Promoting Innovation Worldwide

ITI Response to OECD Public Consultation Document: Reports on the Pillar One and Pillar Two Blueprints

December 13, 2020

OECD Centre for Tax Policy and Administration:

The Information Technology Industry Council (ITI) welcomes the opportunity to respond to the Organisation for Economic Co-operation and Development/G20 Inclusive Framework on Base Erosion and Profit Shifting's (OECD/IF) Public Consultation Document on the Reports on the Pillar One and Pillar Two Blueprints. ITI represents over 70 of the world's leading information and communications technology (ICT) companies. Our membership comprises companies from all corners of the technology sector, including hardware, software, digital services, semiconductor, network equipment, and internet, as well as technology-enabled companies that rely on ICT to drive their businesses.

We wish to begin by congratulating the OECD and the members of the Inclusive Framework on the significant amount of technical work presented in the Reports on the Pillar One and Pillar Two Blueprints (Blueprints). It is no small feat, especially in the context of the economic, health, and social challenges perpetuated by the COVID-19 pandemic.

Our global membership – which features industry leaders headquartered in the United States, Germany, India, Japan, Korea, and more – views the negotiations taking place under the auspices of the Inclusive Framework as the best forum for addressing the tax challenges arising from the digitalization of the global economy. The proliferation of unilateral measures has already contributed to the fragmentation of the global tax system, and an inability to reach consensus will result in further fragmentation of our global tax system. It is in the spirit of supporting the project – and avoiding such an outcome – that we have endeavoured to provide thoughtful contributions to the technical questions under consideration. ITI has participated on behalf of its member companies in the OECD/IF's prior public consultations for Pillar One and Pillar Two, and we intend to continue our engagement with the OECD and the nearly 140 members of the Inclusive Framework in hopes of realizing political agreement in the first half of 2021.

Before sharing our perspectives on the Blueprints, we want to reiterate that the different components in the Blueprints should be considered as a whole and provisions within each Blueprint should not be implemented individually. To allow for an outcome that would be implemented in a piecemeal manner would mean that the reforms that emerge from this exercise to update the global tax system would not provide certainty, and they would still leave open significant possibilities of double taxation.

Principles

In May 2020, ITI released [principles] intended to guide negotiators' efforts to address the tax challenges of the digitalization of the global economy. The following high-level points touch on many of the principles from that document, with relevant updates where appropriate to reflect technical progress realized by the OECD/IF.

The outcome must be a stable, multilateral, and consensus-based solution. We strongly support the OECD's project as the best venue to reach a multilateral agreement to address the tax challenges presented by the digitalization of the economy, and to prevent further fragmentation of our global tax system and the negative impacts such an outcome would produce.

A successful agreement must respect the fact that the entire economy is becoming digitalized, and avoid arbitrary distinctions based on the digitalization of business models that are not grounded in data or tax policy principles. The COVID-19 pandemic has brought into focus more than ever how all companies throughout our global economy leverage digital solutions and technologies to enable their productivity. We firmly believe that an agreement should not attempt to ring-fence the digital economy or distinguish for tax treatment purposes between levels of digitalization of business models.

The agreement must result in a coherent system that avoids a menu of options for governments to choose from. Ensuring a cohesive global tax system that provides certainty for taxpayers is a key benefit to a consensus solution at the OECD. An outcome providing countries with the ability to pick and choose which elements to incorporate would fundamentally undermine that objective while adding additional complexity across jurisdictions. Importantly, when a consensus agreement is finalized, the OECD should also emphasize that these rules or concepts are not to be implemented as standalone measures; they only work as part of the holistic package.

Countries must agree to remove unilateral digital services taxes and other discriminatory or destination-based measures (including diverted profits tax or the United Kingdom's offshore receipts tax), and refrain from enacting new such measures, once an agreement is reached. One important objective of the OECD/IF's work on these issues has been to resolve the growing fragmentation in our global tax system caused by the implementation of problematic unilateral tax measures, including but not limited to digital services taxes. Unfortunately, several jurisdictions have continued to undertake actions that ultimately apply greater pressure to the global tax system and serve to undermine the OECD/IF's work to reach a multilateral solution. Accordingly, it is critical that any agreement include a commitment to repeal unilateral measures and to refrain from enacting new measures at the time of reaching agreement. Consideration should be given to a list by country of those specific tax measures that are "relevant unilateral measures" and should be repealed.

***The agreement should be based on long-standing and well-founded underlying principles of international taxation including taxation of net income, and should not codify tax measures that are discriminatory – either de facto or de jure*.** We support making efforts to enhance, rather than depart from, these principles – including nexus, permanent establishment, and the arm's length principle (ALP).

Strong, predictable, and timely dispute prevention and resolution mechanisms must be included under both Pillars. Mandatory and binding dispute prevention and resolution processes with commitments to deploy appropriate resources to address the issues that are bound to result from implementing a complex new system must be incorporated into an agreement.

Pillar One

The Report on the Blueprint for Pillar One (Blueprint) represents significant technical work realized by the OECD/IF, and we recognize that many of the outstanding questions rely on political negotiations. As this work continues, we want to stress that simplification – while an important objective – should not automatically override the proper application of existing tax principles that are still relevant to the Pillar One computations. To that end, we recommend making clear where possible the principles on which decisions are made.

We also note the need to retain flexibility on the implementation timeline for certain countries. The time necessary to adopt and implement the Blueprint will differ by government and could give rise to disputes or multilayer taxation. We encourage the OECD/IF to outline a collaborative approach to this question.

Amount A

Our members are providing commentary on the following aspects of Amount A: scoping; profit allocation; *de minimis* amount of foreign in-scope revenue; nexus; revenue sourcing rules; and elimination of double counting.

Scoping

We reiterate the importance of establishing rules for scoping Amount A that are principled and based on sound, rational, and consistently applied tax policy objectives. The global economy as well as business models will continue to evolve. In this spirit, it is worth considering an objective approach to determine scope in a way that does not target a particular industry or country, minimizes complexity for taxpayers and tax administrations, and increases the likelihood of a multilateral, consensus-based agreement that will stand the test of time. This is especially important because aspects of this project represent an unprecedented departure from long-standing concepts such as permanent establishment and the ALP, which have formed the foundation of the global tax system since the League of

Nations. Additionally, any solution reached on Pillar One's scope must be comprehensive enough to ensure a level playing field among competitors.

If the Inclusive Framework decides to continue with the approach as outlined in the Blueprint, we recommend giving appropriate consideration to a business-to-business (B2B) exemption for automated digital services (ADS) businesses providing non-consumer services and products as business inputs, similar to that for intermediate products or components (for example, for those ADS businesses providing B2B cloud computing services and digital content services (such as business software licensing)). We also appreciate consideration the OECD has already given to certain factors in scoping, such as the exemption for financial services. It would be critical that any activities test be reasonable to administer. Definitions like "bespoke customer interactions," "highly customized," "automated," and "automatically" require further refinement as they currently rely on subjective judgments and present ambiguities that would inevitably lead to disputes between the tax authorities of the relevant countries involved in an Amount A determination (including disagreements among those authorities).

We agree the general rule should be that multinational enterprises (MNEs) can use their consolidated financial statements as they are readily accessible and easier for tax authorities to audit. Segmentation based on existing audited financial statements should be required only in limited cases as it will give rise to additional complexity. If offered, the option to calculate Amount A on a geographical basis should be at the sole discretion of the MNE and cannot be a requirement imposed by individual jurisdictions on MNEs.

The Blueprint indicates that financial statements would not be considered as sufficient if companies meet specific hallmarks and, in those cases, additional segmentation would be required. We do not support any additional segmentation other than what is already required to a taxpayer's audited financial statements. If additional segmentation is deemed to be required, it should be administered through a formula – as opposed to a subjective approach – in order to limit prolonged disputes in multiple jurisdictions. We support using approaches pursuant to International Financial Reporting Standards (IFRS) and Financial Accounting Standards Board (FASB) statement no. 131 for segment reporting. Under this approach, a U.S. MNE will follow FASB statement no. 131 and a foreign MNE will follow IFRS solely for the purpose of Amount A reporting.

Finally, as scope exclusions would apply on a segment basis, an MNE should be permitted to identify net profits attributable to lines of business with in-scope activities based on its ordinary books and records. For some MNEs, a business unit that conducts in-scope activities may not be reflected as a separate segment on its audited financial statements due to the relative (small) size of the business unit. Apportioning consolidated results to determine Amount A for an unreported ADS segment would be distortive and lead to profits attributable to out-of-scope activities being included in Amount A. In order to achieve the policy objectives of the Pillar 1 Blueprint, it is vitally important that taxpayers have the option to use line of business segmented financial results for both reported and unreported segments.

Profit allocation

The amount that is to be reallocated under Amount A must be modest. We recognize the amount is subject to political agreement but find it appropriate to share our impressions of the hypothetical numbers included in the recently published documents. For instance, the Blueprint and Economic Impact Assessment repeatedly use examples of allocating 20% of the amount by which an MNE's consolidated profit before tax (PBT) exceeds 10%, which we would not consider to be modest. We look forward to continued engagement on this issue.

We believe that Amount A must not allocate a portion of non-residents' routine returns or trade intangible returns (e.g., from R&D, production) to market jurisdictions, which would effectively limit the reallocation pool.

The Amount A formula should apply to all in-scope business activities in the same way, with no differentiation. Pursuing differentiation would create potential for distortions among competitors as well as introduce unnecessary complexity and ambiguity into the framework. The possible consideration of digital differentiation would also further attempt to ring-fence the digital economy. Taking such an approach would contradict the OECD's long-standing recognition that "because the digital economy is increasingly becoming the economy itself, it would be difficult, if not impossible to separate the digital economy from the rest of the economy for tax purposes."[1]

We support inclusion of the marketing and distribution safe harbor, which addresses where companies already have a physical presence and apply the ALP in a jurisdiction where their customers are located to help minimize the reallocation of additional residual returns to markets over and above the amount that would otherwise be allocated.

The Amount A tax base rules should apply consistently at the level of the MNE group (or segment where relevant), irrespective of whether the outcome is a profit or loss. This therefore means that we support an earn-out approach to Amount A losses. Amount A losses from all years prior to the implementation of Pillar One should be carried forward into Pillar One. This is economically rational and acknowledges the reality that many businesses in various industries can take years to earn a cumulative profit. Additionally, permitting losses from pre-regime years would eliminate any disincentive for businesses to invest during times of economic crisis, and would avoid an anti-competitive effect on earlier-stage companies. Amount A losses should have unlimited carryforward periods.

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[1] OECD/G20 Base Erosion and Profit Shifting Project, "Addressing The Tax Challenges of the Digital Economy: Action 1: 2014 Deliverable," 12.

Additionally, the "profit shortfall" concept outlined beginning in paragraph 488 of the Blueprint should be implemented. The design of Amount A sets a level above which profits are reallocated – a new breakeven point for the incidence of tax. Amounts below that new breakeven point, both pre-regime and post-regime, are not distinguishable from losses from the perspective of the design of Amount A.

***De minimis* amount of foreign in-scope revenue**

We caution against thresholds (or the phasing in of thresholds) that result in a concentration of in-scope businesses in a particular industry or country. The Blueprint should further clarify that the *de minimis* foreign in-scope revenue test applies separately to the ADS and consumer-facing business (CFB) activities potentially giving rise to Amount A. Discussed in paragraph 184 of the Blueprint, the two-step test seems to indicate that the MNE would only have to proceed to step two if it was not excluded under step one. This impression would also benefit from clarification.

It is our view that the market revenue threshold described in paragraph 196 should contain a temporal requirement of more than one year, possibly a three-year average or have a revenue exclusion for non-recurring items. The in-scope revenue threshold for MNEs' activities to fall into the scope of Amount A should be sufficiently high as to represent a meaningful *de minimis* exception.

Nexus

The Blueprint stipulates that the new nexus rules are for purposes of Amount A and do not apply to other taxes. We recommend adding Value Added Tax (VAT) to the list of other taxes to be exceptionally clear that these new nexus rules do not apply for VAT obligations.

The inclusion of "physical presence" as a plus factor suggests that the Secretariat has abandoned "remote selling" as the fundamental purpose behind the work on digitalization. Remote sales revenue booked outside a market jurisdiction above an appropriate threshold should be sufficient to be included in Amount A (for both ADS and CFB), which would be a significant simplification for both tax administration and tax compliance. "Physical presence" remains relevant for the marketing and distribution safe harbor, which should apply for all MNEs in-scope for Amount A. If physical presence is determined to be a sensible plus factor, then a new standalone PE definition will be needed to cut across tax treaty definitions.

Revenue sourcing rules

The hierarchy of sourcing rules as described in the Blueprint will undoubtedly lead to confusion. Using the place of end consumption is difficult for B2B transactions. The primary rule for indicators should be consistency with the information MNEs already collect. Rather than a proposed hierarchy, in which an MNE will apply the indicator that appears first in the hierarchy of indicators unless this information is unavailable or unreliable as noted within each rule, we suggest an equal weight across all suggested indicators so that MNEs can make use of the information they have already collected for commercial purposes. This approach will lessen the burden on companies to prove why an indicator is unreliable, and it acknowledges that companies have different methods to track the source of revenue to a market jurisdiction. Finally, creating new data requirements in order to comply would significantly increase complexity and potentially risk conflicting with privacy rules, such as the European Union's General Data Protection Regulation (GDPR).

Another opportunity for simplification in the revenue sourcing rules would be to apply the general rule of cost to collect and administer compared to the impact of tax revenue.

Elimination of double counting
A mechanism to eliminate double counting and double taxation by imposing a cap on the Amount A reallocation is a critical component of any agreement, but further refinement is needed. For example, there should be a cap on the percentage of system profits that would be reallocated. We appreciate the OECD's acknowledgement of a need for a safe harbor under Amount A in instances where a group already allocates and earns residual profit in the market jurisdiction. We strongly support the marketing and distribution safe harbor as a mechanism to avoid double counting.

We also agree with the Blueprint that double counting could arise if the market jurisdictions are allocated Amount A on top of certain existing withholding tax liabilities. As withholding taxes on royalties and other intellectual property (IP) are already intended to capture residual profits, they should be offset against amounts otherwise due on Amount A in the event they are not withdrawn as part of the consensus agreement.

The Blueprint permits jurisdictions to use either an exemption or a credit method to eliminate double taxation. Permitting this choice is too complex and creates significant risk of double taxation. Instead, we strongly recommend the OECD/IF only proceed with the exemption method to eliminate double counting. Additionally, the alternative reallocation method described in paragraph 623 involving a MNE's local entity (if any) is complex and fraught with spillover impacts and thus should be eliminated.

Amount B
We find it is promising that the Blueprint notes that Amount B is intended to approximate results determined in accordance with ALP, which will help to bring taxpayer certainty and avoid double counting. To minimize disputes with market jurisdictions, we recommend that the Amount B fixed percentage returns should be provided for both limited risk distributors and for a value-added marketing and distribution business consistent with ALP. Amount B's consistency with the ALP will be critical for low-margin businesses and profitable businesses alike. Additionally, care should be taken so that market jurisdictions do not pivot to asserting additional revenue is due to the jurisdiction due to additional functions (beyond the scope of Amount B) performed by the local market affiliates.

The Blueprint would benefit from clarification that the point at which the marketing distribution profits safe harbor applies for Amount A may not necessarily be the same amount as Amount B. This underscores the point that Inclusive Framework members must commit to a binding agreement on a clear set of rules including the scopes of Amount A and Amount B.

Finally, Amount B should be expanded to include all distribution, fulfillment, warehousing, marketing, sales-support and other similar service providers that operate on a cost-plus basis. This coverage would ensure that companies subject to Amount A have certainty with how the framework will ensure against double counting, which also reduces the potential for disputes.

Early tax certainty and dispute resolution

ITI appreciates the amount of work the OECD/IF has clearly put forth in developing mechanisms to provide certainty; after all, one of the key goals of the Unified Approach is to achieve certainty for businesses engaging in markets around the world so that they can continue to grow, innovate, and contribute to society. To strengthen the effectiveness of these mechanisms, the Inclusive Framework should address how it intends to ensure adequate financing for the panel proceedings. It should also limit participation in panels to countries with a direct and material interest, establish strict timelines for reaching panel decisions and introduce protocols to ensure taxpayer confidentiality and for what will happen in scenarios where multiple parties are contesting the same funds.

Care must be taken to rely on the lead tax authority and minimize friction in the review and determination process. Along those same lines, the Blueprint would benefit from more detail on expectations for establishing a robust "one-stop-shop" approach to increase the simplicity and efficiency of the new regime.

Implementation

The Pillar One Blueprint calls for the withdrawal of existing "relevant unilateral measures" as part of any agreement on Pillar One. Countries should commit to withdrawing such measures at the time of reaching political agreement on Pillar One, and it should be given greater importance within the Blueprint. Currently, the references to the withdrawal of "relevant unilateral measures" reside in paragraphs 807, 847, and 852. Perhaps a more appropriate location would be to add a sentence at the end of paragraph 6 to better underscore that governments should make the commitment to withdraw "relevant unilateral measures" at the time of political agreement and to refrain from the introduction of new measures after the time of political agreement. All identified measures must be completely withdrawn at the time of the political agreement's implementation.

Additionally, "relevant unilateral measures" should be defined more specifically to include digital services taxes, equalisation levies, diverted profits taxes, multinational anti-avoidance laws, offshore receipts taxes, and any similar extraterritorial tax; withholding taxes that would be seen as double counting; and other similar measures.[2] Consideration should be given to a list by country of those specific tax measures that are "relevant unilateral measures" and should be repealed at the time of political agreement. Governments must agree not to impose new measures. This commitment should expressly apply equally to national, subnational, and multinational jurisdictions. We also recommend the OECD/IF give consideration to how governments can dispute future measures for evaluation as "relevant unilateral measures" following the implementation of Pillar One.

Any final agreement should champion certainty for taxpayers and tax administrations on the front end. It is therefore critical that a final agreement disincentivize governments from seeking additional taxing rights through aggressive audits related to Pillar One. While global tax challenges require global tax solutions, governments have several motivations for engaging with the Inclusive Framework, including providing certainty and predictability for taxpayers and tax administrations. The assertion of further tax claims based on information submitted as part of complying with Pillar One would detract from the spirit in which these negotiations were conducted, and undermine the certainty sought by reaching a final agreement. We therefore encourage the OECD/IF to make clear that a final agreement reiterate that audits related to Pillar One should not be used to as a basis for additional tax claims.

We wish to emphasize the importance of providing protections for taxpayers considering that different regimes are likely to be in effect simultaneously as jurisdictions take steps to implement the framework that emerges from the OECD/IF's work. Our earlier comments focus on the elimination of double counting in the final agreement but addressing this issue will also be critical throughout implementation.

Pillar Two

Overall, the proposed rules outlined in the Report for the Blueprint on Pillar Two[3] are extremely complex and would create significant additional work for taxpayers and tax authorities to enable compliance. The proposed simplification measures are welcome, but we encourage continued engagement with industry and other stakeholders to identify and develop additional ideas.

The U.S. Global Intangible Low-Taxed Income (GILTI) provision should be deemed as a compliant minimum tax for purposes of Pillar Two, as GILTI already imposes a minimum tax on global intangible income. U.S. firms (and their subsidiaries and branches) should not be subjected to a second global minimum tax, including the application of the Income Inclusion Rule (IIR), Undertaxed Payments Rule (UTPR) or future Global Anti-Base Erosion (GloBE) rules. It follows that companies should be required to calculate GILTI or GloBE rules – not both. We expect the OECD will undertake further technical work to ensure that when a U.S.

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[2] ITI would welcome the opportunity for further engagement with the OECD/IF to identify specific measures.
[3] From this point forward, unless otherwise specified the term "Blueprint" will refer to the Report on the Pillar Two Blueprint.

multinational company complies with GILTI, the U.S. multinational company should not be subject to double or multiple taxation. Further, countries should provide additional guidance on how future changes to GILTI's structure or rate would impact its coexistence within the Pillar Two framework. Modifications to the GILTI statute must not void GILTI's status if such changes do not reduce the GILTI rate below the Pillar Two rate. This commitment would ensure that the Pillar Two regime maintains maximum certainty for businesses, and that it would not require significant alterations based on minor changes in domestic law.

We strongly disagree with the Blueprint's approach that would have the Subject to Tax Rule (STTR) take priority over the GloBE rules. A company subject to a qualified IIR in its parent country must not be subject to additional tax, disallowed deductions or other tax burdens in other countries. The order of the rules should apply Pillar One, then the minimum tax proposal before the UTPR or STTR. As we will discuss in greater detail below, the STTR sets a bad precedent by levying a gross basis withholding tax on a wide range of payments, representing a departure from long-established principles for profit-based taxes advanced by the OECD. We recommend that the STTR should instead be presented as an optional provision that bilateral treaty partners can decide whether to adopt to shift taxing rights, or at least re-ordered so that the STTR follows the GloBE rules, which would better reflect the OECD's commitment to long-standing international tax principles.

The Blueprint suggests the use of administrative guidance as a simplification measure in those jurisdictions with a tax base similar to the GloBE and a sufficiently high rate. For example, the introduction of a list of jurisdictions deemed to be compliant would be a welcomed simplification. Consideration should be given to whether administrative guidance could also be extended to cover the STTR.

Income Inclusion Rule

The minimum tax proposal should use a global aggregated (worldwide blending) approach to avoid eliminating the ability of governments to establish substance-based, appropriate policies to incentivize investment and growth. Adopting a worldwide blending approach as opposed to a jurisdictional blending approach would streamline compliance and simplify administration. If the Inclusive Framework chooses to move forward with a jurisdictional blending approach, appropriate consideration should be given to exclude companies that are already paying a high global effective tax rate (ETR).

ITI generally supports the establishment of a formulaic substance-based carve-out, as outlined in Chapter 4.

Undertaxed Payments Rule

As communicated above, ITI believes that the U.S. GILTI should be deemed compliant for all GloBE rules, including the UTPR. This treatment reflects GILTI's role as a minimum tax on global intangible income. Given that the UTPR effectively acts as a backstop to the IIR, MNEs subject to GILTI should not be subject to the UTPR.

The UTPR should only apply to companies that generate global revenue above the Action 13 Country-by-Country Reporting threshold, and should include reasonable carve-outs, such as research and development (R&D) incentives, substance-based carve-outs for payments of interest and royalties, depreciation and amortization of assets, and non-routine transaction such as the disposition of a business line. The OECD should consider potential modifications with respect to the determination of ETR in the ultimate parent entity (UPE) jurisdiction for certain "safe harbor" activities that are associated with the income potentially subject to the UTPR (e.g., tax credits for R&D activities in the UPE jurisdiction). Additional rules should apply to related-party cross-border payments.

The current structure of Pillar Two leaves open the possibility that the UTPRs of other jurisdictions may apply to payments to the UPE of an MNE (see paragraph 465: "…while the UTPR only would apply to the profits made in the jurisdiction of the Ultimate Parent Entity (the 'UPE jurisdiction'), and only if the MNE's jurisdictional ETR is below the agreed minimum rate in such jurisdiction in a relevant period"). We strongly believe that the UTPR should not be applied to payments to a UPE of an MNE.

First, the objective of Pillar Two is to ensure a minimum level of tax on foreign income earned by MNEs so as to address remaining international base erosion and profit shifting issues. As an example, U.S.-headquartered businesses conducting business activities in the United States do not pose a BEPS risk. However, in theory, U.S. companies could be taxed by UTPRs applied by other national governments. The home jurisdiction of an MNE typically is the center of that MNE's economic interests and the place of ultimate management of the MNE. The home jurisdiction is more appropriately considered to be the natural location of the residual profits arising from the operation of the business, rather than a place to which profits are shifted to minimize tax. Second, and relatedly, while all jurisdictions have a sovereign right to determine their own tax systems, that right is especially pronounced with regard to the system for taxing resident MNEs. The home jurisdiction of an MNE should have the right to determine the appropriate manner of taxing the domestic income of its resident UPE, balancing revenue concerns with tax incentives to encourage positive economic activity within its jurisdiction.

Where the taxpayer has a foreign subsidiary that is not subject to the IIR of a parent jurisdiction, any applicable UTPR on that subsidiary should be paid and administered in the jurisdiction of the UPE if the UPE has adopted the UTPR. To pursue the administration of the UTPR through dozens of jurisdictions would introduce untold complexity that renders the UTPR regime administratively impracticable.

Subject to Tax Rule

As mentioned earlier in our comments, we strongly disagree with the Blueprint's approach described in paragraph 671 that would have the STTR take priority over the GloBE rules. OECD members have long worked to reduce and eliminate gross-basis withholding taxes. Therefore, the OECD should not now support the imposition of withholding taxes as a primary rule under Pillar Two. The STTR should instead be presented as an optional provision that bilateral treaty partners can decide whether to adopt to shift taxing rights. Under the current ordering, an unintended consequence might be to encourage more governments to impose the STTR as a means of trying to obtain even more residual profit through a withholding tax, potentially overtaking and limiting the effectiveness of the IIR and UTPR, and creating further compliance and administrative complexities.

We understand there is consideration being given to expanding the scope of the payments covered by the STTR. The scope is already wide, and its application should instead be narrowed. The STTR would also benefit from a more targeted list of payments, and a clear articulation of why such payments should be captured by this rule.

Economic Impact Assessment

While the public consultation document did not request feedback on the Economic Impact Assessment released in tandem with the Blueprints, we appreciate the role that such analysis has in helping governments better understand the impacts of the Blueprints and thus want to provide brief commentary. The Economic Impact Assessment already demonstrates the negative impacts of a counterfactual where governments do not reach consensus. However, the assessment relies on 2016 data that does not account for the implementation of BEPS reforms nor the changes implemented as part of the U.S. 2017 tax reform. As such, we believe that an updated analysis will be needed to support more accurate estimates on economic impact.

We encourage the OECD to consider undertaking analysis to determine the project's impacts on firms' competitiveness. Exploring this perspective would help to better inform the anticipated impacts of the Blueprints on firms that will be in scope and perhaps identify aspects of the concepts as proposed that may have undesired impacts on competitiveness.

Finally, it is our view that future consideration of Pillar One and Pillar Two would benefit from using empirical data that would allow for a more robust assessment.

Conclusion

Thank you again for facilitating the opportunity for stakeholders to provide feedback on the extensive technical work evidenced in the Blueprints. As stated in the introduction, our members are committed to the success of the work taking place under the auspices of the Inclusive Framework, and see a multilateral, consensus-based solution as the only sustainable outcome. We look forward to continuing to engage with the OECD and members of the Inclusive Framework as they work to resolve the political and technical questions related to addressing the tax challenges of the digitalizing global economy.