STEERING GROUP OF THE INCLUSIVE FRAMEWORK MEETING

PRESENTATION BY THE UNITED STATES

APRIL 8, 2021

Agenda

- Pillar 2
  - Importance of global minimum tax
  - Relationship with Pillar 1
- Pillar 1
  - View on Blueprint
  - Comprehensive scope proposal
  - Relationship to other Pillar 1 building blocks
  - Stabilizing the international income tax architecture
  - Next steps

PILLAR 2

Pillar 2 Blueprint

- We wish to end the race to the bottom over multinational corporate taxation and establish a tax architecture in which countries work together towards more equitable growth, innovation, and prosperity
- Pillar 2 Blueprint provides a framework for that generational achievement. We wish to work robustly to complete this important work

Biden-Harris Administration legislative proposals

- We are committed to reforming the U.S. minimum tax through legislation and working to establish a robust global minimum tax through Pillar 2
- Our legislative proposals would, among other things:
  - Strengthen U.S. minimum tax for U.S.-headquartered multinational corporations by increasing the minimum tax rate on foreign earnings to 21%
  - Replace current global basis for our minimum tax on foreign earnings with a country-by-country system
  - Remove current law 10% carve-out tied to qualified business asset investment
- Plan will return corporate tax revenue for the United States as a share of our economy back to its 21st century average before the 2017 corporate tax cut

Biden-Harris Administration legislative proposals

- By working together we can improve how countries around the world tax big corporations
- Accordingly, the President has proposed U.S. legislation intended to repeal the BEAT and replace it with a regime intended to encourage other countries to adopt strong minimum taxes in line with the global agreement we seek on Pillar 2, and consistent with the general concept of the UTPR
- The time has come to level the playing field

Relationship between Pillar 2 and Pillar 1

- Pillar 2 cannot be fully successful absent a stable multilateral international tax architecture
- Pillar 1 provides the opportunity to stabilize the architecture
- Stabilizing the architecture requires, among other steps, addressing the proliferation of unilateral measures that gave rise to Pillar 1
  - Requires a “standstill and rollback” workstream
  - Can help establish a stable and equitable allocation of taxing rights
- Via the stabilization question, Pillar 1 and Pillar 2 are linked by more than just politics

PILLAR 1

Pillar 1 Blueprint provides many solid foundations

- Blueprint lays significant technical groundwork for much of Pillar 1
- We need to finish the work that has been started
- At the same time, complexities inherent in the multilateral international tax architecture have made it difficult to reach consensus, especially on scope and related administrative issues
- **Further, the United States cannot accept any result that is discriminatory towards U.S. firms**

Challenges of ADS+CFB as scoped in Blueprint

- Compliance and administrative burdens disproportionate to expected tax benefits: **simplification is highly desirable**
- Lack of clearly defined policy objectives and principles to distinguish ADS and CFB from rest of the economy (and from each other)
- Complexity and subjectivity of proposed rules specific to ADS and CFB raise obstacles to consensus
- Difficult determinations required under a qualitative activity test could lead to many scoping disputes in practice

OECD Assessment: Number of MNE groups and global residual profit in scope under Blueprint

OECD Global Analysis, 2016 data (approximations)

Revenue threshold (EUR mil)	*ADS+CFB only* Number of companies at revenue threshold 1/	Number of companies with profit margin greater than 10% 2/	*Total* residual profit at 10% profit threshold (USD billion) 3/
750	2,300	780	493
1,000	2,000	n.a.	487
2,000	1,300	n.a.	466
5,000	620	n.a.	415
10,000	350	n.a.	n.a.

1/ Data from Pillar 1 Blueprint, Table 2.1
2/ Data from Pillar 1 Blueprint, Table 6.1
3/ Data from Economic Impact Assessment, Table 2.3

Proposal for comprehensive scoping

- Design quantitative criteria to scope in **largest and most profitable MNE groups**, regardless of industry classification or business model
  - Sector-based scope limitations, if any, should be principled and based only on fundamental policy mismatches or irresolvable administrability constraints
- Intent of criteria: to minimize subjective scoping discrimination and achieve administrability by shrinking MNE group set that is in scope to no more than 100 MNEs, while maintaining Blueprint's level of re-allocable profits to facilitate consensus
- Bottom line: **comprehensive scope is simplest and most principled of administrable options**

Benefits of comprehensive scoping

- Scoping in the largest MNE groups is consistent with popular concerns in all our countries about mega-corporations
- Comprehensive starting point
  - Not arbitrarily or discriminatorily limited to certain business sectors
  - Focuses only on those companies that benefit most from global markets, are most intangibles-driven, and are equipped to handle the compliance burden that Pillar 1 entails
  - Limits the total number of businesses in scope to address immense administrability concerns

Benefits of comprehensive scoping (continued)

- Provides simplification and certainty for two of the most technically troublesome aspects of Pillar 1 Blueprint: (1) scoping regime and (2) business line segmentation
- Reduces number of MNE groups in scope compared with other proposals on the table **without materially reducing quantum of profit available for reallocation**
- Maximizes chances of success: limiting total number of businesses in scope avoids overburdening system and makes administrative challenges manageable

Proposed quantitative screening criteria

- <u>Revenues</u>: A total revenue threshold is easily applied, eliminates many MNE groups as a first step, and retains only the largest corporations

- <u>Profit margins</u>: A profit margin threshold helps to define those MNE groups that are the most intangible driven, the most profitable, and have the highest profit-shifting potential

Relationship to other Pillar 1 building blocks

- Nexus
- Segmentation
- Tax Certainty
- Other Building Blocks / Components

Building block: Nexus

- Some IF members have expressed concern that they will not benefit from Pillar 1
- Complexities associated with ADS+CFB scope led to corresponding complexities regarding nexus, including plus factors
- We are prepared to be flexible regarding nexus thresholds to ensure that Pillar 1 benefits developing countries

Building block: Segmentation

- Business line segmentation is the most complicated and difficult building block in the Blueprint
- The need for business line segmentation is highly reduced under a comprehensive scope
- We support an approach that eliminates or minimizes business line segmentation and thus vastly simplifies Pillar 1

Building blocks: Tax certainty

- Tax certainty continues to be a key policy goal of the United States, as an outcome in Pillar 1 and in other work streams
- A durable solution to the questions at stake in Pillar 1 is not possible without tax certainty
- A binding, non-optional dispute prevention and resolution process is a key aspect of meaningful tax certainty
- We broadly support the direction of the tax certainty portion of the Blueprint, but many details need to be worked out
- Scope of tax certainty is an important aspect of an agreement

Other building blocks are generally progressing in a positive direction

- Revenue sourcing
- Profit before tax measure
- Losses/profit shortfalls
- Profit allocation
- Elimination of double taxation
- Administration
- Implementation

Stabilizing the international income tax architecture

- U.S. is seeking a precise definition of "relevant unilateral actions"
- Ensures that a consensual system for reforming corporate profit allocation can be agreed to and implemented by tax authorities, stabilizing the system
- Appropriate indicia include whether measure is:
  - Applied irrespective of the tax treaty framework
  - Discriminatory (*de jure* or *de facto*)
  - Creating an alternative nexus standard (in light of and separate from Amount A)