



14th ATAIC Technical Conference

TAXATION OF DIGITAL ECONOMY

Adzhar Sulaiman

Director Large Taxpayer Branch
Inland Revenue Board of Malaysia

abs@hasil.gov.my

+6 6201 4409

TAXATION OF DIGITAL ECONOMY



Inland Revenue Board of Malaysia

TAXATION OF DE

Issues

Objective Of Study

Options and Country Comparison

Where is the Gap?

Digital Business Models: Uber & Google

Recommendation For Malaysia

Conclusion



ISSUES

Difficulty in
Taxing DE

No PE

Challenges
in Applying
Existing Tax
Laws

To
Determine
the Right
Mechanism



OBJECTIVE

To identify mechanism to tax e-commerce in Malaysia:
Uber & Google

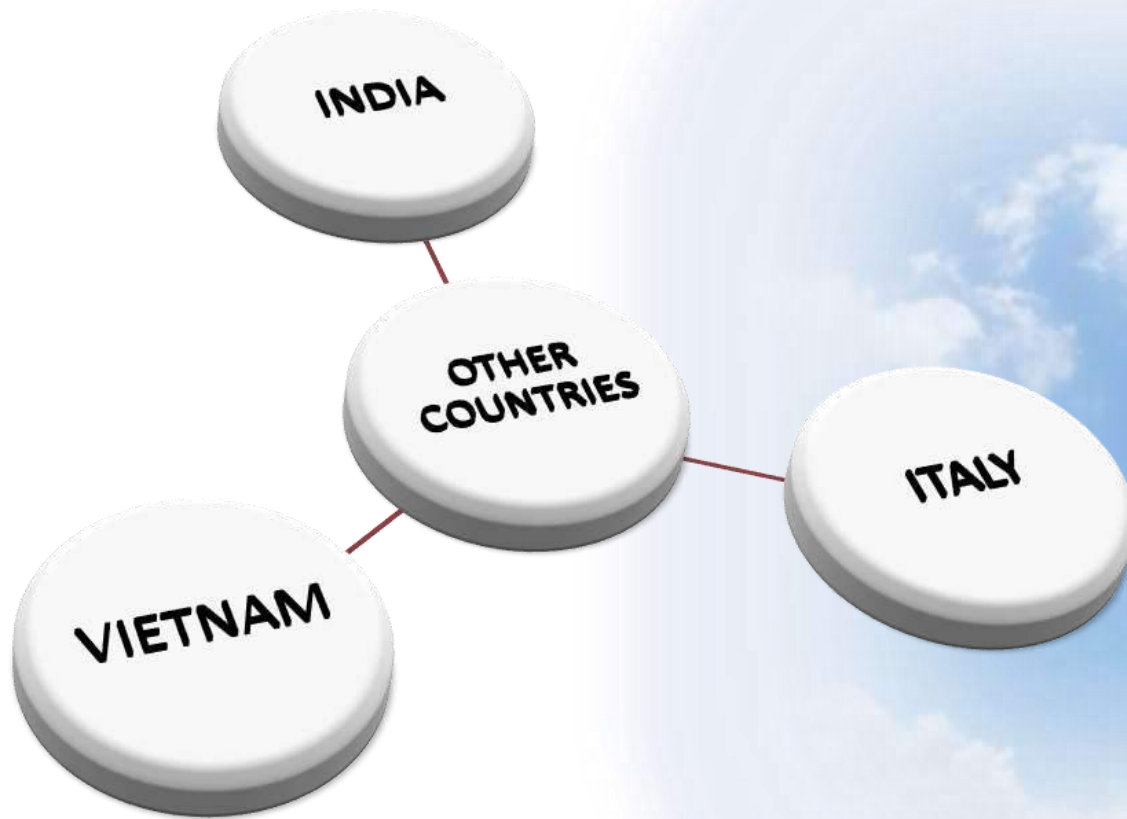
OPTIONS

Withholding Tax

**EQL On Online
Advertisement**

DPT

COUNTRY COMPARISON

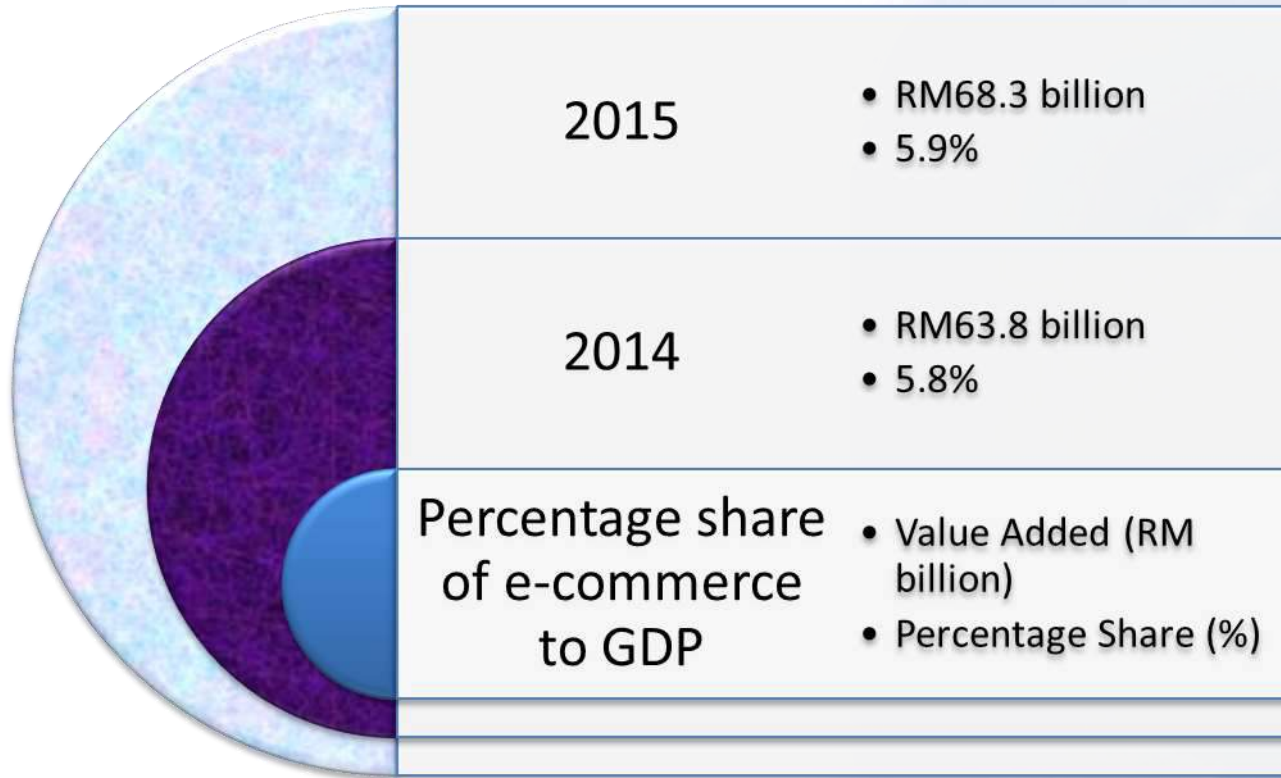


GLOBAL E-COMMERCE

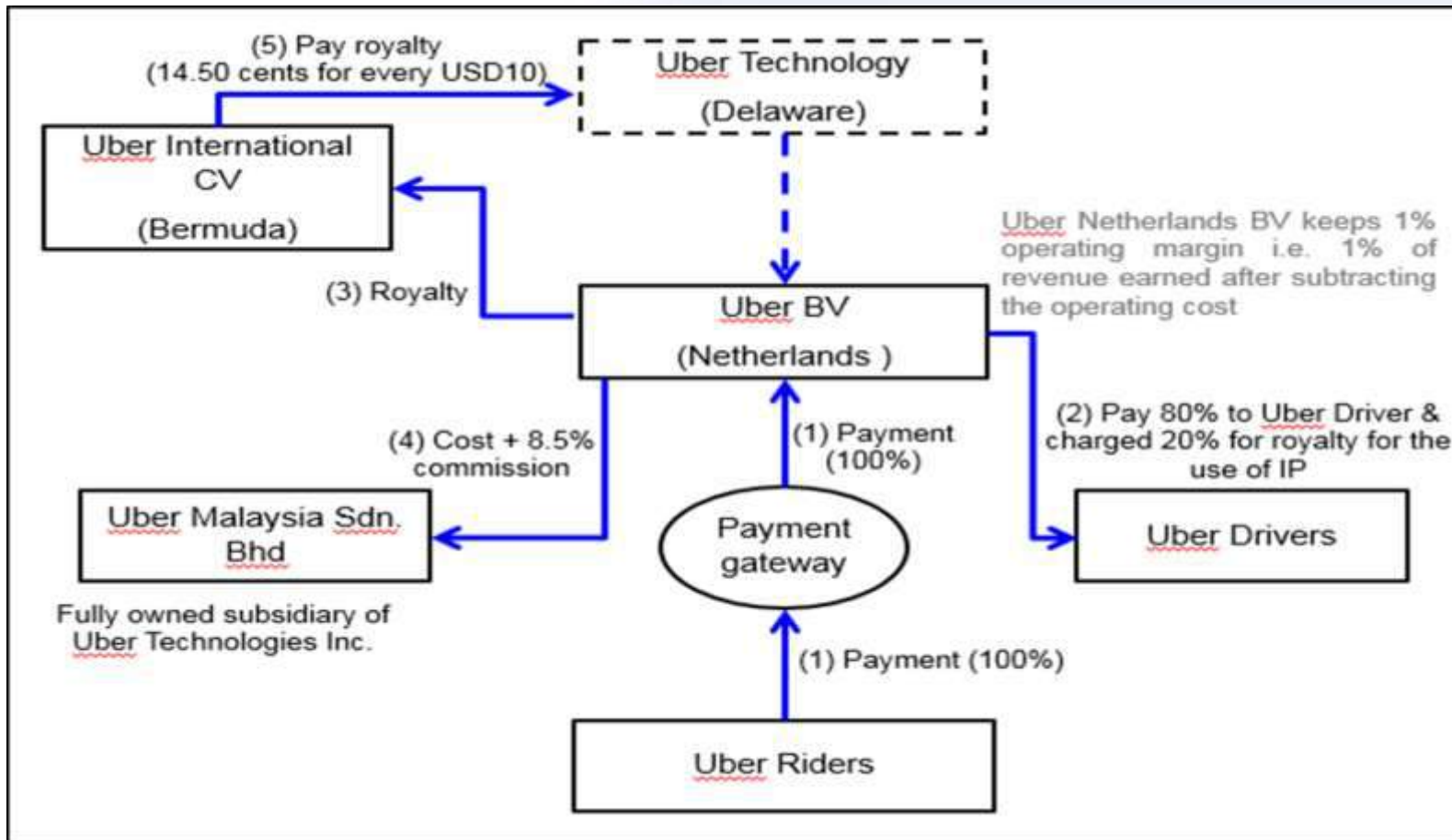
Global e-commerce Sales (US\$ Billion)



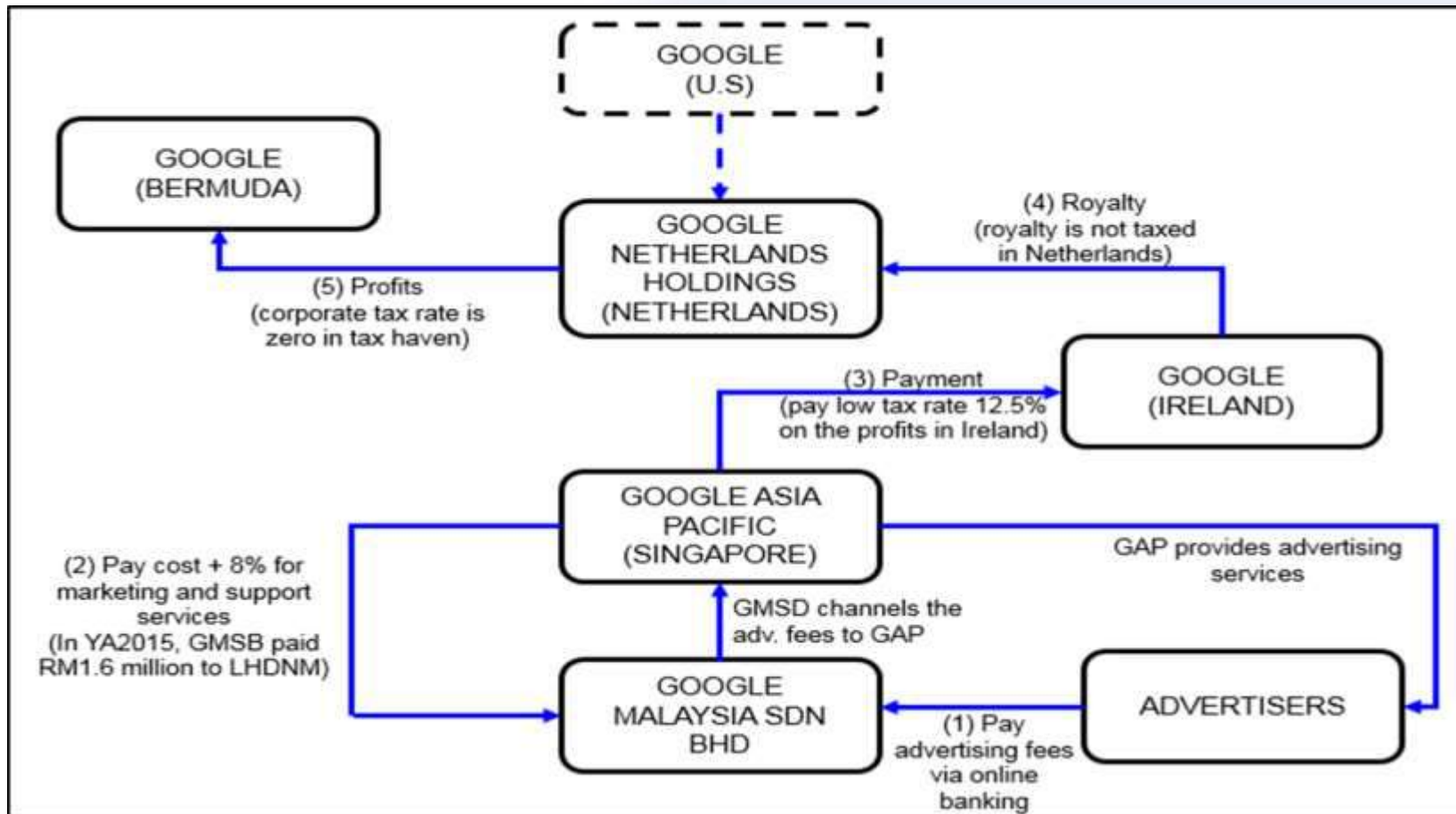
E-COMMERCE IN MALAYSIA



UBER MODEL



GOOGLE MODEL



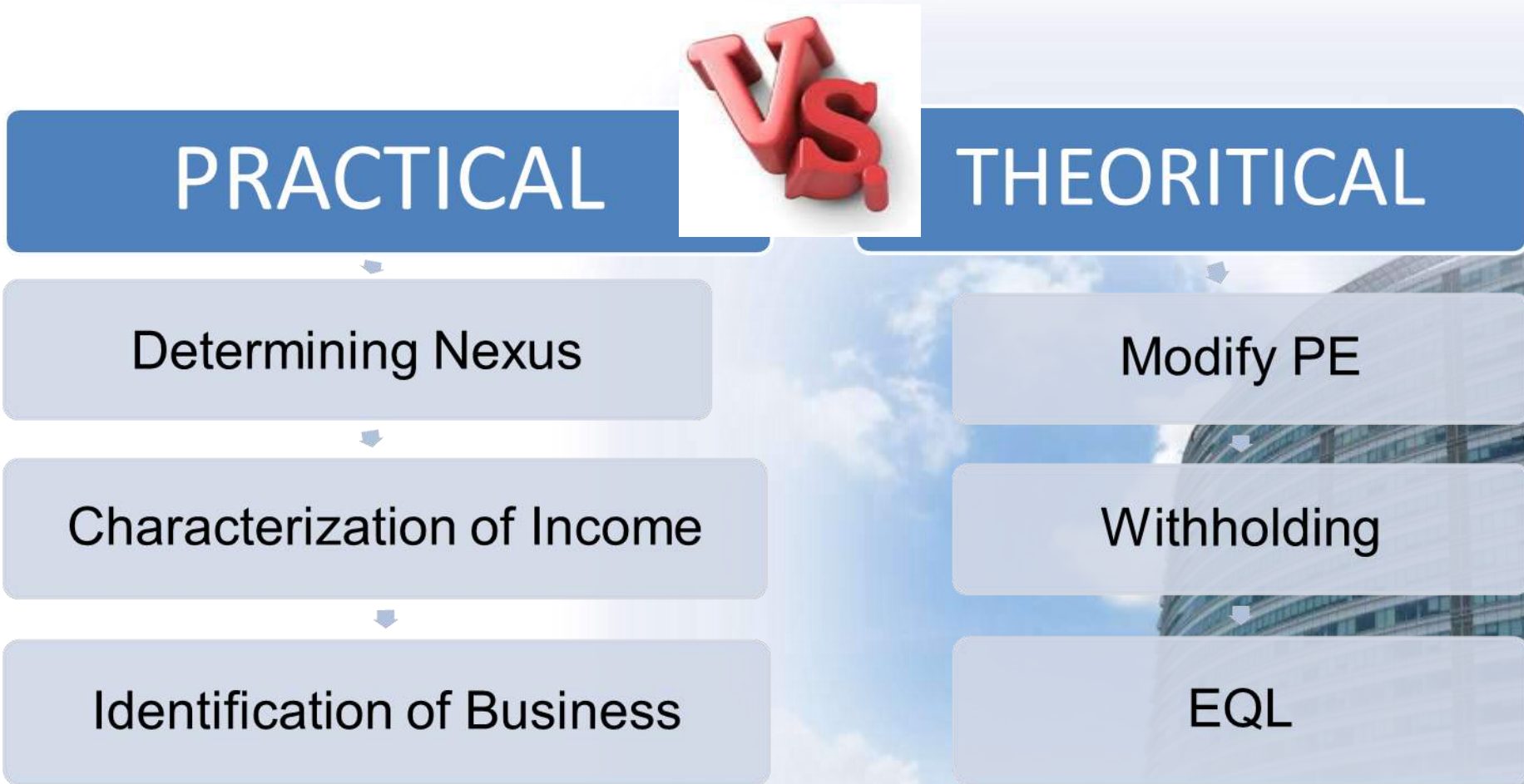
ISSUES IN TAXATION OF RIDE HAILING (UBER)

- What is the nature of the payment?
- Can it be treated as special classes of income under section 4(A) (i) and (ii) ITA 1967?
- Is it special fees paid for the use of IP?
- Where is the service performed?
- Do the Uber driver and the rider sign agreements directly with Uber BV?
- What is the best mechanisms to tax such payment?
- Who will be responsible to withhold the tax?
- Can it be treated as direct tax?
- Will the withholding treated as final tax?
- Will there be any issue with regards to the DTA with Vietnam?
- What is the role of Uber Malaysia Sdn Bhd?

ISSUES IN TAXATION OF GOOGLE ONLINE ADVERTISEMENT

- What is the nature of the payment?
- Is it fees paid for the rendering of advertisement services?
- Can it be treated as special classes of income under section 4(A) (i) and (ii) ITA 1967?
- Where is the service performed?
- What mechanism to tax such payment?
- Who will be responsible to withhold?
- Can it be treated as direct tax?
- Be treated as final tax?
- Issue with regards to the DTA with Singapore?

WHAT IS THE GAP?



WAY FORWARD VIETNAM EXPERIENCE

UBER

WITHHOLDING - Income Tax & GST

RATE – Income Tax @ 3% & GST (?)



Direct Agreement

Create PE - Appoint Agent Uber (M)

Sdn Bhd/Third Party



PROPOSAL UBER AND GOOGLE

No.	Issues	Uber	Google Online Advertisement
1	Payment made online for service in Malaysia	Paid online directly to Uber BV	Paid online through Google (M) Sdn Bhd to GAP Singapore
2	Purpose of payment to non-resident	For Right to Use Driver Apps	For Web base Advertisement (online) provided by GAP Singapore
3	Can WHT apply?	If there is PE- Uber (M) Sdn Bhd <ul style="list-style-type: none"> • Royalty –section 4 • Service –section 15A 	No, PE - Google -marketing & support (not providing service) If PE, declare as income from business (e-commerce)
4	Method to withhold	<ul style="list-style-type: none"> ▪ Need to establish PE ▪ Payment gateway (BNM) 	<ul style="list-style-type: none"> ▪ Need to establish PE ▪ Payment Gateway (BNM)
4	Direct Agreement like Vietnam	Sign Agreement between Uber BV and the Government	
5	DTA	Article 13 –royalty	Article on royalty Service performed in Singapore

WAY FORWARD PAYMENT GATEWAY

- Tax collection – Financial Intermediaries
- Integrated Centralised System
- Cost to Develop & Maintain System

CONCLUSION

**DE Happens Without
PE**

**New Digital Reality
Needs Reconciliation
with Fundamental
PE Old Component**

THANK YOU



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سازمان امور مالیاتی کشور
Iranian National Tax Administration



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Association of Tax Authorities of Islamic Countries
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