

**CHAMBER OF COMMERCE
OF THE
UNITED STATES OF AMERICA**

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EXECUTIVE VICE PRESIDENT &
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October 6, 2021

The Honorable Janet L. Yellen
Secretary of the Treasury
Department of the Treasury
1500 Pennsylvania Avenue, NW
Washington, DC 20220

Re: Inclusive Framework Statement on a Two-Pillar Solution to Address the Tax Challenges Arising from the Digitalization of the Economy

Dear Secretary Yellen:

The U.S. Chamber of Commerce appreciates the opportunity to present the following comments to the Department of the Treasury on the Organisation for Economic Co-operation and Development's (OECD) continuing work on a Two-Pillar Solution to Address the Tax Challenges Arising from the Digitalisation of the Economy.

I. General Support for the OECD Process

As noted in prior submissions,¹ the Chamber believes it is important to maintain the coherence of the international tax system. and, as such, we encourage continuing broad engagement to meaningfully address digital tax issues. We want any solution to this issue to be sustainable and are extremely concerned that the failure of this process or the non-universal adoption of a new solution would yield significant tax and trade disruptions. Further, any agreement needs to be long-term, rather than treated as a "first step" in raising more tax revenue or moving toward formulary apportionment.

II. General Comments on a Solution

The Chamber remains extremely concerned that the current timeframe for agreement and implementation is overly ambitious and does not realistically allow countries to enact legislation and companies time to get processes in place required for compliance. Administrability should not be an afterthought in the negotiations; administration details are important and should be considered and settled before announcing any agreement.

Further, the Chamber believes that any agreement must be conditioned upon a complete withdrawal of unilateral measures ((digital services taxes (DSTs), diverted profits taxes (DPTs), offshore receipts tax (ORT), multinational anti-avoidance laws (MAALs), equalization levies,

¹ The Chamber has provided prior comments during this process. Those comments can be found [here](#) and [here](#).

digital levies, etc.) prior to implementation of any agreement. To ensure this complete withdrawal, consideration should be given to requiring a country-specific list of relevant unilateral measures that would need to be repealed as part of any agreement. Further, the Treasury should consider what enforcement mechanisms are required to ensure all unilateral measures are withdrawn and prevent new unilateral measures from being adopted.

The Chamber also believes that binding dispute resolution and a time limit to bring disputes must be agreed to. These elements are essential to making both Pillars work as finality and certainty are required for companies and countries to operate now and in the future.

Finally, alignment and harmonization between Pillars One and Two are necessary to eliminate risks of multiple taxation.

III. The U.S. GILTI Regime

As noted in prior comments, the Chamber believes that the current law U.S. GILTI regime² should be treated as a qualified tax regime for purposes of the entirety of the GloBE rules³ and the OECD should ensure that the GloBE rules are designed in a manner that prevents double taxation. The compatibility of these new rules with the U.S. network of bilateral treaties for the avoidance of double taxation is an important matter that should be addressed as part of this process and not as an afterthought.

The Chamber believes that the U.S. Treasury Department should not be advocating for a harsher GILTI regime in the United States than the GloBE framework which it has endorsed. Further, until it is clear that OECD countries will enact and implement this kind of regime, the Chamber strongly opposes changes to the GILTI regime that would put U.S. companies at a disadvantage to their international competitors. ; current discussions surrounding increased rates, shifts away from global calculations, and elimination of qualified business asset investment (QBAI) are both misplaced and premature. If changes must be made to align with the OECD Pillar 2 framework, it is in the best interest of the United States to also align the timing of any changes with the date of an actual implementation of Pillar 2. Doing otherwise not only puts U.S. businesses at risk but also create a disincentive for the rest of the world to act.

The Chamber appreciates the opportunity to offer these comments and is ready to provide additional input as appropriate.

² 26 U.S.C. §951A.

³The Chair's Summary of the G7 Finance Ministers and Central Bank Governors Meeting in Chantilly in July 2019, available at <http://www.g7.utoronto.ca/finance/190718-summary.html>, cited to GILTI as the example for a Pillar Two regime to provide for a "minimum level of effective taxation" that "would contribute to ensuring that companies pay their fair share of tax."

Sincerely,

A handwritten signature in blue ink, appearing to read "Neil L. Bradley", with a stylized flourish at the end.

Neil L. Bradley

Attachment: U.S. Chamber Comments on the Public Consultation Document on the Reports on the Pillar One and Pillar Two Blueprints

cc: Richard Neal, Chairman of the House Ways and Means Committee
Ron Wyden, Chairman of the Senate Finance Committee
Kevin Brady, Ranking Member of the House Ways and Means Committee
Mike Crapo, Ranking Member of the Senate Finance Committee