

The background of the entire page is a photograph of the Brandenburg Gate in Berlin, Germany, taken at sunset. The warm orange and yellow light of the setting sun creates a strong lens flare effect across the scene. The gate's massive columns and archway are silhouetted against the bright sky. In the foreground, a paved plaza is visible with several people walking and a woman riding a bicycle. The overall atmosphere is serene and historic.

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Seminar E: IFA/OECD Panels on Two Pillars

- Chair
 - **Porus Kaka**, Senior Advocate(India) Barrister (England & Wales) and former President of the IFA Worldwide
- Panelists
 - **Pascal Saint-Amans**, Director, Centre for Tax Policy and Administration, OECD
 - **Achim Pross**, Head of the International Co-operation and Tax Administration Division, OECD
 - **Ruth Mason**, Edwin S. Cohen Distinguished Professor of Law and Taxation and Director of the Virginia Center for Tax Law
 - **Gael Perraud**, Deputy Director for European and International Affairs, French Ministry of the Economy and Finance and Co-Chair of the Task Force on the Digital Economy
 - **Huey Min Chia-Tern**, Deputy Commissioner (International, Investigation & Indirect Taxes Group) at the Inland Revenue Authority of Singapore
 - **Lisa Wadlin**, Head of Tax, Netflix
 - **Peter Shaw**, Regional Head of Tax Controversy – Asia for Maersk
 - **Manal Corwin**, Principal in Charge of Washington National Tax, KPMG US
- Panel Secretary
 - **Heydon Wardell-Burrus**, Researcher, Oxford Centre for Business Taxation

Seminar E: IFA/OECD Panels on Two Pillars

- This is the IFA 'Tax' conference
- This panel is on the Future of Tax





Pillar One

Pascal Saint-Amans, Director, OECD Centre for Tax Policy and Administration
Achim Pross, Head, International Co-operation and Tax Administration Division
OECD Centre for Tax Policy and Administration

Where are we now?

October Statement (2021) reflects agreement on key components of Pillar One



Task Force on the Digital Economy (TFDE) and Joint WP6/FTA MAP Forum are currently translating the October Statement into substantive rules

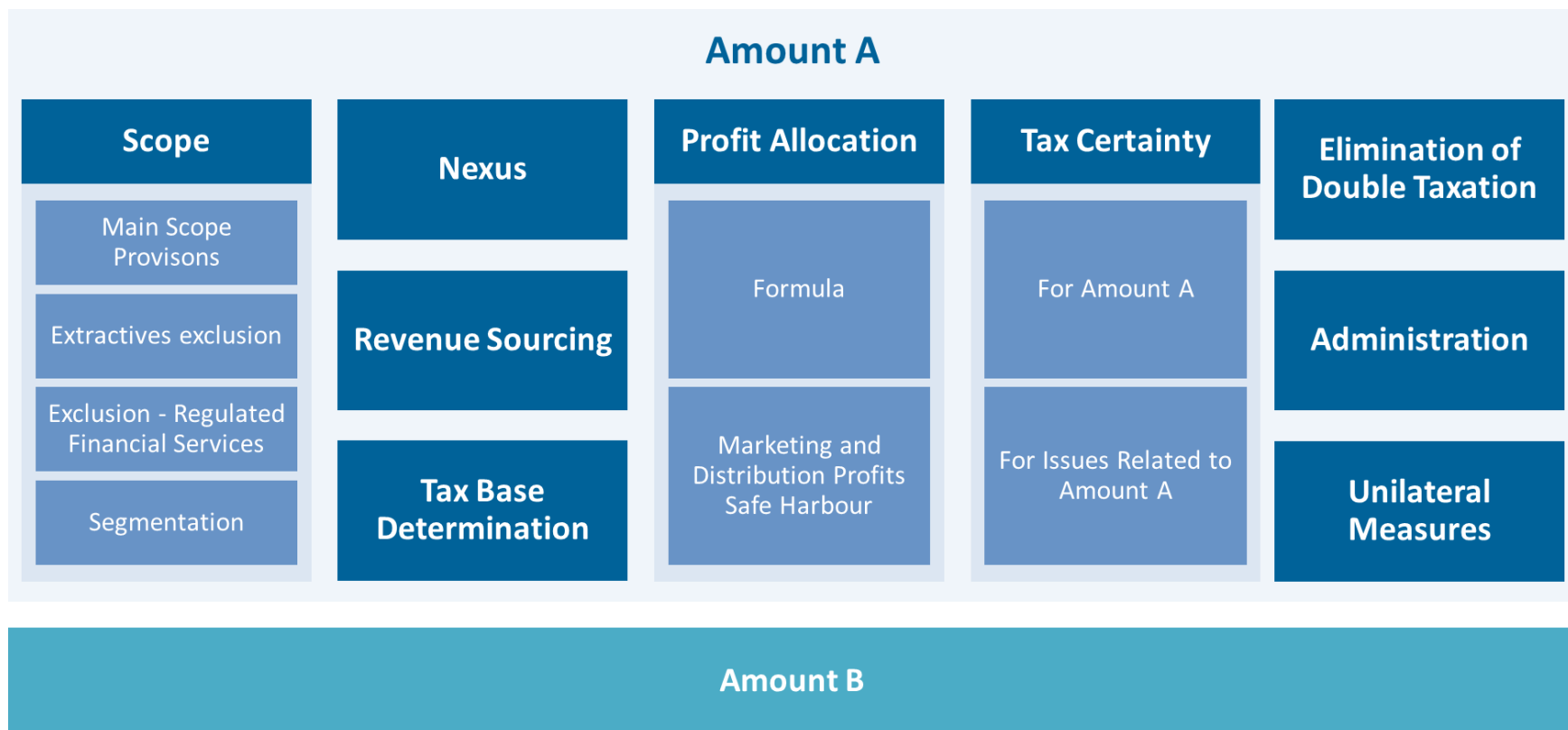


Progress Report on Amount A released in July with consultation event taking place on 12 September and report on Administration and Tax Certainty aspects to be released soon

8 October 2021 Statement & Detailed Implementation Framework (Pillar 1)

- *For in-scope MNEs, 25% of residual profit defined as profit in excess of 10% of revenue will be allocated to market jurisdictions with nexus using a revenue-based allocation key...*
- *Amount A will be implemented through a Multilateral Convention (MLC), and where necessary by way of correlative changes to domestic law...*
- *Following its signature, jurisdictions will be expected to ratify the MLC as soon as possible, with the objective of enabling it to enter into force and effect in 2023 once a critical mass of jurisdictions as defined by the MLC have ratified it...*
- *The MLC will require all parties to remove all Digital Services Taxes and other relevant similar measures with respect to all companies, and to commit not to introduce such measures in the future.*

Overview of Pillar One



Key themes in public consultation comments

Previously released building blocks

- **Main scope provisions (Art. 1):** Requests for an additional exclusion for domestic oriented businesses
- **Extractives exclusions (Art. 1(3), Sch. B):** Support for transition phase with request for technical corrections
- **Regulated financial services exclusion (Art. 1(4), Sch. C):** Support for excluding reinsurance and asset management & request for additional simplification measures
- **Revenue sourcing (Art. 4):** Support for (longer) transition phase & request for more specific guidance
- **Tax base determination (Art. 5):** Requests for further alignment of the tax bases

Key themes in public consultation comments

Newly released building blocks

- **Segmentation (Art. 1, Sch. D):**
 - Support for limiting segmentation to disclosed segments
- **Marketing and Distribution Profits Safe Harbour (Art. 6):**
 - Questions about the RODP-based metric to differentiate routine and non-routine profit
 - Concerns about the offset percentage (Y%) and questions about the relevance of a “de minimis” threshold
 - Support for taking withholding taxes into account
- **Elimination of double taxation (Art. 9):**
 - Questions on the appropriateness of the RODP metric for identifying jurisdictions in which multinationals earn residual profits
 - Support for the concept of a de minimis rule
 - Support for the exemption method to eliminate double taxation

Key themes in public consultation comments

Other building blocks

- Need for robust framework for withdrawal and standstill of unilateral measures
- Continued support for work on Amount B

Where next?

Pillar One

- Release of Administration and Tax Certainty Aspects as well as Unilateral Measures
- Stabilisation of Substantive Rule
- Completion of MLC and Signing Ceremony
- Amount B

Country Perspectives on Pillar One

- France
- Singapore
- US

Business Perspectives on Pillar One



Pillar Two



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Pillar Two

Overview

GloBE rules

- Domestic law provision
- Common approach
- Effective tax rate test, applies on a jurisdictional basis (15%)
- Co-ordination rules

Subject to tax rule

- Treaty provision
- Can be requested by developing countries
- Adjusted nominal tax rate test, applies on a transactional basis (9%)
- Creditable for purposes of the GloBE rules

Pillar Two: GloBE Rules

Six basic building blocks

Scope of application

MNEs with revenues of more than
EUR 750 million

Common tax base

The consolidated financial statements in
accordance with an acceptable financial
accounting standard
(e.g. IFRS or GAAP)

Substance carve-outs

Substance-based Income Exclusion on
book value of tangible assets and payroll

Co-ordination & rule order

Interaction of the Income Inclusion Rule
(IIR) and the Under Taxed Payment Rule
(UTPR)

Jurisdictional blending

Determination of the relevant income and
the effective tax rate on a jurisdictional
basis

Top-up Tax Concept

The top up tax is charged to bring the tax
on the income in the jurisdiction up to the
minimum rate

Current focus

- Work on the GloBE Implementation Framework across 4 dimensions

Additional clarifications

Administrative
procedures, exchange
of information,
accounting systems, IT

Balance between tax
policy objectives and
implementation effort -
simplifications including
safe harbours

Rule co-ordination,
dispute avoidance and
dispute resolution

Where next?

Pillar Two

- GloBE Implementation Framework
- Subject to tax rule
- Implementation process: EU, Canada, Switzerland, UK, etc
- Stabilisation of the system - room to remove, revise measures that may no longer be needed?





Focus on Pillar Two



Pillar Two: Subject to tax rule ('STTR')

STTR minimum rate will be 9%

- Applies when the 'adjusted nominal tax rate' is below 9%
- Applies only to **defined categories of payments between connected parties**
 - Interest, Royalties, other payments (Franchise fees, Insurance premium, payment for intangibles etc.)
- **Gross** level taxation
- Treaty based rule which applies **in priority** to IIR and UTPR
- Awaited - Draft model provision and its commentary; and a public discussion draft on the development of a multilateral instrument





Pascal Saint-Amans Concluding Remarks





Thank You

