

17 February 2022

To: The Co-Chairs & Members of the Task Force on the Digital Economy (TFDE)

c/o Pascal Saint-Amans, Grace Perez Navarro and Achim Pross  
OECD Centre for Tax Policy and Administration (CTPA)

Dear Co-Chairs and Members of the Task Force on the Digital Economy,

As we are now at the beginning of an intense consultation process on the Pillar One Model Rules, we thought it would be helpful to articulate a number of principles we believe should underpin Pillar One. If these principles are adhered to, we are confident that will that make a successful outcome of the Pillar One project more likely.

Both Pillars, but perhaps especially Pillar One – which has evolved quite significantly since the consultation on the Blueprint early in 2021 – have not benefited from the business input that we believe would have been appropriate for change on this scale. However, we do now look forward to engaging in this new consultation process, recognizing the challenges imposed by the very short timeframes. The principles, below, which are intended to help in this time-sensitive process, are based on practicality and administrability. This, we believe, will be a key driver for the sustainability of Pillar One, both immediately, and as it expands to a broader set of businesses in future years.

### **Pillar One Principles for Design and Administration**

- Pillar One is about a partial reallocation of taxing rights, rather than a BEPS concern of eliminating no or low taxation, and therefore practicality and administrability should be key considerations.
- There must be a functioning, coordinated, comprehensive dispute prevention and resolution mechanism.
- For both policy and administrative reasons Amount A should be limited for those businesses otherwise in scope that 1) engage in only minimal cross-border transactions or 2) are already reporting a high proportion of residual profits in a market country.
- Who pays for Amount A in a country (or region) should be directly linked to who is currently earning the Amount A income (the residual profit) with respect to that country. Similarly, the same measurement of residual profits for purposes of computing Amount A (i.e., return on sales) should be used for purposes of identifying Amount A payers.
- Agreement on Amount B in a manner consistent with the arms-length principle will also be essential.



- A pragmatic approach is needed for the sourcing of sales, commensurate with the pragmatic agreement reached on Pillar 1, rather than attempting to cover every possibility, with subsequent complexity and potential for disputes.
- Significant details will be required on the elimination of double taxation through a relief mechanism in order to provide upfront certainty to taxpayers and tax authorities.
- Disputes between countries can only be resolved with a clear limitation in Pillar One on the reallocation of taxing rights.
- There will need to be an unprecedented level of coordination between countries, given there is no precedent for the global introduction of changes in the international tax system on this scale. Upfront clarity is also essential to plan for any changes to taxpayer IT systems.

## Conclusion

Again, we hope that the principles that we have articulated will be helpful in crafting and refining the Pillar One Model Rules to be released in upcoming consultations. We would also like to reiterate that business supports the continuing work on Pillar One. We understand that significantly more work, in consultation with business, will be required between now and implementation (and beyond), to ensure that Pillar One provides an effective system for the agreed reallocation of taxation rights both now and into the future. We very much look forward to working with you closely in that endeavour.

Sincerely,

Alan McLean  
Chair, *Business at OECD* (BIAC)  
Committee on Taxation and Fiscal Affairs

William H. Morris  
Chair Emeritus

Cc: Hanni Rosenbaum, Executive Director, *Business at OECD* (BIAC)