

# Pillar One & Two: Implications and Challenges

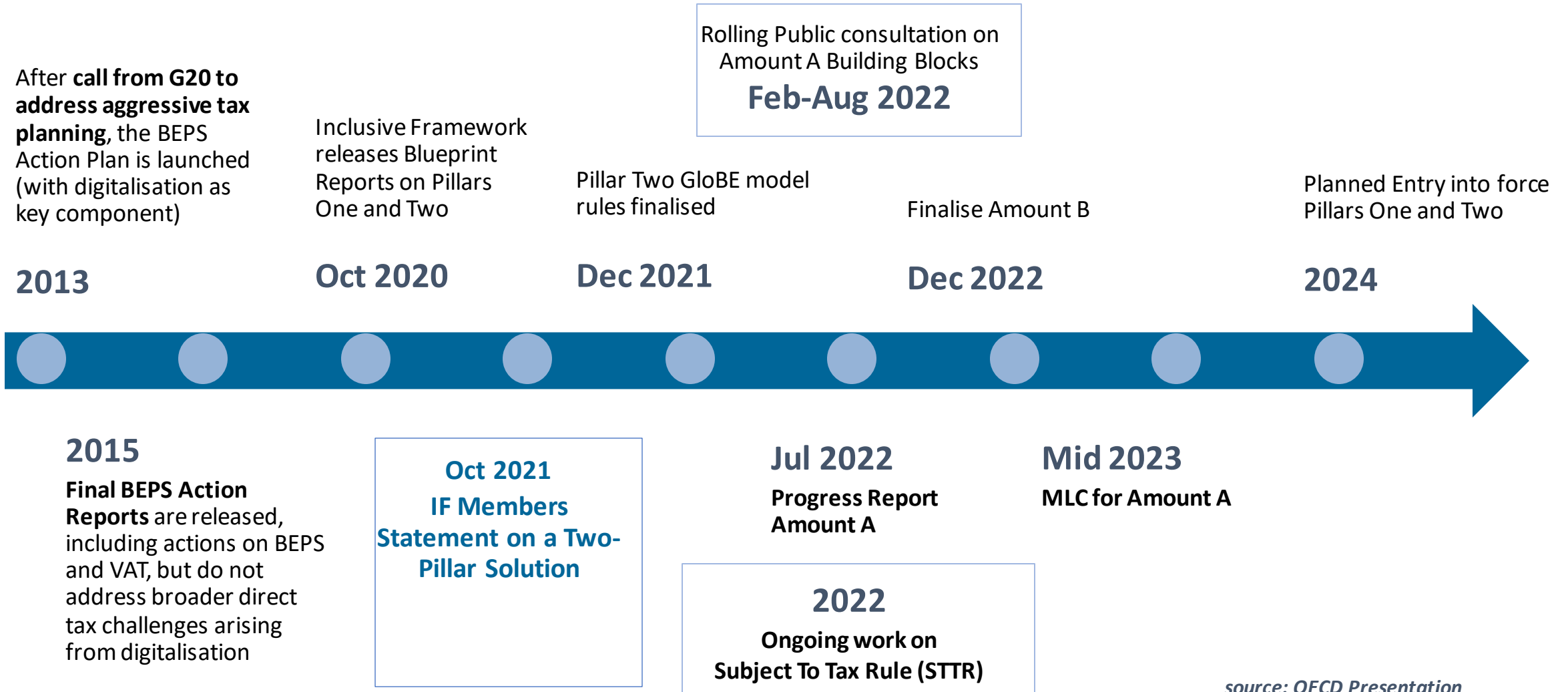
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12th High-Level Tax Conference for Asian and Pacific Countries in Tokyo  
25-26 October 2022

# OECD Timeline for the Two-pillar International Tax Package



source: OECD Presentation



# PILLAR ONE UPDATE

## OBJECTIVE

To reallocate taxing rights to market jurisdiction over Amount A of the largest and most profitable MNEs based on new nexus and new profit allocation rules

### SCOPE

Multinational Enterprises (MNEs) with consolidated revenue exceeding EUR 20 Billion and profit above 10% (earnings before tax/turnover).  
Exclusion: extractive industries and regulated financial services

### NEXUS

MNEs deriving at least EUR 1 million in a market jurisdiction. For smaller economy, with GDP<sub>nya</sub> < EUR 40 billion, the nexus will be EUR 250 000. po

### NEW PROFIT ALLOCATION RULES

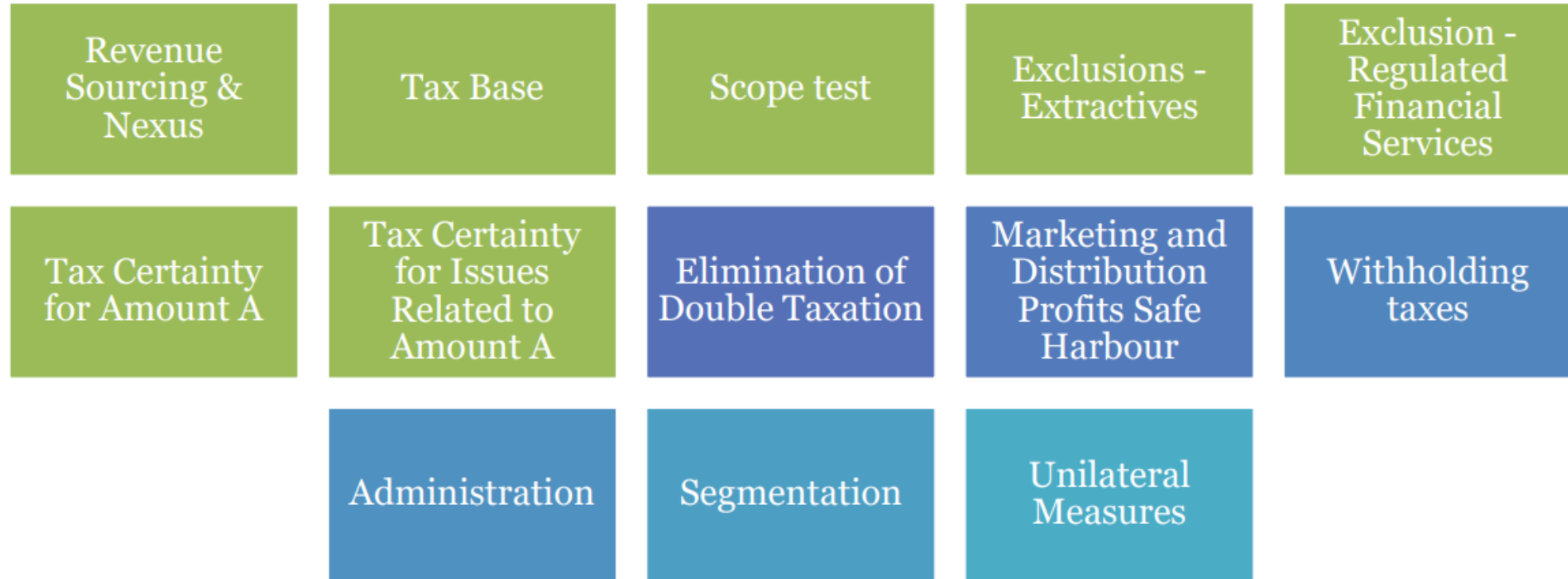
The use of certain mechanism, which is 25% of profit in excess of 10% of revenue to be allocated to market jurisdictions using a revenue-based allocation key

### TAX CERTAINTY

the introduction of panels related to early certainty mechanism and dispute resolution mechanism

*Implemented through a MLC which is targeted to be signed by the first half of 2023 and enters into force in 2024*

# PILLAR ONE UPDATE



## Note:

1. Model Rules on some building blocks (revenue & nexus, tax base, scope, exclusions extractive, exclusion regulated financial service, tax certainty for Amount A) have been published in Feb-June 2022 and inputs from public have been received. (<https://www.oecd.org/tax/planned-stakeholder-input-in-oecd-tax-matters.htm>)
2. Progress report on several building blocks (revenue & nexus, tax base, scope, exclusions extractive exclusion regulated financial services, elimination of double tax, and marketing and distribution safe harbour) have been published in July 2022 and inputs from public have been received in August 2022. Public consultation meeting was held at 12 September 2022.
3. IF meeting is set for 6-7 October 2022

# PILLAR TWO UPDATE

## Objective:

- To address the remaining BEPS issues
- to end the competition of corporate tax rate

by ensuring that MNEs pay a minimum 15% effective tax rate

## Overview

Consist of GloBE rules IIR & UTPR and treaty-based rules (subject to tax rules (STTR))

## Implementation

- GloBE rules are implemented through domestic rules
- STTR are implemented through a multilateral instrument

## Work on Pillar Two

- Model rules and commentary have been released
- The implementation framework and administration guidance are still being developed
- MLI on STTR is still being developed

# THE TWO PILLARS : IMPLICATIONS FOR COUNTRIES

## PILLAR ONE

- Allow market jurisdiction to tax Amount A of MNE in scope with the nexus, regardless the existence of physical presence
- Limited additional revenue for developing countries
- Complexity in administering the rules
- Only partially solve the tax challenges arising from the digitalization of the economy
- Prohibit the application of DST and other relevant measures

## PILLAR TWO

- It intends to eliminate the competition of tax rates rather than address BEPS risks
- Limited application of IIR & UTPR in developing countries
- Limited application of STTR
- Encourage the imposition of CIT min. 15%
- Not all incentives are impacted but reduce the effectiveness of tax incentives with ETR below 15%
- Less reliance on tax incentives to attract investment
- Encourage the application of QDMTT



# PILLAR ONE & TWO : IMPLEMENTATION CHALLENGES

Capacity of HR on related issues to

Pillar One & Two

Potential increase in administrative costs

Difficulty in Obtaining Data

Potential increase in administrative costs; ie Adjustment on administration and information systems

Short implementation timeline to ratify MLI and incorporate the rules into domestic regulations

Dispute Settlement

## Efforts to address Pillar One challenges:

1. Capacity building by involving experts & relevant international organizations.
2. Improve cooperation for information exchange through existing platforms: Asean Forum on Taxation, Asia Initiative Bali Declaration 2022, etc
3. Early coordination with the relevant line ministries (Ministry of Foreign Affairs, units within MOF, Investment Coordination Board) to prepare relevant implementation regulations.

## Implementation in Indonesia:

Legal basis to sign MLC on Pillar One, MLI on STTR for pillar Two, and to incorporate relevant implementation regulation both pillars have been incorporated in the amendment of Income Tax Law (UU HPP) 2021.

# THE TWO PILLARS : WHAT'S NEXT ?

## PILLAR ONE

- **completion of discussions related to all building blocks**
- critical mass in the MLC participation

## PILLAR TWO

- completion of the MLI design for the Subject to tax rule (or STTR)
- Qualified Domestic Minimum Top-up Tax (QDMTT)
- Design of tax incentive regime
- Exclusions on the ETR calculation
- Qualified Refundable Tax Credit (QRTC).

### **IO Supports:**

- Education and awareness on the substances of pillars 1 & 2 and the relevant data analysis
- Discussion to identify options, aiming at contributing inputs to speeding up the conclusion of building blocks for Pilar 1 & encourage Critical Mass
- Design inputs for QDMTT, QRTC, Tax Incentive regimes on Pilar 2



**Thank You**