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50 Key Takeaways from the OECD's Pillar one Blueprints released yesterday

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OECD's Pillar one Blueprint, based on the Eleven building blocks, seeks to expand the taxing rights of market jurisdictions; Key design features of the new taxing right would include: 1) A revenue threshold based on annual consolidated group revenue coupled with a de minimis foreign in-scope revenue carve-out, 2) Scoping rules covering ADS [Automated Digital Service] and more broadly CFB[Consumer Facing Businesses], 3) a new nexus rule to identify market jurisdictions eligible to receive Amount A 4) detailed sourcing rules that are reflective of the particularities of digital services and consumer-facing businesses 5) An administrable approach for reallocating residual profit 6) A loss carry-forward regime to ensure that there is no Amount A allocation where the relevant business is not profitable over time 7) Mechanism to eliminate double taxation having two components 8) a simplified administrative process and 9) new Amount A taxing right would be implemented through changes to domestic law, and by way of public international law instruments, in particular, a multilateral convention would be required; However, the Blueprint recognizes 4 open issues that can only be resolved through political decisions, viz - Scope, Amount of profit to be reallocated (the “Quantum”), Extent of tax certainty and Scope and application of Amount B.

1 - Scope

In-scope activities - Automated digital services:

- The approach to defining ADS [Automated digital services] recognises that certain MNEs can generate revenue from the provision of ADS (including revenue from the monetisation of data) that are provided on an automated and standardised basis to a large and global customer or user base and can do so remotely to customers in markets with little or no local infrastructure.
- The definition of ADS is comprised of a positive list of ADS activities; a negative list of non-ADS activities; and a general definition
- In practice, businesses and tax administrations will apply the rules by going through the following process. First, they will identify whether an activity is on the positive list (i.e. included); if it is, it is an ADS business. Second, if the activity is not on the positive list, they will need to check whether it is on the negative list (i.e. excluded); if it is on the negative list, it is not an ADS business. Only if an activity is not on either list is it necessary to consider whether it meets the conditions in the general definition.
- The general definition of ADS (which also informs the positive and negative lists) is built on two elements: · automated, i.e. once the system is set up the provision of the service to a particular user requires minimal human involvement on the part of the service provider;
- and · digital, i.e. provided over the Internet or an electronic network.
- The positive list includes online advertising services; sale or other alienation of user data; online search engines; social media platforms; online intermediation platforms; digital content services; online gaming; standardised online teaching services; and cloud computing services.
- The negative list of non-ADS activities includes customised professional services; customised online teaching services; online sale of goods and services other than ADS; revenue from the sale of a physical good irrespective of network connectivity (“Internet of things”); and services providing access to the Internet or another electronic network.

In-scope activities: Consumer-facing businesses

- CFBs [Consumer-facing businesses] are defined as those businesses that generate revenue from the sale of goods and services of a type commonly sold to consumers, including those selling indirectly through intermediaries and by way of franchising and licensing
- CFB are (i) the MNE that is the owner of the consumer product / service and holder of the rights to the connected intangible property (including franchisors and licensors), i.e. the MNE whose “face” is apparent to the consumer; and (ii) the MNE that is the “retailer” or other contractual counterparty of the consumer (if separate from the “owner”), as they have a direct relationship to the consumer (and including franchisees and licensees that sell the consumer product directly).
- It does not include other third party MNEs, such as manufacturers, wholesalers and distributors, which have no relationship with the customer - whether contractual or otherwise.

Exclusions from scope

- Sectors not in scope of Amount A include certain natural resources; certain financial services; construction, sale and leasing of residential property; and international air and shipping business.
- The second element of defining the scope is the threshold test. An MNE can only be in scope of Amount A if it meets the activity test described above and two thresholds: the MNE's consolidated revenue is above a certain threshold; and its in-scope revenue earned outside its domestic market is also above a certain threshold. This ensures that Amount A focusses on the largest MNEs that generate residual profit available

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for reallocation under Amount A, and that the compliance and administrative burden is proportionate to the expected tax benefits.

- Having regard to the economic impact assessment, setting a threshold below [EUR 750 million] would lead to substantial compliance burdens but without commensurate benefits in terms of the available reallocation for market jurisdictions

2 - <u>Nexus</u>

- Aims to provide a new nexus and new taxing rights with respect to digitalised transactions considering that in an increasingly digital age, taxing rights can no longer be exclusively determined by reference to physical presence.
- For in-scope MNEs the new nexus rules would be based on indicators of a significant and sustained engagement with market jurisdictions.
- New nexus rules determine entitlement of a market jurisdiction to an allocation of **Amount A** only. They do not alter existing PE rules or nexus for other tax or non-tax purposes.
- <u>Basis for ascertaining nexus</u> :
- For ADS - The nature of the ADS allows them to be provided remotely and such businesses generally have a significant and sustained engagement with the market even if there is not a physical presence. Hence, **“Revenue Threshold”** is considered as the **only test** to establish nexus.
- For CFB - The lesser ability of CFB to participate remotely in a market jurisdiction alongwith the additional complexity and compliance costs associated with sourcing revenue and considering that profit margins are typically lower for CFB compared with ADS, a need for higher nexus standard is contemplated. Accordingly, the nexus test is considered to be established by way of **“Revenue Threshold” + a “Plus Factor”** . The plus factors could be in form of a subsidiary or a PE carrying out activities connected to in-scope sales. Alternatively, a higher 'Revenue Threshold' or other 'plus factors' unconstrained by physical presence may be considered.
- <u>Market revenue thresholds and temporal requirements</u>
- The market revenue thresholds will apply to the in-scope revenue of a group (or segment of a group) generated in a market jurisdiction and will be identified and measured in accordance with the 'revenue sourcing rules', and could apply separately to ADS and CFB.
- Further, a 'temporal requirement' will be evaluated and 'duration test' could be designed to avoid covering isolated or one-off transactions that might not demonstrate a sustained engagement with a market.
- <u>Additional indicators of nexus for CFB</u>

1. Physical presence test - a subsidiary or a PE carrying out activities connected to in-scope sales

- A single self-standing group-PE definition, instead of relying on a PE definition in a tax treaty or domestic law
- Standalone provision applicable only for allocation of Amount A and will not affect the application of existing PE rules

2. A “Deemed Engagement” Provision

- This approach assumes that once a group's CFB sales in a market reach a certain threshold in a market, it is unlikely that it will be selling with no supporting activities, and it will no longer be necessary to establish the existence of plus factors.

3. Nexus rules for small developing economies

- A lower nexus standard may be considered for smaller developing economies considering the complexity in applying and verifying the plus factors for tax administrations with often limited resources.

4. Other technical work

- Other tests such as test based on a sustained presence of personnel in a market jurisdiction (e.g. 183 days in a year) and/or advertising and promotion (A&P) expenditure are being considered.

3- <u>Revenue Sourcing Rules</u> -

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Revenue Sourcing Rules:

- Revenue Sourcing rules are categorised under the ADS services and CFB in scope of Amount A. For each type of activity identified as in scope, a sourcing principle is identified, followed by a hierarchical list of the acceptable indicators an MNE may use to locate the jurisdiction of source.
- MNE shall apply revenue sourcing rules set out that are relevant to each type(s) of revenue(s) it generates and will apply the indicator that appears first in the hierarchy of indicators, unless this information is unavailable [not within MNE's possession] or unreliable [not a true representation of the principle] as noted within each rule.
- Detailed Table Explaining the Resource Sourcing Rules

Revenue Sourcing Rules with respect to Automated Digital Services (ADS)

Revenue Criteria	**Sourcing Rule**	**Indicators**
1. Online Advertising and Sale or other alienation of user data		
Online advertising services, Sale or other alienation of user data, based on the real-time location of the viewer	Jurisdiction of real-time location of the viewer of the advertisement.	1. Geo-location of the device of the viewer / user 2. IP address of the device of the viewer 3.Other available information that can be used to determine the jurisdiction
Online advertising services, Sale or other alienation of user data, other than on the real-time location of the viewer	Jurisdiction of ordinary residence of the viewer of the advertisement.	1. User Information [Geolocation/ IP address obtained from recurring data, Billing address, mobile country code of user, or other information] 2. geolocation of the device of the viewer 3. IP Address of the device of the user
2. Online Intermediation Platform Services		
Intermediation of Tangible Goods	50:50 split between the purchaser and the seller, Sourcing rule for purchaser - Jurisdiction of ordinary residence Sourcing rule for seller - Jurisdiction of ordinary residence	For Purchaser & Seller: 1. Delivery Address 2. Billing Address 3. User Information [Geolocation/ IP address obtained from recurring data, Billing address, mobile country code of user, or other information] **Additionally for purchaser only:** 4. geolocation of the device of the viewer 5. IP Address of the device of the user
Intermediation of Tangible Services	50:50 split between the purchaser and the seller, Sourcing rule for purchaser - Jurisdiction of location of purchaser at the time of purchase Sourcing rule for seller - Jurisdiction where service is performed	Purchaser: 1. Geo-location of the device of the purchaser 2. Delivery address 3. IP Address 4. Jurisdiction of ordinary residence based on User Profile - Geolocation/ IP address obtained from recurring data, Billing address, mobile country code of user, or other information Seller: 1. Address / location where the service is performed 2. Jurisdiction of ordinary residence based on User Profile - Geolocation/ IP address obtained from recurring data, Billing address, mobile country code of user, or other information

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Intermediation of Intangible Goods/Services	50:50 split between the purchaser and the seller, Sourcing rule for purchaser - Jurisdiction of ordinary residence Sourcing rule for seller - Ordinary Jurisdiction of seller	Purchaser: 1. Jurisdiction of ordinary residence based on User Profile - Geolocation/ IP address obtained from recurring data, Billing address, mobile country code of user, or other information 2. Billing address 3. Geo-location of the device of the purchaser 4. IP Address Seller: 1. Principal place of business of seller [or residence if seller is an individual] 2. Jurisdiction of ordinary residence based on User Profile - Geolocation/ IP address obtained from recurring data, Billing address, mobile country code of user, or other information
3. Digital Content Services	Jurisdiction of the ordinary residence of the purchaser	1. Jurisdiction of ordinary residence based on User Profile - Geolocation/ IP address obtained from recurring data, Billing address, mobile country code of user, or other information 2. Billing address 3. Geo-location of the device of the purchaser 4. IP Address
4. Cloud Computing Services		
Individual Purchaser	Jurisdiction of the ordinary residence of the purchaser	1. Jurisdiction of ordinary residence based on User Profile - Geolocation/ IP address obtained from recurring data, Billing address, mobile country code of user, or other information 2. Billing address 3. Geo-location of the device of the purchaser 4. IP Address
Business Purchaser	Jurisdiction of the location where the business uses the service	1. Jurisdiction(s) of the business' employees benefiting from the service as reported to the cloud computing service provider by the customer 2. Jurisdiction(s) in which the business has operations, determined by the offices and address details contained in the business agreement and/or in records collected for tax purposes (such as value added tax purposes). 3. Other available information that can be used to determine the jurisdiction of the location of the business' employees that use the service.

Revenue Sourcing Rules with respect to Consumer Facing Business (CFB)

Revenue Criteria	Sourcing Rule	Indicators
Consumer facing goods	Place of final delivery of the good to the consumer.	1. Retail storefront 2. final delivery address of the goods
Consumer facing services	Place of enjoyment or use of the service	1. Address where the service is performed 2. Other information available to franchisor / licensor

- Documentation Requirements on Revenue Sourcing Rules as per the Blueprint: An in-scope MNE will need to retain documentation -

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a. describing the functioning of its internal control framework related to revenue sourcing;

b. containing aggregate and periodic information on results of applying the indicators, for each type of revenue and in each jurisdiction; and

c. explaining the indicator used, and, if relevant, why a secondary indicator was applied instead (such as the steps taken to obtain information or why a primary indicator was considered unreliable).

▪ The blueprint suggests that where an MNE derives revenue from more than one type of service or activity, it should use the different sourcing rules per type of revenue. Likewise, where an MNE has different data points for each individual customer / user in respect of the same service or activity / revenue stream, it will need to apply different indicators in respect of the same service, applying the hierarchy for each customer / user. However, a de minimis safe harbour could be explored in this regard where the difference in available data points only applies in respect of a small number of customers / users.

▪ Future Steps in relation to Revenue Sourcing Rules: The blueprint apprises that further work will be undertaken to finalise guidance on the extent of the "reasonable steps" that are required to obtain information before it can be considered "unavailable" so as to provide objective guidelines in order to prevent disputes and could involve safe harbours. Similarly, work will also be undertaken to finalise guidance on when an MNE can justify that an indicator is "unreliable."

▪ Additionally, the blueprint states that more detailed guidance will be developed on the documentation requirements and the definition of "robust internal control framework", including taking into account the need to ensure privacy of users. Further, as the work on the in-scope activity progresses, the revenue sourcing rules will be further developed accordingly.

4 - Tax Base Determination

▪ The blueprint sets out the framework for determination of Tax base [i.e MNE Group profits rather than entity basis] for computation of Amount A:

a. PBT measure based on consolidated financial accounts

b. Segmentation Framework

c. Loss Carry Forward rules

PBT measure based CFS

▪ The Amount A tax base will be quantified using an adjusted PBT measure that will be derived from the consolidated financial accounts of in-scope MNE groups.

▪ CFS prepared under GAAP ["eligible GAAP"] that produce equivalent or comparable outcomes to CFS prepared under IFRS will be used.

▪ No specific book-to-book harmonisation adjustments (to account for variances between different GAAP) are considered necessary at this stage, since it would significantly increase the complexity; however, the Amount A tax base may incorporate an on-going monitoring process to ensure discrepancies across accounting standards do not produce materially inconsistent outcomes among Amount A taxpayers.

▪ Limited book-to-tax adjustments to align tax base with corporate tax base of IF members. Such adjustments include exclusion of:

a. Income tax expense,

b. Dividend income, Gains/losses from shares,

c. expenses not deductible for Corporate Income Tax (CIT) purposes

▪ Work to be undertaken

o Implementation of the proposed framework to use consolidated group financial accounts

o Finalisation of some aspects of the standardised PBT measure such as in relation to joint venture etc.

Segmentation Framework

▪ The blueprint acknowledges that though it is feasible for taxpayers to break down their revenue between ADS, CFB and out-of-scope, it may not be possible for them to compute separately the net profits attributable to

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these activities. Since the Pillar one approach applies the principle of net, rather than gross, basis taxation, it will still be necessary to only reallocate profits attributable to in-scope activities.

· Thus the blueprint suggests the 'easiest' way i.e. calculation of the Amount A tax base on a consolidated basis and using the consolidated profit margin of the group as a proxy for the in-scope profit margin, applying it to in-scope revenues to produce a proxy for in-scope profits. Such proxy for in-scope profits will then be allocated to market jurisdiction based on allocation formula [applying the Amount A formula (including the allocation key based on in-scope revenue) to the consolidated tax base.]

· The blueprint proposes that framework will be based on the following three-step process:

1. Bifurcation of MNE's revenue into ADS, CFS and out-of-scope activities, as may be required for the scope and nexus rules.

2. Exemption or safe harbour from segmentation based on global revenue to reduce complexity and minimise burdens for tax administrations and taxpayers

3. Segmentation of Amount A tax base for entities other than those covered by exemption or safe harbour rule above

· Further work will be undertaken to finalise specific aspects of the different steps of this segmentation framework, including the appropriateness of the level of the global revenue thresholds (step 2), the definition of a segment based on the hallmarks (step 3) and the administration of the framework through the early certainty and dispute resolution process, and to explore potential simplifications to ease the administration of the approach.

Loss Carry Forward Rules

- In relation to carry forward of losses, the blueprint provides an earn-out mechanism at the level of the group or segment (as determined by the segmentation framework).
- ·Under these rules, losses will not be allocated to market jurisdictions but would be pooled segment wise and carried forward to subsequent years. The pooled losses will then be set off against profits from that segment in subsequent years until historic losses reported in that account have been fully absorbed.
- This carry-forward regime will be kept separate from any existing domestic loss carry-forward rules, and include specific rules to deal with business reorganisations (including changes of the segmentation basis).
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- Future work: Refinement of specific design aspects of the loss-carry forward rules such as considering a transitional regime for losses incurred prior to the introduction of Amount A, and determining whether the loss-carry forward regime should include time limitations and anti-avoidance rules.

5 - Profit allocation

1. Residual Profit to be allocated to different market jurisdiction under “Amount A” has been nomenclature as “allocable tax base”. The definition of residual profit is yet not defined clearly.

2 . OECD has developed three step process to derive at “Amount A” (profitability threshold, reallocation percentage and allocation key), which will be applied in either of the two approach available under Amount A, namely profit based approach and profit market approach. The concept of having the fixed threshold will reduce the complexities, besides reducing scale of interaction of Amount A and transfer rules. As suggested by OECD, this would resolve the case of double taxation of same amount and resolve the ongoing conflicts of tangling the Amount A with Amount B and C.

3 . The hues of double taxation under “Amount A” and the existing taxing rights of market jurisdiction are solved through “netting off” mechanism. The paying entity, under the existing profit allocation rules, will bear the tax liability under “Amount A”. It is suggested that netting off should not be the sole basis of dealing with the double counting issues.

4 . The reports has provided to cap the allocation of “Amount A” to market jurisdiction, having pre-existing taxing rights over group's profit under existing tax rules. This would enable to limit the allocation of residual profit under “Amount A” to the market allocations where MNE harbors the residual profit. Inferentially, increasing the allocation of quantum under “Amount A” of the market jurisdiction which are not allocated residual profit under existing tax rules.

5 . The adoption of the potential differentiation mechanism is introduce for different degrees of digitalization (digital differentiation) and increasing the quantum of profits reallocation. This measure would cover the target businesses deriving huge benefits with minimum or no mass. It also take into account the jurisdictional differentiation, which come with a challenge for a business operating on non-regional-basis. It may also be

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inconsistent with the overall approach of calculating the profit allocable to market jurisdiction on a group or segment basis.

6. The interaction between the "Amount A" and the existing tax rights might result into duplicative taxation of same amount, being inconsistent with the policy of Pillar 1 to allocate tax to the market jurisdiction where there is active and sustained engagement.

7. The MNE group will have to compare the profit allocation with "safe harbor return", in case of having taxable presence in a market jurisdiction conducting marketing and distribution activities connected to locally sourced-in scope revenue. Safe harbor return represents the cap to adjust the quantum of "Amount A" allocated to market jurisdiction, having three possible outcomes after being applied on market-market basis. Safe harbor will be significantly relevant for decentralized business, realizing residual profit in large number of entities and jurisdictions. The determination of fixed return under safe harbor for marketing and distribution would be beneficial if it's similar for all regions and industry instead variable fixed returns, thereby aiding in identifying the situations where allocation of "Amount A" to a market jurisdiction would give rise to double counting.

8. Provision of domestic business exemption from scope of "Amount A", which aims at preventing risk of double taxation and safe harbors, have two methods which have complexities in allocating the residual profit, thereby resulting in allocating it to the market jurisdiction which already have been allocated the residual profit. The necessity to segment out the profit of domestic business from other activities of the group will be subjected to remodeling of the framework with the chances of higher compliance cost and administrative burden, besides the whole mechanism being complex. Further while determining the quantitative threshold to identify "domestic businesses", it would be challenging to reach at an agreement on percentage of profit to be retained and deciding common threshold.

9. The countries like USA would be reluctant in deriving at the fixed return or thresholds, if allocating profit will result into low revenue collection. Moreover the mechanism is still complex in comparison to UN Article 12B.

Under step 1, the probability threshold under will have a fixed percentage to reduce the complexity and interaction between Amount A and transfer pricing rules, thereby avoiding double taxation. The profitability of MNE group will be assessed through an "Amount A" PBT to revenue ratio. Under step-2, during reallocating percentage, a part of residual profit, related to Amount A, will be attributable to "Amount A". Under Step-3, the allocation key, allocating the profit, will use revenue as the basis for allocation. The application of revenue based allocation would differ under profit based approach and profit-margin based approach, which can be allocate through "throw-in system" or "throw-back system".

[Extra Information]

6- <u>Elimination of double taxation</u>

- Amount A will apply as an overlay to the existing profit allocation rules. As the profit of an MNE group is already allocated under the existing profit allocation rules, a mechanism to reconcile the new taxing right (i.e. calculated at the level of a group or segment), and the existing profit allocation rules (i.e. calculated at an entity basis) is necessary to prevent double taxation.
- To reconcile the two profit allocation systems, it identifies which entity or entities within an MNE group bears the Amount A tax liability, which effectively determines which jurisdiction or jurisdictions need to relieve the double taxation arising from Amount A. This mechanism is based on two components: (i) the identification of the paying entity (or entities) within an MNE group (or segment, where relevant); and (ii) the methods to eliminate double taxation.
- The process to identify the paying entities could have up to four steps. These are to:

o Step 1: Identify the entities within an MNE group that perform activities that make a material and sustained contribution to the group's ability to generate residual profits.

o Step 2: Apply a profitability test to ensure the entities identified have the capacity to bear the Amount A tax liability.

o Step 3: Allocate, in order of priority, the Amount A tax liability to the entities that have a connection with the market(s) where Amount A is allocated.

o Step 4: Allocate, on a pro-rata basis, where no sufficiently strong connection(s) is (or are) found or where those with a market connection lack the necessary amount of profit.

7- <u>Amount B : Scope & Quantum</u>

B

- Amount B is intended to simplify the administration of transfer pricing rules for tax administrations and

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reduce compliance costs for taxpayers and enhance tax certainty and reduce controversy between tax administrations and taxpayers.
- The Blueprint sets forth the framework that would enable the implementation of Amount B. It starts with a discussion of the entities and transactions that are anticipated to be in scope and proceeds to outline the way in which the in-scope baseline activities would be defined. This is followed by the assessment of the quantum of Amount B and its implementation.
- It is anticipated that Amount B could be based on a return on sales, together with potentially differentiated fixed returns to account for the different geographic locations and/or industries of the in-scope distributors. However, there is currently no provision for Amount B to increase with the functional intensity of the activities of in-scope distributors.
- Under one proposal, the implementation of Amount B would operate under a rebuttable presumption: namely that an entity that acts as a buy/sell distributor and performs the defined baseline marketing and distribution activities qualifying for the Amount B fixed return would render it in scope - but that it will be possible to rebut the application of Amount B by providing evidence that another transfer pricing method would be the most appropriate to use under the ALP. A narrow scope of Amount B may facilitate reaching a consensus by a large number of Inclusive Framework members as it would be easier to agree on the appropriate set of baseline marketing and distribution activities and the appropriate means to be applied to set the fixed returns. It would also provide flexibility to assess out-of-scope distribution returns according to the existing operation of the ALP.
- However, another group of Inclusive Framework members wish to have a broader scope, e.g. one that provides for standardised remuneration also for commissionaires or sales agents, or for distribution entities whose profile differs from the baseline marketing and distribution activities. This raises issues that will need to be further explored, to ensure that the fixed return profile for such activities is set in a manner that approximates results determined under the ALP. Sthis may also require further amendment to Article 9 of the OECD Model Tax Treaty and for this to be implemented in bilateral tax treaties, which would further complicate the implementation of Amount B.
- Some Inclusive Framework members have expressed an interest to see Amount B first delivered in a pilot programme, which would have the objective of evaluating whether Amount B can meet its aims of simplification and reduced disputes, would allow for monitoring of behavioural change of MNE groups in response to the implementation of Amount B, would allow for phased introduction in Inclusive Framework member jurisdictions and would entail an assessment of the ease of implementation on a phased basis.

8 - <u>Tax Certainty & Dispute Resolution</u>

- Securing tax certainty is an essential element of Pillar One. The Blueprint breaks down the tax certainty dimension of Pillar One into two segments: dispute prevention and resolution for Amount A; and dispute prevention and resolution beyond Amount A.
- With respect to Amount A, the Inclusive Framework recognises that it would be impractical, if not impossible, to allow all affected tax administrations to assess and audit an MNE's calculation and allocation of Amount A and to address potential disputes through existing bilateral dispute resolution mechanisms. The Blueprint contains a clear and administrable mandatory binding dispute prevention process that would provide early certainty, before tax adjustments are made, to prevent disputes related to all aspects of Amount A. The process is based on a representative panel mechanism that would carry on a review function and involve both a review panel and, where necessary, a determination panel to ensure that early certainty is achieved.
- To provide tax certainty beyond Amount A, the Blueprint takes an approach based on a number of main steps - from dispute prevention (Step 1) and the existing MAP (Step 2) to a new and innovative mandatory binding dispute resolution mechanism (Step 3).
- As Inclusive Framework members continue to have different views on the scope of application of a new mandatory and binding dispute resolution mechanism beyond Amount A, the Blueprint explores the following approach based around four elements viz. In-scope taxpayers, other taxpayers, Amount B and Developing economies with no or low levels of MAP disputes to bridge these different views.

9 - <u>Implementation and Administration</u>

- The implementation of Pillar One will require action across three different dimensions: (i) domestic law; (ii) public international law; and (iii) guidance to supplement (i) or (ii) or both.
- The operative sections of Pillar One will need to be translated into domestic law. A jurisdiction will first need to transpose into its domestic law the rules agreed by the Inclusive Framework that are to be applied to determine when an MNE group is subject to tax in that jurisdiction on the basis of Amount A. Without the creation of a domestic taxing right for Amount A, the jurisdiction would have no authority to impose tax on Amount A.
- The simplified administration process that is currently being developed could be based on, and be explored in parallel to, the centralised and simplified tax certainty process. It would be designed to centralise the computation of Amount A and related compliance activities in a single entity, possibly the UPE as required for CbCR under BEPS Action 13.

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- The best way to remove treaty obstacles to the implementation of Pillar One and to do so in a way that ensures consistency and certainty in the application and operation of Amount A is to develop a new multilateral convention. Unlike the MLI, the multilateral convention would not seek to modify the wording of existing treaty provisions (e.g. the new nexus rule would not change the existing permanent establishment definition in a particular tax treaty). Instead, new standalone treaty provisions would be developed to govern the new taxing rights and those would prevail for the taxation of in-scope MNEs.
- Changes to the present rules on the elimination of double taxation that will operate for Amount A will be necessary. These rules will provide for the relief of double taxation where a resident entity is identified as the paying entity for the purposes of Amount A. The rules could also specify the method to be used - e.g. exemption or credit.
- Guidance will also need to be developed for many aspects of Pillar One to support and supplement domestic legislation and provisions in public international law instruments (for example, multilateral competent authority agreements, commentary on the multilateral convention, guidelines for the determination and application of Amount A, etc.)
- It is expected that any consensus-based agreement must include a commitment by members of the Inclusive Framework to implement this agreement and at the same time to withdraw relevant unilateral actions, and not adopt such unilateral actions in the future.