FACT COALITION
Financial Accountability & Corporate Transparency

December 11, 2023

The Honorable Lily L. Batchelder
Assistant Secretary (Tax Policy)
U.S. Department of the Treasury
1500 Pennsylvania Avenue N.W.
Washington, D.C. 20220

By email: OTP_Pillar1MLC@treasury.gov

**Re: Draft OECD/G20 Inclusive Framework Pillar One Multilateral Convention**

Dear Assistant Secretary Batchelder:

This letter responds to a request for public input on the draft OECD/G20 Inclusive Framework Multilateral Convention to Implement Amount A of Pillar One (**Pillar 1 MLC**).

This letter was drafted by the Financial Accountability and Corporate Transparency (FACT) Coalition, a non-partisan alliance of more than 100 state, national, and international organizations promoting policies to build a fair and transparent global tax system that limits abusive tax avoidance and to curb the harmful impacts of corrupt financial practices.[1]

**Multilateral Tax Cooperation**

It is critical for the US to continue to engage with other governments and multilateral bodies (including both the OECD and the UN) on international tax policy issues. The challenges of today's global economy can be solved only by a robust global tax, financial and trade infrastructure that includes the US as a strong partner. The alternative for US taxpayers, workers, consumers, and businesses would be a world of tax uncertainty, with a multitude of unilateral tax measures, risking misguided and costly trade wars that would cause broad harm to the economy.[2] In addition, this could result in an erosion of US tax revenues, to the extent that foreign digital service taxes and relevant similar measures might be treated as creditable for US tax purposes.

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[1] To learn more about the FACT Coalition and its members, see https://thefactcoalition.org/about-us.

[2] We believe that the US Trade Representative's Section 301 actions against digital service taxes were not well-founded, and that overall Section 301 is not an appropriate policy tool to address this issue. See, Stephen E. Shay, "Trade enforcement tools and international taxation: a digital services tax case study" in *The Elgar companion to the World Trade Organization* (forthcoming).

**Pillar 1 Benefits and Next Steps**

In this context, the achievement of Pillar 1 MLC represents a historic and long overdue step to allow greater taxing rights for destination countries. We welcome this step, noting that it has been a longstanding goal of developing countries, as reflected in ongoing UN tax discussions.[3] Moreover, this shift is also likely to expand US public revenues, as a large market economy. Indeed, according to estimates from independent researchers, the US stands to be the top net beneficiary of Pillar 1.[4] This new source of revenue would be welcome to fund social safety net needs, make climate change investments, and meet U.S. global commitments. It is time that large multinational corporations finally start to pay their fair share and stop shifting the burden to American workers and taxpayers.

Aside from implications for US revenues, we view Pillar 1 as an important first step toward a fairer global allocation of taxing rights that should take into account certain factors in addition to where the sales take place, such as location of labor and natural resource wealth. These are of particular importance for many developing countries.

As it stands, it is encouraging that the Pillar 1 MLC includes a number of helpful provisions for developing countries: the allocation of at least a portion of very high profits to developing countries, special nexus rules for smaller economies, and accommodations for developing countries in the tax certainty commitments. However, we are concerned that when taken together, this legal regime is overly complex and too difficult to administer, particularly for tax administrations that are already under-resourced and overstretched. We would therefore support efforts aimed at overall simplification, together with offering technical and capacity-building support on Pillar 1 MLC implementation, including from the US Treasury Department's Office of Technical Assistance.

**A Note on Pillar 2**

While the prospects of Pillar 1 may appear uncertain at present, countries around the world are already implementing Pillar 2, including key US partners in the European Union, Australia, Japan, and beyond. It would be a costly mistake if the US were left behind. We join 60 other organizations in strongly supporting Congressional action to align GILTI with Pillar 2 by passing the No Tax Breaks for Outsourcing Act (H.R. 884 / S. 357).[5] While Congressional action is pending, we also encourage the US Treasury to do its part by using its executive authority to bring the US closer in line with Pillar 2, including by exploring ways to better align the new corporate alternative minimum tax and the Pillar 2 agreement and related guidance.[6]

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[3] See e.g., para. 23-24, UN Secretary General (2023), Promotion of inclusive and effective international tax cooperation at the United Nations.

[4] Mona Barake & Elvin Le Pouhaër (2023), "Tax Revenue from Pillar One Amount A: Country-by-Country Estimates," Table 2, p. 13.

[5] FACT Coalition (2023), 61 Groups Call on Congress to Close International Corporate Tax Loopholes.

[6] See Professors Reuven Avi-Yonah & Bret Wells (2022), Pillar 2 and the Corporate AMT, *Tax Notes*.

Thank you for the opportunity to comment. If you have questions, you may contact Zorka Milin (zmilin@thefactcoalition.org)

Sincerely,

Zorka Milin
Policy Director
The Financial Accountability and Corporate Transparency (FACT) Coalition