UNITED STATES COUNCIL FOR INTERNATIONAL BUSINESS

November 11, 2019

VIA EMAIL
Tax Policy and Statistic Division
Centre for Tax Policy and Administration
TFDE@OECD.org

Re: Secretariat Proposal for a "Unified Approach" under Pillar One

Dear Sir or Madam,

USCIB[1] appreciates the opportunity to comment on the Secretariat's Proposal for a Unified Approach under Pillar One (hereinafter proposal or Unified Approach).

General Comments

USCIB believes that any fundamental changes to the international tax rules should be achieved through a consensus-based process. The best place to conduct that process is at the OECD where over 130 Inclusive Framework countries are participating in a project to attempt to achieve consensus on possible new rules applicable to the broad digitalized economy. Thus, USCIB supports the efforts of the OECD and the Inclusive Framework to reach agreement on a Unified Approach to international taxation.

The proposal, nevertheless raises concerns that USCIB believes need to be addressed as this process moves forward.

- The Unified Approach does not seem to have a unifying tax policy rationale. A tax policy rationale is essential if the proposal is to be cohesive and sustainable. This lack of a tax policy rationale also makes it more difficult to comment; if the objectives are not clear it is difficult to say whether we agree with the objectives or whether the proposals implement that objective. This has been especially problematic in the scope section. In the absence of a clearly stated tax policy rational, USCIB members interpret the goals of the proposals differently and therefore have different views on whether consumer-facing accomplishes those goals and whether the impact on any particular industry is appropriate.
- The proposal should not have a negative impact on growth and investment. The impact assessment is essential to determining this. USCIB is concerned that policy decisions are getting

[1] USCIB promotes open markets, competitiveness and innovation, sustainable development and corporate responsibility, supported by international engagement and prudent regulation. Its members include top U.S.-based global companies and professional services firms from every sector of our economy, with operations in every region of the world. With a unique global network encompassing leading international business organizations, USCIB provides business views to policy makers and regulatory authorities worldwide and works to facilitate international trade and investment.

ahead of the impact assessment. We are also concerned that the OECD's initial assessment may be internally inconsistent.

- The two high-level points on economic assessment were that: the combined effect of Pillar 1 and Pillar 2 would lead to a significant increase in global tax revenues; and overall the package would not adversely affect the investment environment. A significant increase in global tax revenues, would, at a minimum, reduce funds available for investment.
- If the Inclusive Framework does not adequately address double taxation and dispute resolution, then companies may be reluctant to invest in countries which pose a risk of double taxation, increasing the risk of a negative impact on investment.
- It is essential for the coherence of the international tax system that unilateral measures be eliminated by Inclusive Framework members adopting the Unified Approach. The final agreement must not only contain an agreement to eliminate unilateral measures but also list unilateral measures that need to be eliminated. If unilateral measures are not listed, then some countries may assert that their measures are not unilateral measures covered by the agreement and may continue to impose additional tax on multinational enterprises.
- The modifications to the international tax system must be agreed to as a package. Countries will be making different trade-offs in order to reach consensus. If some pieces of that agreement are implemented first, then countries that benefit from that part of the package may lose their incentives to agree on the rest.

Scope

USCIB understands the proposal of the Secretariat to limit the scope of the profit allocation proposal to consumer facing businesses that "interact with their consumer base and create meaningful value without a traditional physical presence in the market."[2] The scoping limitations appear to apply only to the new taxing right -- Amount A. This should be clarified. Presumably, the application of "Amount B" and "Amount C" should apply equally to all taxpayers with a taxable presence in a market under the existing Article 5 permanent establishment standard. There will be difficulties encountered in an attempt to limit the scope of the proposal based on business activities.

USCIB believes that understanding the tax policy rationale of the Unified Approach is essential to system design. As noted above, USCIB believes the policy rationale needs to be clearly stated in order to achieve a result that is coherent and sustainable. The comments below are not intended to endorse or oppose a consumer-facing approach to Pillar 1, but to identify difficulties in implementing the Unified Approach.

The Secretariat's Proposal raises many difficult questions that will require further study including:

- The Secretariat's Proposal states: "The term "consumer" generally refers to individuals who acquire or use goods or services for personal purposes."[3] It is not clear why the proposal uses the phrase "generally refers to", instead of something more definitive such as "means". If this is

[2] Secretariat's Proposal, para. 19, page 7.

[3] Public Consultation Document, page 7, footnote 7.

because the Inclusive Framework is not clear on the meaning, then USCIB believes that reaching agreement on consumer facing presents challenges that will require very careful analysis and development of workable solutions. A clear agreement on whatever scoping limitation is to be applied is needed in order to minimize disruption and uncertainty to the broad-base of US multinationals across all sectors.

- The proposal seems to exclude industrial goods and services: examples might include jet engines sold to airplane manufacturers; medical equipment and medical databases sold to hospitals; airplanes, ships, and trains sold to transportation companies; jet fuel sold to an airline; commodities and petrochemical products used in manufacturing; transportation of cargo between a manufacturer and a distributor; and information technology products and services including cloud computing services provided to business entities and governments. Including these types of transactions in a definition of what is consumer facing would make the proposed scope limitation meaningless.
- The proposal also seems to exclude components from the definition of consumer facing. Components including, for example, semiconductors, computer software, automobile parts, will be incorporated into a new product that will have a different character and use than the component product and generally do not have significant marketing intangibles which are the presumed focus of the proposal. Components may also be impossible to trace to the end-user.
- Components may be part of another product or a product in themselves. Does the categorization of a component depend on how the purchaser uses the product or how it is viewed by the ultimate consumer?
- Even goods that are intended for ultimate consumption by consumers raise difficult issues.
    - Many goods which are often associated with consumer use have significant non-consumer use and sale. For example, food products are sold to retail stores as well as hospitality and transportation companies, computers and software are sold to consumers as well as businesses and governments, and cars are sold to both individuals as well as corporate fleets and car rental companies. Once sold, products often have mixed uses: school systems purchase computers for use by faculty, administration, and students, for example, while car rental firms rent to both leisure and business travelers. USCIB believes that sales to governments cannot be consumer facing and should be excluded; the allocation of sales to businesses between consumer facing and non-consumer facing may be difficult to precisely accomplish. Implementing tracking would require further study and would likely require burdensome reporting and systems modifications by businesses.
    - The location of consumers or users is difficult to determine with certainty for both digital and physical goods. What rules would apply for purposes of this determination?
    - If a manufacturer of consumer products sells to an unrelated distributor in Country A and the distributor subsequently sells the products to retail stores in Countries A, X, Y, and Z, will the sales of the unrelated distributor (or even the retailers) be used to determine the allocation of amount A? Any method which looks to allocate based on a mixture of MNC direct sales as well as subsequent unrelated sales will result in double taxation or non-

sensical apportionment – in this example, with an allocation to Country A far larger than warranted based on any potential local market intangibles. Further, data on the sales of unrelated parties may be unavailable due to anti-trust or competition law limitations and may be of uncertain quality; this would make achieving certainty and confidence in any result challenging for both enterprises and tax authorities as well as dramatically increasing the cost and complexity of compliance. USCIB believes that only direct sales of an enterprise can be appropriately used to determine and apportion amount A.

- A predominant purpose test or safe harbor that excludes enterprises with limited direct to consumer transactions may also limit controversy.
- Consideration also should be given to adopting a de minimis rule so that companies with only a small percentage of sales attributable to activities that are not excluded from Amount A would be treated as wholly excluded from the requirement to measure and allocate Amount A.
- The application of the Unified Approach should be consistent with the tax policy rationales articulated and should, therefore, endeavor to stabilize the international tax system, which requires an attempt to minimize disruption and uncertainty across all sectors. The Secretariat has asked for recommendations concerning whether industries should be carved-out. USCIB believes that carve-outs are appropriate, if consistent with the tax policy rationale.
- The Secretariat's Proposal asks for comments on franchise arrangements.
  There are typically two types of franchise arrangements: those where the franchisor licenses IP in exchange for a royalty payment and those where the franchisor sells a branded product to a distributor (a franchisee distributor) for distribution. In either scenario, the franchisee distributor typically earns a significant margin for conducting the business in country. Thought should be given to these types of arrangements in determining how much profit is already subject to tax in the market country by the franchisee.

USCIB supports using a global threshold of 750 million euros, that is linked to the Country-by-Country reporting threshold and based on consolidated financial statements, as a simpler, clearer way to determine the multinational enterprises within scope. The amounts included in calculating the threshold should only be amounts within scope for Amount A.[4]

USCIB also believes that the definition of the multinational enterprise must be consistent with the definition of the consolidated group for financial reporting purposes because the determination of income must be determined based on consolidated financial reports.

Nexus

USCIB supports creating a stand-alone remote nexus test, separate from Article 5. It must be clear, however, that the new nexus rule applies only for purposes of allocating Amount A to a market jurisdiction and for no other purposes whether tax or non-tax. Companies are very concerned that

[4] If this suggestion is not adopted, the IF should consider a de minimus rule so that companies with only a small percentage of sales attributable to activities that are not excluded from Amount A would be treated as wholly excluded from the requirement to measure and allocate Amount A.

market jurisdictions will attempt to use the new nexus as a hook for other regulatory purposes. This would be inappropriate; the point of the new nexus rule is to create a taxing right in the absence of any presence in the market jurisdiction. Because there is no presence, there should be no right to regulate the companies that are in fact operating outside of the market. It should be made clear that the new nexus standard creates no ancillary tax obligations in the market jurisdiction – no VAT, customs duties, excise taxes or any other additional tax or registration obligation.

USCIB also recommends that, due to the operation of Amount A, there should be some recognition that additional taxing right based on dependent agent permanent establishments should be limited.

Rather than recommending a particular market threshold, USCIB recommends some principles to apply in deciding on the appropriate threshold:

- Sales must be based on direct sales into the country to the ultimate consumer. It would be extremely difficult to look through a distributor to attempt to determine the ultimate destination of a particular sale, as discussed above. This approach is also consistent with the notion that "Amount A" is built on a simplified set of assumptions. These assumptions should include that additional complexity should be rejected when the impact is likely to be both small and unpredictable.
- USCIB would prefer a single threshold for sales into all countries, which would be administratively simpler to implement. A single threshold could be designed taking into account the needs of developing countries. If the Inclusive Framework determines that multiple thresholds are necessary, perhaps there could be two fixed monetary thresholds for countries in different circumstances depending on their stage of development.
- The Inclusive Framework should consider using a multi-year trailing average to trigger both inclusion in the Amount A regime as well as the determination of the excess returns, such that a single aberrant year (either very high or very low) would not necessarily change a taxpayer's status for purposes of Amount A. Without this, taxpayers could unexpectedly come in and out of scope, creating significant administrative and compliance burdens for business, and unpredictable costs and revenues for enterprises and market jurisdictions.
- The threshold should be assessed on the taxpayer's segmentation for purposes of determining Amount A
- In addition, unusual transactions based on facts and circumstances (such as a disposition of a business or business line, minority interests or unrealized gains) should be excluded from the definition of "sales" and generally excluded from consolidated net income for purposes of Amount A. Taxpayers should have the ability to justify including these items based on their particular facts and circumstances.

<u>Determination of Amount A</u>

The OECD proposal and commentary contemplate the use of public financials as the basis for determining Amount A. Group financials are structured to report on the taxpayer's business in a way that makes sense from a business perspective and that provides relevant information to shareholders, regulators and other stakeholders. While externally reported Group financials sometimes provide segmented financial information (or by business lines), the data is not usually reported/available at the operating margin level, or even less at the pre-tax profit level.

USCIB believes that the Inclusive Framework should use the following standards in computing Amount A:

- Taxpayers, and not countries, must have the flexibility to determine the presentation format of the financial statements from which Amount A will be determined.
    - Taxpayers should have the option to use their audited financial statements as the starting point for computing Amount A. For US multinationals, these would be their US GAAP financial statements (or IFRS for non-US companies as the case may be).
    - Taxpayers should have the option, but should not be required, to segment their financial results by line of business, regional grouping, or other basis that best reflects their business which can be substantiated through their ordinary books and records. Line of business segmentation that is reported in publicly available financial statements should always be respected as such presentation format is not prepared for tax purposes and has material non-tax implications. Such segmentation is determined in a manner that makes sense from a business perspective and provides relevant information to shareholders, regulators, and other stakeholders.
    - To the extent that a taxpayer determines that segmentation done for public/financial reporting is not sufficiently granular, the taxpayer should have the option to further segment its financial results.
    - Taxpayers should be permitted, but not be required, to aggregate business lines or segments as this will help counter the likely incremental, and subjective, administrative burden that will be introduced by the proposal.
    - To ensure that segmentation by line of business does not result in cherry picking, taxpayers should be required to use the same segmentation rules on a global basis.
    - The Secretariat's proposal suggests that businesses may be required to segment their financial statements on the basis of consumer-facing businesses. If contrary to the approach outlined above, countries are permitted to define the basis of financial reporting, they will likely request segmentation that may be impossible or very time consuming and expensive to create. It is difficult to overstate the complexity involved in restating the groups financials.[5] Further, it is difficult to know how taxpayers would achieve certainty with respect to these numbers. Countries might object to the segmentation of the taxpayer's business and choose a different segmentation. This would likely result in unrelieved double taxation.

[5] USCIB members would welcome the opportunity to meet with the OECD to discuss in detail the issues with this restatement and other financial accounting issues.

- While consolidated financial statements should form the basis for determining Amount A, certain modifications may be required (beyond segmentation) to achieve results consistent with the OECD's objectives:
    - For example, adjustments should be permitted for material book-tax differences. Materiality could be defined as an adjustment in excess of a stated amount. The only alternative to group financials that avoids double taxation is global agreement on a tax base, which is not politically viable.
    - If segmentation is used, corporate headquarters expenses and interest would need to be fully allocated among the business line or regional groupings in a systematic/rational way that reflects the underlying business and is consistently applied across groupings.
    - Unusual or extraordinary items should generally be excluded from the profit calculation. Taxpayers should have the ability to justify including these items based on their particular facts and circumstances.
- Determination of Amount A
    - Amount A should be targeted at excess profits and therefore the threshold that must be exceeded to require an Amount A allocation should be set at a level to support that conclusion. Further, there should be no Amount A profit allocation until there is a positive cumulative Amount A. There can be no excess profits if there are no cumulative profits.
    - Amount A should also be modest, if the impact is not modest it is unlikely that surrender states would agree to the reallocation. If any adjustment is immaterial (possibly a certain threshold or percentage of tax), it should not be made at all.
    - Once the global residual profit is determined, some portion of that must be allocated to trade intangibles (including embedded intangibles and R&D), capital and risk. In the experience of most businesses, the value of the business is in the technology, manufacturing, and operations expertise supporting the product – particularly products that generate excess returns. If the product does not fill a need and is not a superior product, then marketing will not result in sustainable excess profits. This computation should be informed by the existing arm's length standard.

<u>Elimination of Double Taxation with Respect to Amount A</u>

- Tax credits will not work to eliminate double taxation. Tax credits would require the tax paid globally to be shifted from the payor to the surrender jurisdiction. This is likely to require complex calculations that might have collateral consequences that would need to be considered. Tax credits would also require complex sourcing rules and be subject to limitations that will inevitably create double taxation.
- There will need to be a deduction for the Amount A profit allocation in the surrender jurisdiction, which should be linked to the determination of the Amount A grouping approach.
- The country or countries that are the surrender jurisdictions must be identified, and ensure the taxpayer achieves the tax benefit of reduced income.

- Mandatory binding arbitration, with the same enforcement authority as Amount C, should be available to resolve disputes in the determination of Amount A. Even if the final agreement clearly defines the formula for determining Amount A, there may be disagreements concerning the inputs into Amount A, particularly if the OECD adopts new segmentations for purposes of determining Amount A. Adjustments made by one country will affect the global pool and therefore multilateral binding dispute resolution is critical to making this proposal work. We believe that the grouping approach should be pre-aligned with the home country, binding and with a multi-year duration.
- MAP relief under existing bilateral tax treaties is generally limited to direct transactions between treaty-resident entities that result in economic double taxation. Traditional MAP relief will likely be unavailable in many situations that will be subject to the new taxing rights. Therefore, other forms of dispute resolution (including multilateral binding arbitration) will be necessary.
- While USCIB believes that limiting audits of Amount A to the home-country jurisdiction is critical to achieve the OECD's objectives of certainty and administrability, certain executional aspects need to be addressed to avoid significant concerns. First, if there is an audit, then any changes in any part of the Amount A formula might still require amended returns on a global basis. This is not an appropriate outcome. Alternatives that might be considered are: making Amount A due to the parent jurisdiction with the parent jurisdiction tax authority making payments to other countries post-audit; making any adjustments prospective – rebalancing payments would be required as part of the next year's allocation; or setting up an advanced ruling process to determine Amount A in advance. If other jurisdictions challenge the determination and allocation of Amount A, the home country should continue to have jurisdiction over that determination. There should be a statute of limitations with respect to these redeterminations. The OECD should consider limiting redeterminations to those that are material.
- USCIB further recommends that the OECD include additional dispute prevention and resolution practices within the Pillar 1 process. In particular, companies often find (particularly in many developing countries) that disputes commonly relate to the appropriate markup to be applied to routine functions within a jurisdiction. Further, these disputes are often characterized by little more than an unsupported assertion by an examining agent that a higher markup is appropriate, without any accompanying factual development or even cursory analysis. Resolving these disputes via mandatory, binding arbitration would be a significant improvement over the status quo, but many of these disputes should be resolved well in advance of any need for arbitration. To that end, the OECD should promote as part of the Pillar 1 process the use of centralized bodies within local tax authorities, improved judicial functions, or other approaches designed to ensure that proposed tax adjustments do not move forward (i.e., to arbitration) if there is a lack of meaningful factual development or where an assertion otherwise lacks legal support.
- The OECD should consider the development of a peer review system to enforce compliance with the new dispute mechanism, as a minimum standard.

<u>Calculation of Amount B</u>

USCIB continues to support safe harbors for determining the transfer price of routine activities, including those defined and covered by Amount B.

- An accurate definition of routine marketing and distribution activities is critical.
- The IF should consider both identifying routine activities and a negative list of activities that are not considered routine and, therefore, are not included in Amount B.
- The safe harbor should not deviate from returns that have been previously agreed to in bilateral agreements and should include a cap of the total global (or segmented) profit.
- Because Amount B percentages should be based on traditional transfer pricing principles with no modification to avoid disputed items and will only exist if there is a permanent establishment or related marketing subsidiary in the marketing country – the adjustment for Amount B should be an adjustment to the bilateral transfer price between the home office or the other party to the transaction.
- The Inclusive Framework should consider sets of comparables in setting the percentages used to determine Amount B, particularly if industry-based numbers are used.
- Agreement on Amount B safe harbors must be reached concurrently with any agreement on Amount A. The Amount B safe harbors should provide flexibility for industries (i.e. those industries with high COGS) rather than prescriptive percentages. It must also be explicit that any amounts determined to be Amount B would be excluded from the calculation of Amounts A and C.

<u>Calculation of Amount C</u>

USCIB believes if the taxpayer's activities in the market jurisdiction are limited to marketing, sales, and distribution activities, then Amount C should only apply in exceptional circumstances. Amounts A and B are intended to provide a share of the excess return to the market jurisdiction and an appropriate return to routine marketing and distribution functions. Since these amounts would be determined under agreed upon formulas and are intended to approximate arm's length results in the majority of cases plus a share of excess returns via Amount A, the scope for Amount C with respect to additional marketing, distribution, and related activities should be quite limited. In those rare cases where traditional arm's length pricing would attribute more profit to the marketing jurisdiction, the market would retain the right to tax those profits but would not receive any additional allocation of taxing rights. Allowing a market jurisdiction an additional taxing right in such circumstances, would actually be a tax on market access.

On the mechanics for determining Amount C, USCIB believes the following principles should be taken into account:

- The tax authorities of the jurisdiction asserting the right to tax an Amount C should have the burden of proof both on the issue of whether the marketing, distribution, and related activities are non-routine and the arm's length price that would be Amount C. It is essentially that countries agree to mandatory binding dispute resolution in any case in which they assert the right to tax an Amount C.

- The IF should identify non-routine marketing and distribution activities. USCIB considers that the most important factor in earning non-routine marketing returns is the authority to make independent decisions concerning: the price of the product, marketing materials, and marketing spend. Does Amount C include trademark royalties if the local entity is performing functions and incurring risks with respect to trademarks? If so, how does the existence of a trademark royalty interact with Amount A? Determining access or qualification for, or allocating, discounts or promotional funds within constraints or budgets established by a non-resident principal should not create an Amount C.
- There should be agreed comparable sets (global or regional) that would be used in determining Amount C's attributable profit allocation.
- Because Amount C is based on traditional transfer pricing principles – Amount C will only exist if there is a permanent establishment or related marketing subsidiary in the marketing country – the adjustment for Amount C should be an adjustment to the bilateral transfer price between the home office and the other party to the transaction.

<u>Issues the Discussion Draft does not Address</u>

USCIB is very concerned about some issues that are not discussed in the draft.

Treatment of Losses and Cyclicality

The document only briefly mentions losses. It is important that taxpayers be able to offset losses against profits, and businesses which have cyclical profit patterns not be asymmetrically taxed in peak years without recognition of corresponding "down years". One of the principal problems with many unilateral measures is that they tax gross revenues, which is an inappropriate and distortive method of taxing corporate earnings. Global excess returns under Amount A should provide for an unlimited carryforward of losses (or negative excess returns). This should include losses that are incurred prior to the adoption of Amount A. The goal of Amount A is to allocate a share of excess profits to the market jurisdiction. There can be no excess profits until any losses or negative excess returns have been accounted for. Failure to account for losses (start-up losses in particular) will over-allocate profits to market jurisdictions. Therefore, there should be no profit allocation under Amount A unless there are positive cumulative profits determined under Amount A.

Elimination of Double Taxation

The unified approach gives scant attention to the elimination of double taxation. (Failure to properly account for losses will also result in double taxation.) To be clear, inadequate double taxation relief can result in the elimination of business profits, significant disincentives for investment, and, therefore, negatively impact global growth.

USCIB believes that it will not be possible to implement a foreign tax credit system. A foreign tax credit system would require complex sourcing rules, deeming income to move in ways that do not follow cash flows, and cash payments (what are those payments?) across entities to realign cash with the accounting.

USCIB believes that the only possible method for eliminating double taxation is the identification of one or more surrender states that will allow a deduction for the Amount A profit allocations to other jurisdictions.

The unified approach is essentially three separate methods of determining prices for different activities. Amounts that are taxable to one country as an Amount A profit allocation, could also be taxable under Amount B or Amount C. Because each of these amounts can apply to a base of profits that is not mutually exclusive of those for the other amounts, there is a significant risk of double or multiple taxation. Given that there is only one global profit, genuine unification might be needed to eliminate these risks.

The routine return calculation under Amount A is not related to the routine return calculation under Amount B. Thus, the Amount B return might exceed the routine amount under Amount A. If Amount B is determined, for example, on the basis of costs and the Amount A routine return is a percentage of global profits, then it would be possible (and perhaps even likely in a low-margin business especially if this return is intentionally set at a generous safe harbor amount) for Amount B to exceed the routine return determined under Amount A. Perhaps Amount A could be reduced by the greater of the fixed percentage of global profits or the total of actual routine returns? This would include global B Amounts and other routine returns.

In addition, unilateral and multilateral Advanced Pricing Arrangements (APAs) have existed for years and permit a taxpayer and taxing authority to solve potential tax disputes in a cooperative manner. These arrangements generally take years to establish and reduce uncertainty for all parties. APAs should continue play a strong role and remain in force regardless of the changes made in this new system.

<u>Tax Certainty</u>

The OECD has recognized the importance of tax certainty to taxpayers and one objective of the work on the Unified Approach is to enhance tax certainty. In view of the questions concerning how Amounts A, B, and C will be determined and how they interrelate, concerns with the virtual nexus and lack of consensus on dispute resolution, USCIB is very concerned that tax certainty will not be achieved, and this lack of certainty will reduce business investment, with a corresponding adverse impact on economic growth and ultimately job creation. This may have a particularly negative effect on developing countries, if business decides that the potential investment return is not worth the tax risk created by investing in those jurisdictions.

<u>Interaction with Customs</u>

Amount B[6] may significantly affect the price of imported goods for tax purposes. What would be the impact of those increases on pricing for customs purposes? Is the impact assessment considering this?

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[6] This should not be an issue under Amount A, because it should be made clear that Amount A has no impact on Customs or VAT. It should also not be an issue under Amount C because Amount C is computed using existing transfer pricing principles.

Administrative concerns

- Who should pay the tax? The 'in market' entity – if there is one -- or an 'offshore' entity - if an offshore entity is liable, could this be administered by the group parent? The OECD needs a compliance mechanism and payment approach that meets the spirit of the simplified approach for Amount A. It is unlikely that separate returns for each jurisdiction in which an amount is owed would be consistent with that spirit.
- What currency will the tax be calculated in? USCIB assumes that Amount A would have to be calculated in the currency of the consolidated return. Translation would be required into local currency. Would this be done at average exchange rates? Spot rates?
- How will minority interests be dealt with?

Incomplete Impact Assessment

USCIB members believe a completed impact assessment is critically important to enable progress on the proposed Unified Approach framework. Consensus at any level will be difficult to achieve if IF members do not have a reasonably clear understanding of the Unified Approach proposals on their tax receipts, business investment, and broader economies. Because the Unified Approach proposes numerous significant taxation methods that go well beyond the current ALP, countries cannot use their prior or current experiences to determine if the proposals adequately address the challenges of digitalization and accomplish the desired re-allocation of taxing rights. Countries are unlikely to agree on new double tax avoidance rules (especially with respect to surrender states) if they are uncertain about the potential changes to their tax base.

Sincerely,

William J. Sample
Chair, Taxation Committee
United States Council for International Business (USCIB)