



AN OVERVIEW OF THE G20/OECD BEPS INITIATIVE AND ITS DEVELOPMENTS

IATA – World Financial Symposium – 26 October 2023

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BEPS – Approach to Substance and Nexus

Aligning taxation with value creation

Substance

- Action 4 – Interest limitation rules
- Action 5 – Nexus approach (patent boxes).
- Actions 8-10 – Transfer pricing – intangibles and risk

Arbitrage

- Action 2 – Hybrids
- Action 3 - CFC
- Action 6-7 – Treaty abuse

Transparency

- Action 5 – Exchange of rulings
- Action 12 - Mandatory Disclosure
- Action 13 - CbCR

Coordination

- Action 14 – MAP
- Action 15 - MLI

Action 1. Taxation of the Digital Economy



Pillars 1 and 2 - unfinished business?

BEPS Action Plan:

Task was limited to the problems we could solve with the tools we had

Source v Residence Pillar 1

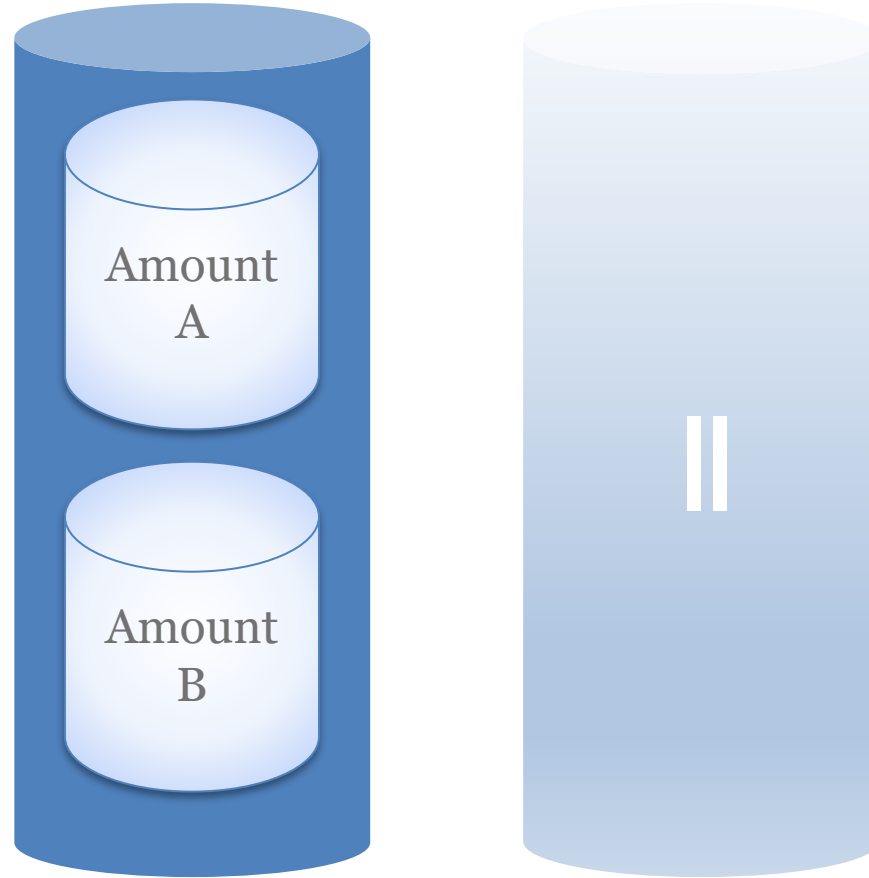
Recognition that digitalisation and globalisation allow largest multinationals to generate revenues in markets without the need for physical presence.

Rate Differentials Pillar 2

Cannot have a comprehensive solution to profit shifting without addressing rate differentials

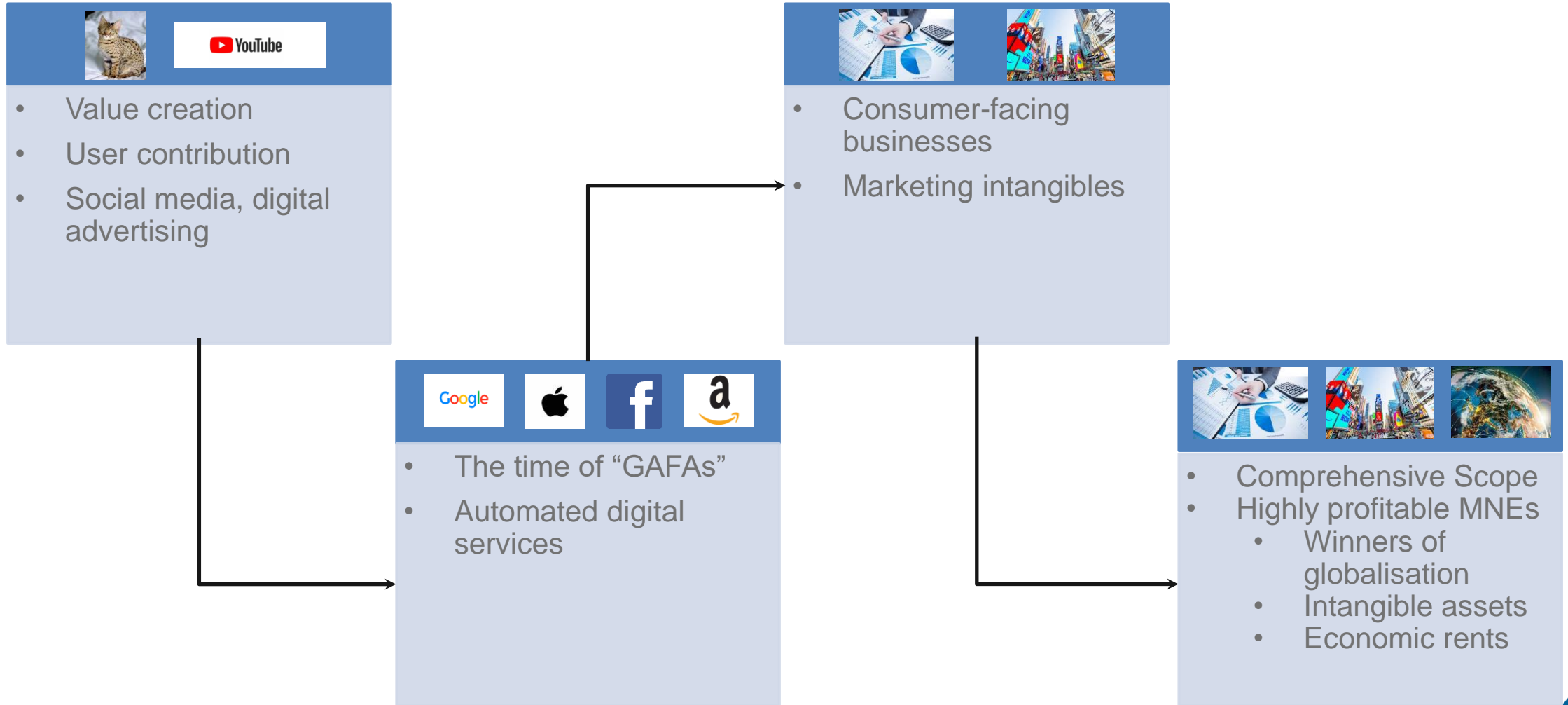


Pillar One





3. Amount A – Evolution of Scope





MLC – Amount A

Step 1. Determine if you are in scope

1.1. Group revenue and profitability test



1.2. Exceptional segmentation rule



1.3. Limited exclusions

Step 2. Identify eligible market jurisdictions

2.1. Revenue sourcing rules



2.2. Nexus test based on sourced revenue

Step 3. Calculate and allocate a portion of your excess profit

3.1. Determine relevant group profit



3.2. Allocate a portion of excess profit to markets



3.3. Adjust for double counting

Step 4. Eliminate double taxation

4.1. Determine relevant jurisdictional profit



4.2. Allocate obligation to relieve double taxation



4.3. Identify relief entities within a jurisdiction

Step 5. File, pay and access to tax certainty

5.1. File with Lead Tax Administration



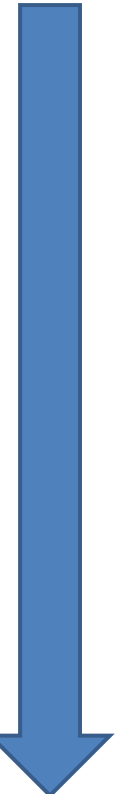
5.2. Payment from single group entity



5.3. Claim relief for double taxation



5.4. Access to tax certainty





MLC – Tax certainty and DSTs

Tax Certainty

- “Amount A” – A **binding multilateral certainty process** over whether MNEs are in scope, and their application of MLC.
- “Related Issues” – Improved certainty process (**incl. mandatory and binding dispute resolution**) for disputes on existing tax rules, to the extent that they relate to Amount A (e.g. transfer pricing and PE).

DSTs and relevant similar measures

- A **list of existing measures** to be removed in Annex A.
- **Commitment not to impose digital service taxes (DSTs) and relevant similar measures on any company.**
- **Conference of the Parties will conduct reviews** to determine whether a measure is contrary to this commitment (in which case Amount A allocations will be denied).



MLC – Operation

Entry into force

- Requires ratification by 30 States accounting for at least 60% of the ultimate parent entities of MNEs initially expected to be in-scope for Amount A, and a decision by ratifying countries.

Interaction with existing tax treaties

- Existing bilateral tax treaties between Parties to the MLC will continue to apply, but will be superseded by the MLC to the extent needed to permit the application of Amount A.
- Tax treaties with Jurisdictions which are not Parties to the MLC will not be affected.

The Conference of the Parties

- MLC establishes a 'Conference of the Parties' (CoP) to make decisions or exercise functions required for the interpretation and implementation of the MLC.

7-year review

- Revenue threshold will be reduced from €20 billion to €10 billion seven years after entry into force, unless implementation is deemed not successful by the Parties following a review by the CoP (based on pre-determined criteria).
- In latter scenario, Parties will be required to address any identified implementation issues within two years to enable the lowering of the revenue threshold.

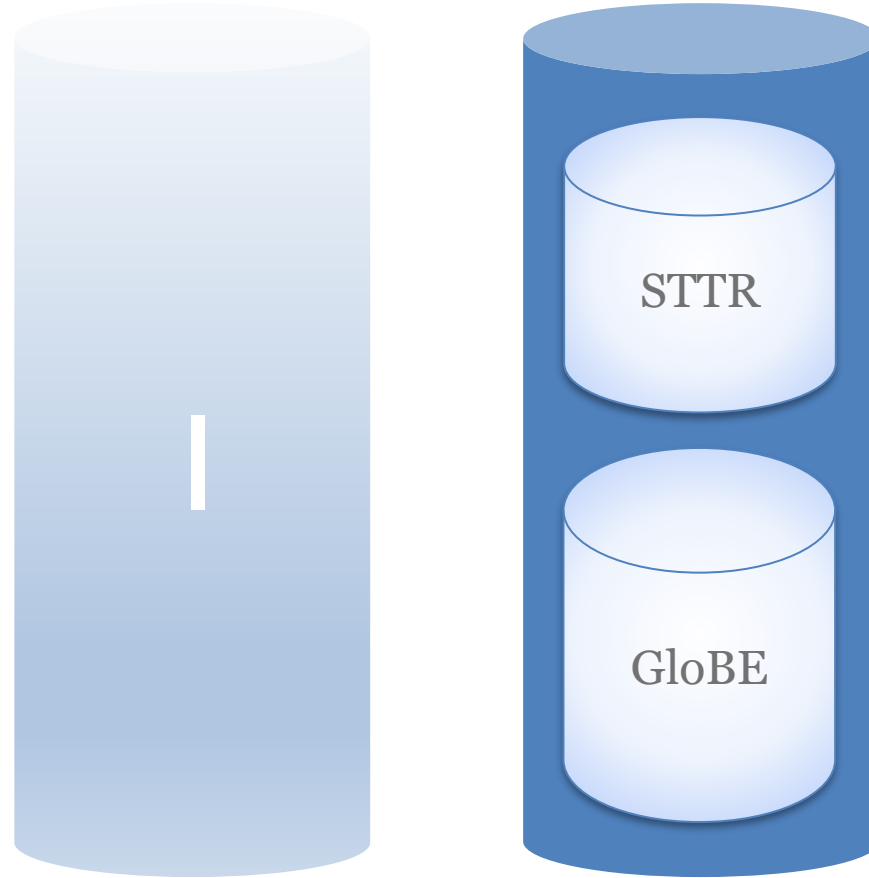


Amount B - Simplifying Transfer Pricing

- Simplify and streamline the arm's length principle to in-country baseline marketing and distribution activities, with a particular focus on the needs of LCJs
- Ongoing work on
 - (1) the balance between a quantitative and qualitative approach, and
 - (2) the pricing framework, digital goods, country uplifts and local databases
- IF Amount B report, content from which into the OECD TPG by January 2024 with consideration of
 - (1) the needs of low-capacity jurisdictions, and
 - (2) the interdependence of Amount B and the signing and entry into force of the MLC.



Pillar Two





GloBE Rules

15% effective rate – applies on a jurisdictional basis

All income

Large MNEs – 750 million Euros

Domestic law provision

Common approach

Subject to Tax Rule

9% nominal rate – applies on a transactional basis

Certain related party payments

All companies (subject to de minimis thresholds)

Treaty provision

Can be required by developing countries



GloBE Rules

1. MNE Group +750 m EUR

- In line with CbCR requirements
- High threshold maximises cost / benefit

2. Entity level financial accounts

- Leverages existing accounting and audit processes.
- Consistent accounting standard prevents mismatches
- Local tax rules used to identify location of entity and income

3. Agreed Adjustments to calculate GloBE income

- Brings financial accounting income into line with local tax base
- Ensures correct allocation of income between jurisdictions
- Policy based exclusions (shipping exclusion)

4. Covered taxes

- Uses financial accounting as starting point
- Incorporates deferred taxes to account for timing differences
- Cross-border adjustments to align income and taxes.

5. Top-up tax calculation

- Top-up tax applies to excess profit (i.e. after applying substance based income exclusion)
- Simplifications and safe harbours

6. Charging provision

- Agreed rule order provides certainty and avoids double taxation



Ongoing tax policy issues beyond the Pillars

Carbon mitigation



Environmental taxation Inclusive Forum on Carbon Mitigation Approaches

- Taking stock of policy instrument and developing a consistent methodology

Tax certainty



Multilateral MAPs and APAs

Tax certainty under the
Two-Pillar Solution

Supporting domestic resource mobilisation



Platform for Collaboration
on Tax (UN, IMF, WBG,
OECD)

Tax Inspectors Without
Borders (UNDP and OECD)

Tax administration 3.0



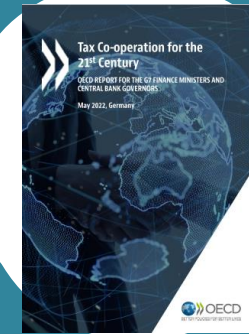
Digital solutions

- Digital identity
- Taxpayer touch points
- Efficient tax rule managements

VAT move to real time, e-
invoicing, digital reporting

Data repositories and
interlinking of different
registers

Improvements to International CIT



- One stop shop tax administration
- Collaborative approach
- Common and synchronised risk assessment
- No duplicative requirements



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