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PILAR 1:

Implications for Participating Jurisdictions

General Position

Complexity of Amount A Architecture

Political considerations against core tax principles

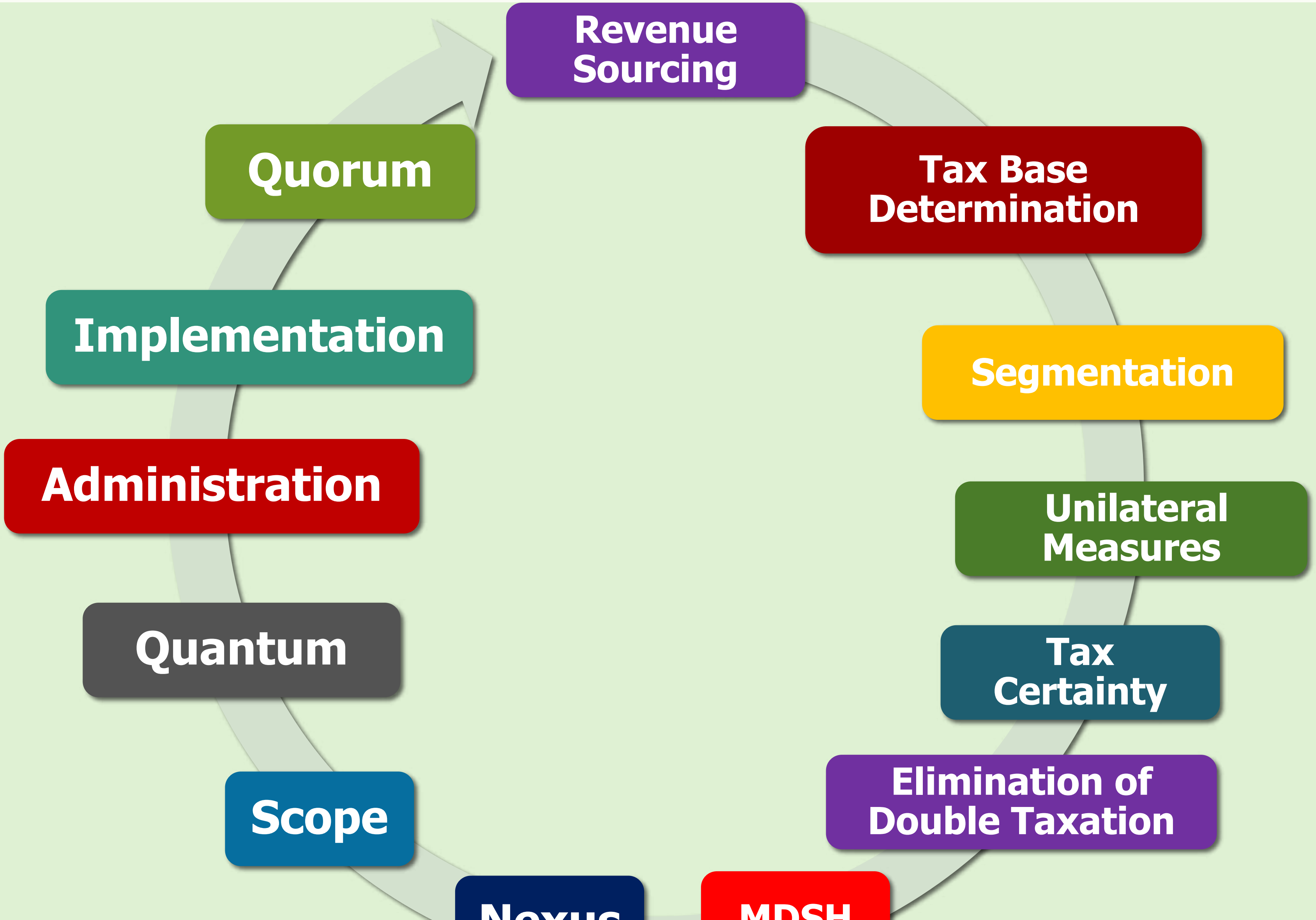
Overall Cost-Benefit Outcome

Approach to economic impact assessment

Expected Outcome

- Pillar one and Pillar two could increase global corporate income tax (CIT) revenues by about USD 150 billion per year.
- The reforms would lead to a more favorable environment for investment and growth.
- Reduction in the proliferation of unilateral measures, as well as trade disputes, which could reduce global GDP.
- About USD500bn in global residual profit, which means a reallocation of taxing rights on between USD100-150bn of global residual profit

Building Blocks and their Effects



SCOPE

1st – 7th Year

€20 billion Turnover with profitability of above 10% of Turnover.

The scope threshold ensures only most profitable MNEs are in scope of Amount A. Currently about 100 MNE's globally

Beyond 7th Year

Lower Turnover Threshold to €10 billion thereby bringing more MNE's into scope of Amount A.

Reduction is contingent upon successful implementation of Amount A, including tax certainty.

Exclusions

Exclusions and carve-outs for:

- highly regulated sectors;
- autonomous domestic businesses; and
- defence

Averaging mechanism to the profitability test, means that a MNE can be in or out of scope based on performance in previous years.

NEXUS

Nexus = The entitlement of a jurisdiction to AMOUNT A:

The nexus threshold is based on the amount of sales a constituent entity of the MNE made in a jurisdiction:

⇒ €1m in jurisdictions with GDP €40billion or more
⇒ €250,000 in jurisdiction with GDP less than €40billion

QUANTUM

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- A portion of residual profits of in-scope MNEs is re-allocated to market jurisdictions i.e. 25% of profit in excess of the 10% routine profit.
- The Quantum of Amount A is to be shared by all qualifying market jurisdictions (refer to nexus).
- Jurisdictions can use available data from tax returns to what MNE will in scope in their countries

REVENUE SOURCING

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Rules for tracing revenue to actual source:

- Detailed sourcing rules ensures revenue are traced to jurisdiction of actual users.
- It is possible for revenue to be sourced to a jurisdiction which exceeds the revenue booked in that jurisdiction.

SEGMENTATION – ONLY PROFITS OF DISCLOSED SEGMENT

SEGMENTATION

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- Limited segmentation applies.
- Disclosed segments based on consolidated accounts that meet the scope threshold will be treated as an entity in scope.
- Profits from the segment will be reallocated based on Amount A rules.

MARKETING & DISTRIBUTION SAFE HABOUR (MDSH)

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The MDSH is to address a situation where some of the MNE's profits had been booked in a jurisdiction in order to avoid double allocation of Amount A.

- The basic design is to filter any Amount A profit that had already been retained in a market jurisdiction
- A metric based on depreciation and payroll is used to isolate routine profits from the total profits booked in the jurisdiction.
- There is a protection for jurisdictions with no or low depreciation and payroll.
- Any Amount A deemed retained in the market jurisdiction is deducted from the Amount A to be allocated using an offset percentage.
- Offset percentage is 90% for low substance jurisdictions and 35% for others.
- Special consideration for low-income or lower-middle income jurisdictions with offset percentage set at 25%

MDSH & WHT

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Tax income accruing by way of withholding tax (WHT) may also contribute to the Amount A already retained in a market jurisdiction. An adjustment is equally worked out.

- WHT downward adjustment in the residence state for both MDSH and EoDT
- Inclusion of a staggered WHT capping mechanism to reduce the impact may cause implementation issues.
- Consideration for low-income or lower-middle income jurisdictions with additional 10% higher Haircut in each category
- Inclusion of a transitional rule for WHT upward adjustment is a win for African countries.

UNILATERAL MEASURES

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Unilateral measures are tax measures or regimes that overlaps with Amount A. A tax regime is deemed a unilateral measure if it:

- establishes taxing rights based primarily on location of customers, users or similar market-based criteria in a way different from traditional taxing criteria
- applies (de jure or de factor) exclusively or almost exclusively to non-residents or to foreign owned businesses
- is aimed at inability to impose income tax under current rules with respect to particular taxpayers or activities, and its is not covered tax for the purposes of tax treaties
- applies only to income from specifically enumerated digital services
- is imposed on gross turnover basis

UNILATERAL MEASURES

- Jurisdictions that signed up to Amount A of Pillar 1 can not introduce similar measures in the future.
- Those who have such measures must withdraw them upon the coming into force of the Amount A rules
- The withdrawal must be in respect of all MNEs whether or not they are in scope of Amount A

UNILATERAL MEASURES

- SEP is not classified as DST or RSM but will be switched off for MNEs that are in scope of Amount A

- Effective date of withdrawal of existing measures is after entry into effect of MLC.

- Existing standstill commitment not to introduce new measures extended to December 2024 and may be extended to December 2025 or entry into effect of MLI, whichever comes first.

- Conference of Parties to review measures for classification as DST or RSM.

- Jurisdictions of classified measures to lose Amount A allocation, with possibility of 3 years retroactivity

TAX CERTAINTY

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Ensures that tax disputes are resolved promptly and effectively

- Mandatory binding arbitration for Amount A and issues related to Amount A.
- Issues related to Amount A includes all TP, PE and business profit issues.
- The elective option for developing countries is contingent on the jurisdiction not having more than a 3-year average of 10 TP/Profit Allocation MAP cases in inventory and outcome of their action 14 peer review.
- Once a developing country fails the condition, it would remain in scope of tax certainty in all subsequent years.
- Jurisdiction to bear the cost of dispute resolution with limited consideration for cost of the tax certainty process to tax administration by including a user fee.
- A threshold for issues that can be submitted under the process allows some relieve on the process

ELLIMNATION OF DOUBLE TAXATION

- Relief process ensures that the jurisdictions earning most revenue provide the most relief (waterfall).
- Mechanics ensures all jurisdictions that earn high levels of residual profit provide relief.
- Use of a Designated payment Entity ensures a more seamless process
- Relief of Double taxation is based on domestic law of each party

ADMINISTRATION

- Standardised filing and documentation package.
- Streamlined compliance, use of Single Entity for returns filing (Lead Tax Administration) and for payment (Designated Payment Entity)
- Exchange of refund filed and documentation package through EOI process
- Secondary liability where DPE fails to comply

ADOPTION

- Rules are such that some jurisdictions would give up revenue for market jurisdictions to gain (lose-win)
- Adequate number of jurisdiction that will provide relief (lose revenue) must be on board for the rules regime to work
- Minimum of 30 jurisdictions accounting for at least 60 percent of the Ultimate Parent Entities (UPEs) of in-scope MNEs
- The effect is that the regime cannot kick off with only market jurissdictions

THANK YOU