to maintain a balance between an investment-friendly digital sphere and leveraging revenue for meeting sustainable development goals is essential. Hence, adopting any policy measures at the regional level or forming a regional body looking into the tax area could help bring more harmonization and better representation of the region in global negotiation.

[31] CAF Dev. Bank of Latin Am., Essential Regional Consensus to Boost the Digital Economy in Latin America (CAF 2019).

[32] *See* José Antonio Ocampo and Tommaso Faccio, The Global Tax Deal's Missed Opportunity for Latin America, Americas Qtrly. (2021).

[33] UNCTAD, World Investment Report 2022: International Tax Reforms and Sustainable Investment.,

ISSN 0090-4600

APPENDIX 1

A Country-by-Country Guide to Digital Tax Laws[34]

Country	Measures	Description
Argentina	DST/Gross revenue tax	Online Gambling: Tax is levied on bets made through a digital platform in or from Argentina — the rates can vary among 5%/10%/15% depending on the specific situation. Digital Services Tax:[35] Tax on digital services by non-resident entities was first imposed in June 2018. Later in December 2019, an ‘‘Impuesto País’’ was introduced, where taxes were levied on the gross amount invoiced on digital service purchases at a rate of 8%. Financial entities that facilitate or intermediate the payment of the service are usually responsible for collecting the tax. However, where the payment is not routed by a financial intermediary, the consumer of the service is required to register and pay the tax. Also, from April 14, 2021, recipients of digital services are required to pay taxes with a right of reimbursement by a nonresident provider.
Costa Rica	General income tax on digital tourist rental services income	Tax is imposed on the income from the provision of tourist rental services via digital platforms, effective from November 19, 2019. Intermediaries are required to withhold and pay the corresponding taxes and provide the information required by the state institutions.
Mexico	Withholding tax	Intermediaries of digital services that process payments are required to withhold income tax for goods and services sold by Mexican individuals on digital platforms, effective from June 1, 2020. The rate of WHT varies based on the activities performed (e.g., accommodation services, 4%; sales of goods and services, 1%). Additionally, guidance was released on July 14, 2020, for remitting withholding tax by foreign services providers for digital services provided in Mexico.
Paraguay	Non-resident Tax	A law for taxing of net income (i.e., exclusive of VAT) from foreign suppliers' provision of certain digital services was passed. It will be effective from 2022 for services involving credit or debit cards for payments. Further, Law 6380/2019 was reformed to provide for taxing digital services at the rate of 15%, effective from May 31, 2021.
Uruguay	General income tax on digital services income	The income of non-residents from services related to businesses involved in the digital economy in Uruguay is taxable effective from January 1, 2018.

VAT

Argentina	VAT on the sale of digital services	Effective from July 27, 2018, credit and debit card providers are required to add and withhold the VAT amount when payments are made for digital services. An updated list of digital service providers subject to VAT withholding has been published by Argentina's tax authority (AFIP), effective from September 2020 and includes over 400 entities. The applicable standard rate is 21%.

[34] Craig Dempsey, Explaining Developments in Digital Tax in Latin America, BIZLATINHUB (July 2020); KPMG, Taxation of the Digital Economy, (last updated June 27, 2022).

[35] The implementation of the Argentinian digital tax is unique in that it taxes the Argentinian consumer directly through the country's payments eco-system. Card Issuers in the country are required to collect tax on their Cardholders customers who have made purchases from non-resident entities and remit funds to the Argentinian tax authorities every week.

ISSN 0090-4600

Chile	VAT	VAT is levied on digital services provided by non-resident vendors to the consumers in Chile, effective from June 1, 2020. Subsequently, on June 11, 2020, the tax authorities, vide Circular 42, laid down a detailed explanation and rules for the following with regard to VAT on certain digital services.
Colombia	VAT	The new law was published in 2018 (though the application started in January 2019), establishing requirements for digital service providers to pay 19% VAT over digital services provided.
Ecuador	VAT	Ecuador levies VAT at 12% on digital services provided by non-residents to consumers in Ecuador, effective September 16, 2020. Ecuadorian credit or debit card providers add and withhold the VAT amount when the user pays for the digital services. Alternatively, non-resident digital services providers can opt to register for, collect, and remit VAT.
Mexico	VAT	Effective June 1, 2020, the VAT law obliges non-resident suppliers to retain a VAT of 16%. The non-resident suppliers are required to register and remit VAT monthly.
Paraguay	VAT	The new VAT rules were implemented for certain digital services from January 1, 2020. However, the actual enactment is postponed until January 1, 2021. General resolutions were issued providing implementation details of the new VAT rules.
Uruguay	VAT	VAT of 22% is applicable on digital services provided by foreign companies (Law No. 19.535 of 2018)

ISSN 0090-4600

APPENDIX 2

Below, we discuss some of the regional organizations/bodies in LATAM:

Organization	Description
Inter-American Center of Tax Administrations (CIAT)	Formed in 1967 as a non-profit public organization, the CIAT currently comprises of 42 member countries from America, Europe, Asia, and Africa. Its motive is to support the efforts of national governments and provide specialized technical assistance for modernization by means of promoting the evolution, social acceptance and institutional strengthening of tax administrations and encouraging international cooperation and the exchange of experiences and best practices.[36] Despite the presence of countries from various other continents and regions, it can be observed that the functions of CIAT have often been more focussed on the LATAM region. Over the years, the CIAT has published various papers on different tax issues; one of the recent ones includes Indirect taxation on the digital economy and its collection potential in Latin America. Matching the field in times of crisis/2021,[37] which deals with digitization of the economy in Latin America, the challenges for digital economy for VAT, and the potential for collecting a VAT on the digital economy.
The Pacific Alliance[38]	Initiated in 2011 by four countries — Mexico, Chile, Peru, and Colombia — with an initiative of regional integration, though it was formalized by a framework agreement in 2012. The broad objective of this alliance is to have outward-oriented trade liberalizing policies and achieve free movement of goods, services, capital, and people among member countries. To fulfill this, the commercial agreement of the body provides for trade between the countries through reduction of tariffs and other trade barriers as well as provision of dispute resolution mechanisms and streamlining of imports and exports. The body also launched a roadmap for outlining its digital agenda, focusing on the digital economy, connectivity, and ecosystems, as well as governments. It strives for the creation of a regional digital market. The members have also committed to developing an internationalization strategy for IT industries and digital entrepreneurs. On February 10, 2014, the body also signed an Additional Protocol to the Framework Agreement to deepen bilateral trade agreements between themselves. It has achieved the elimination of 92% of trade tariffs between the countries and have agreed to phase out the remaining 8% in the coming years. The Alliance also aims to generate greater opportunities for economic operators like SMEs, for participation in expanded markets, promotion of regional value chains, for wider competitive projection of the countries towards other international markets, focusing in the Asia Pacific.[39] Over the years, it has undertaken various agendas from the digital economy's perspective, including implementing the regional digital market and further developing and internationalization of the IT industry and digital ventures, etc.

[36] CAF Dev. Bank of Latin Am., Building a Digital Single Market Strategy for Latin America, Cullen Int'l (2016).

[37] Juan Pablo Jiménez et al., Indirect Taxation on the Digital Economy and Its Collection Potential in Latin America. Leveling the Court in Times of Crisis, IATTC (2021).

[38] Alberto van Klaveren, Regionalism in Latin America. Navigating in the Fog, Working Paper No. 25/2017 (Dec. 2017) (above, n. 19).

[39] Cullen Int'l (2016) (above n. 36).

ISSN 0090-4600

Organization	Description
Mercosur/Southern Common Market[40]	Mercosur is a South American trade bloc which was established by Argentina, Brazil, Paraguay, and Uruguay through the Treaty of Asunción in 1991 and the Protocol of Ouro Preto in 1994, with an aim to create a custom union and establish a Common Market of the South and for allowing free movement of goods, capital, services, and people in these states.[41] With functions similar to the EU, it strives to achieve free movement of citizens and workers within the area. It confines itself to a customs union currently, which provides free intra-zone trade and a standard trade policy between member countries. Currently, none of Mercosur's projects is aimed at addressing direct form digital economy issues; there have been certain institutional initiatives which could be relevant for initiating these discussions for future common strategies.[42] Further, in a recent initiative, Mercosur Digital, cooperation was formed between Mercosur and the EU to reduce technological and legal asymmetries between the two regions.
The Union of South American Nations (Unasur)	It comprises of 12 independent South American states. The Union mainly comprises of physical regional integration, including areas covering energy, education, health, environment, infrastructure, security, and democracy.[43]
The Organisation of American States (OAS)	It is an international organization aimed at strengthening the collaboration between 35 independent states of the Americas and constitutes the main political, juridical, and social governmental forum.[44]

[40] Alberto van Klaveren, Regionalism in Latin America. Navigating in the Fog, Working Paper No. 25/2017 (Dec. 2017) (above, n. 19).
[41] https://www.mercosur.int/en/.
[42] Cullen Int'l (2016) (above n. 36).
[43] Latin American and Caribbean Regional Organizations, Australian Government Department of Foreign Affairs and Trade.
[44] https://www.oas.org/en/about/who_we_are.asp

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