

Two-Pillar Solution to Address the Tax Challenges
Arising from the Digitalisation of the Economy



The Multilateral Convention to Implement Amount A of Pillar One

DECEMBER 2023

FACTSHEETS

CONTENTS

1. Process map for applying Amount A
2. Amount A tax certainty framework
3. Tax certainty for issues related to Amount A
4. Removal and standstill of digital service taxes and relevant similar measures

READERS' NOTICE

This document was first published on 26 October 2023 in conjunction with the technical webinar on the Multilateral Convention to Implement Amount A of Pillar One held on the same day.

The content and information contained herein may be subject to future revisions and updates. Readers are advised to refer to the latest versions and related communications for the most up-to-date information.

This document, as well as any data and any map included herein, are without prejudice to the status of or sovereignty over any territory, to the delimitation of international frontiers and boundaries and to the name of any territory, city or area. The opinions expressed and arguments employed herein do not necessarily reflect the official views of OECD member countries or of members of the OECD/G20 Inclusive Framework on BEPS.

© OECD 2023

Cover image © Shutterstock.com



1. PROCESS MAP FOR APPLYING AMOUNT A



Overview

Step 1. Scope Determination

1.1. Group revenue and profitability test



1.2. Limited exclusions and adjustments



Step 2. Identification of Eligible Market Jurisdictions

2.1. Categorise group revenue and identify applicable source rule



2.2. Apply the source rule using a 'reliable method'



2.3. Determine nexus



Step 3. Calculation and Allocation of Profit

3.1. Determine the relevant group profit



3.2. Allocate a portion of "excess" profit



3.3. Adjust for double counting



Step 4. Eliminate double taxation

4.1. Determine RODP for each jurisdiction



4.2. Allocate relief obligations to jurisdictions



4.3. Identify relief entities in each relieving jurisdiction



Step 5. Filing obligations, payment and claiming relief

5.1. Streamlined filing obligations



5.2. Streamlined payment of tax



5.3. Double Tax Relief process



Step 1. Scope Determination

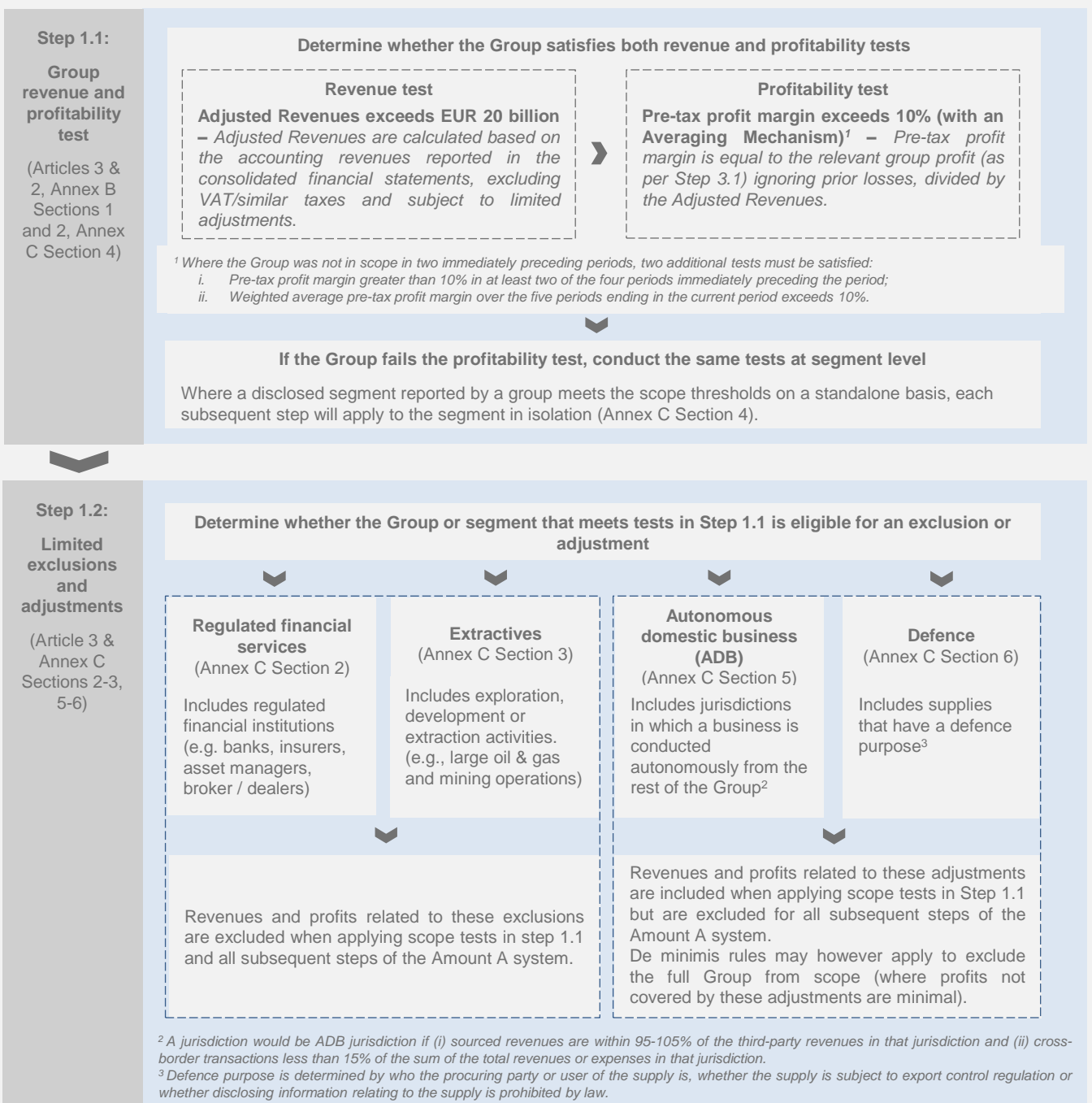
The first step is to determine whether an MNE is in scope of Amount A. Quantitative thresholds based on revenue and profitability ensure that Amount A only applies to the largest and most profitable MNEs.

Where an MNE as a whole does not meet the quantitative thresholds, but a disclosed segment reported in the MNE's consolidated financial statements would meet those thresholds on a standalone basis, that disclosed segment is brought into scope. In these cases, the Amount A rules are appropriately adapted to apply to the disclosed segment.

Finally, in instances where the MNE (or one of its disclosed

segments) meets the quantitative thresholds, four targeted exclusions or adjustments may apply.

The exclusions for Extractives and for Regulated Financial Services exclude the revenue and profits derived from the excluded activities from the scope of Amount A. Accordingly, these exclusions will in many cases exclude the whole MNE from Amount A scope. The adjustment for Defence and Autonomous Domestic Businesses (ADB), in contrast, exclude the relevant revenues and profits only from the computation of Amount A (not from scope, except if specific de minimis rules apply), with the consequence that the Amount A rules typically continue to apply to the rest of the MNE.



² A jurisdiction would be ADB jurisdiction if (i) sourced revenues are within 95-105% of the third-party revenues in that jurisdiction and (ii) cross-border transactions less than 15% of the sum of the total revenues or expenses in that jurisdiction.

³ Defence purpose is determined by who the procuring party or user of the supply is, whether the supply is subject to export control regulation or whether disclosing information relating to the supply is prohibited by law.



Step 2. Identification of Eligible Market Jurisdictions

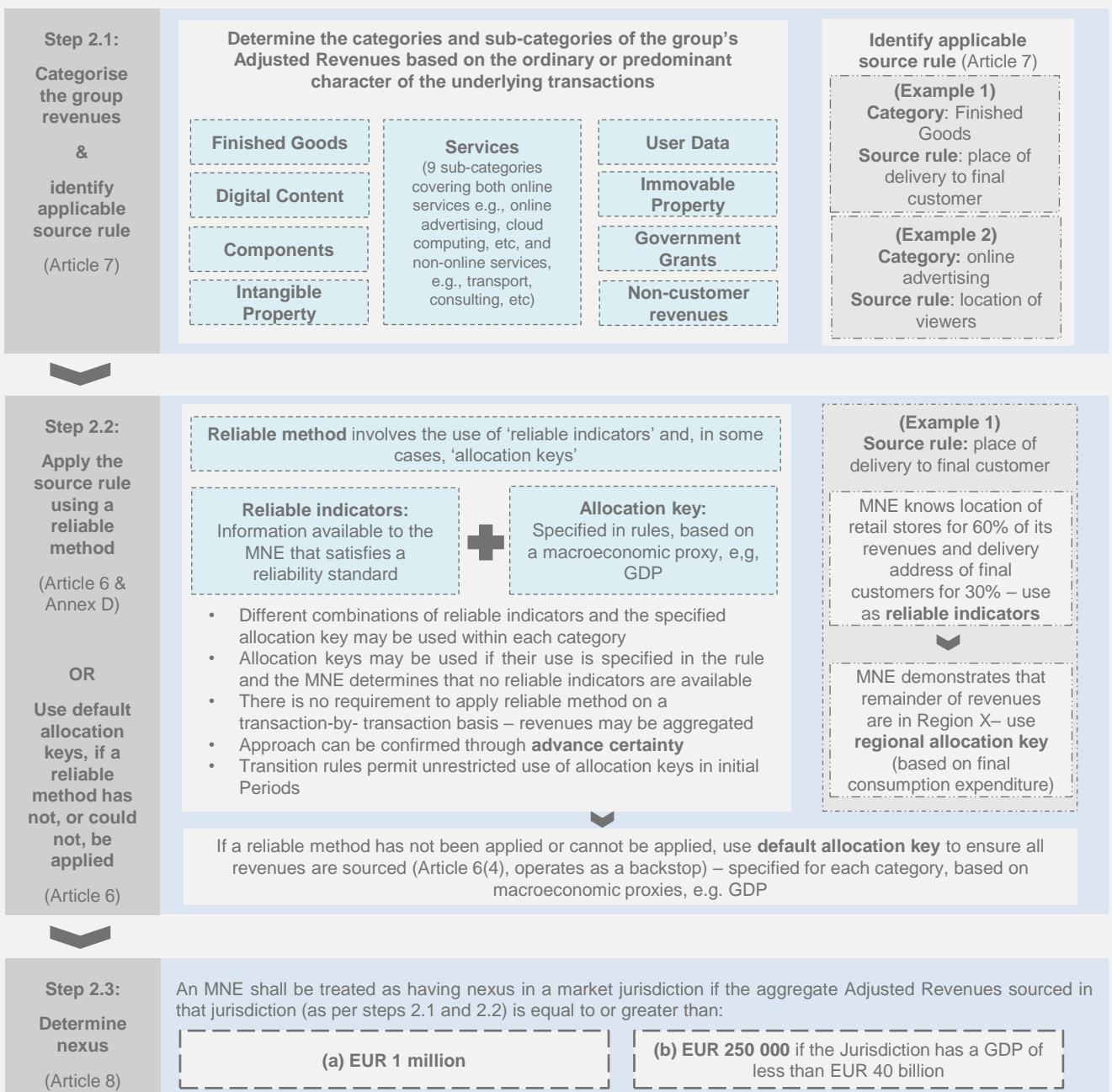
The second step is to identify which market jurisdictions are eligible to tax a portion of the MNE's "excess" profits under Amount A.

It first requires the MNE to classify its consolidated revenue into categories (and sub-categories) based on the ordinary or predominant character of the underlying transactions. For each category and sub-category of revenue, a specific sourcing rule in Article 7 identifies the jurisdiction where the goods or services of the MNE are consumed or used (i.e. the market jurisdiction to which the revenues are allocated).

To apply the sourcing rule, Article 6 and Annex D require the MNE to use a 'reliable method'. The reliable method must be based on

information available to the MNE that is reliable (described in the rules as 'reliable indicators'), or, in cases where such information is not available, an allocation key. Allocation keys are provided in the rules for certain categories of revenue and are based on macroeconomic proxies such as GDP and final consumption expenditure.

Finally, a special purpose nexus test under Article 8 provides that only market jurisdictions with sourced revenue exceeding EUR 1 million are entitled to tax Amount A profit. To ensure that smaller economies can also benefit from Amount A, a lower revenue threshold of EUR 250 thousand applies where the jurisdiction's GDP is less than than EUR 40 billion.





Step 3. Calculation and Allocation of Profit

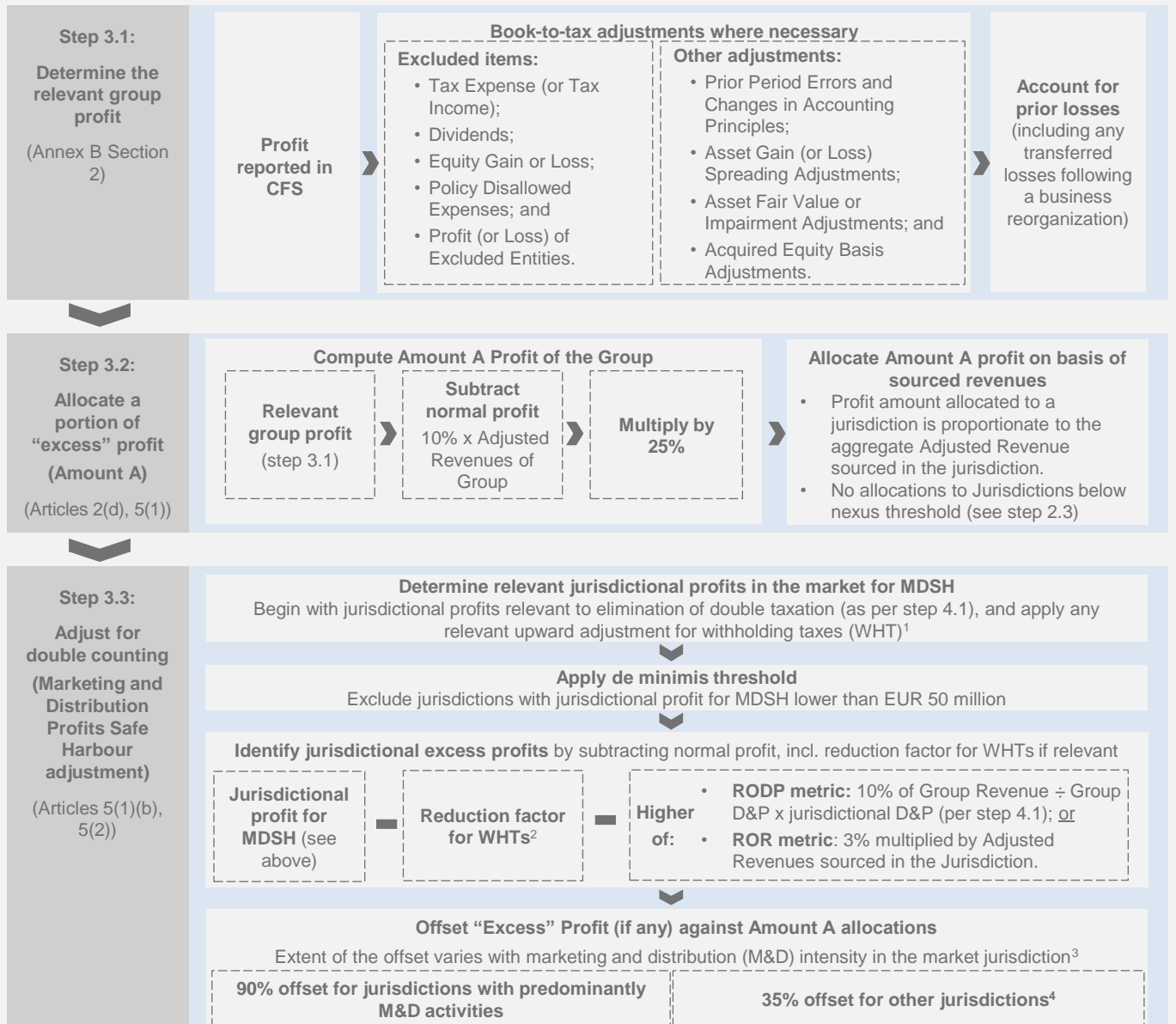
The third step is to calculate the relevant portion of the “excess” profit of the MNE that is reallocated to market jurisdictions.

First, the relevant group profit is calculated, starting from the profit reported in the consolidated financial statements (CFS) of the MNE, applying a limited number of book-to-tax adjustments, and then taking into account any prior losses incurred by the MNE (including losses transferred to the MNE following a business reorganisation).

Next, 25% of the portion of the relevant group profit that exceeds 10% of the MNE’s revenues is allocated among eligible market

jurisdictions in proportion to the amount of revenues the MNE derives from each eligible market jurisdictions.

Finally, the Marketing and Distribution Profits Safe Harbour (MDSH) adjustment reduces the profit amount allocated to a market jurisdiction to the extent that there would otherwise be ‘double counting’ – i.e. the eligible market jurisdiction already has taxing rights over the MNE’s “excess” profit under existing rules. Instances of double counting are determined using quantitative metrics, and take into consideration withholding taxes (WHT) imposed by a market jurisdiction on cross-border deductible payments.



¹ For specified withholding taxes on deductible payments to group entities, an upward adjustment applies for MDSH purposes (the tax collected by the market jurisdiction is converted into a profit amount and added to its jurisdictional profit).

² Where the jurisdictional profit in the market includes an upward adjustment for withholding taxes, specific reduction factors apply to subtract a deemed normal profit measure from that adjustment (e.g. 15% of the profit converted amount is excluded in instances where the MNE has a D&P to sales ratio in the jurisdiction equal to or greater than 75% of that of the group).

³ The MNE’s depreciation and payroll (D&P) to sales ratio is the metric used to identify jurisdictions where the MNE is considered to perform predominantly M&D activities (i.e. where jurisdiction D&P to Sales ratio is less than 75% of that of the group).

⁴ This offset percentage is reduced to 25% where the jurisdiction is a low-income economy or lower-middle-income economy per World Bank classifications.



Step 5. Filing obligations, payment and claiming relief

The last step is for the MNE to fulfill its reporting and payment obligations and obtain relief from double taxation through each relief entity.

Amount A filing obligations are met through a single tax return and documentation package which covers all of the MNE's Amount A tax liabilities across the world (as well as the calculation of the corresponding obligations to relieve double taxation). This tax return and documentation package is generally filed with the lead tax administration (typically, the tax authority of the jurisdiction where the Ultimate Parent Entity (UPE) is located), which is then responsible for sharing the documentation with all other relevant jurisdictions.

Payment of Amount A tax is made directly to each market jurisdiction by the Designated Payment Entity (DPE), which is a single entity

bearing the primary obligation to pay Amount A on behalf of the MNE Group (typically the Ultimate Parent Entity). A local entity can be made liable by a market jurisdiction for Amount A tax only if the DPE fails to meet its payment obligation (secondary liability).

To ensure the DPE is funded to meet the MNE Group's tax liability, the relief entities of the MNE Group are required to make a compensation payment to the DPE which is disregarded for tax purposes but constitute a condition for claiming double tax relief.

Double tax relief is provided at the level of each relief entity under the domestic laws of the applicable relieving jurisdiction, subject to a number of guardrails established in the MLC to ensure timely and effective relief.

Step 5.1: Streamlined filing obligations
(Articles 14 & 15)

A standard template will be used by an MNE Group for filing the Amount A Tax Return and the Common Documentation Package, including information on:

Financial and tax data needed to compute the amount of income liable to taxation	Amount of income eligible for relief from double taxation for each Group Entity	Any request for a comprehensive certainty review
--	---	--

The standard template will be filed by the DPE¹ with the lead tax administration², and this filing will satisfy all Amount A tax filing obligations of the MNE Group. The only exception to this streamlined compliance is where the DPE also has a separate local tax liability in a jurisdiction.³

¹ The DPE is generally the ultimate parent entity (UPE) of the group, unless it resides in a jurisdiction which is not a Party to the MLC.
² The LTA is generally the administration of the jurisdiction where the DPE of the MNE group is resident.
³ This generally refers to instances where the DPE has a local permanent establishment in a jurisdiction, in which case it will meet its filing and payment obligations locally, subject to any domestic requirements.

End of period

Filing deadline between **9 and 12 months**, as set by the lead tax administration, after the end of the period.

Step 5.2: Streamlined payment of tax
(Articles 13 & 16)

<p>Payment of tax by the DPE</p> <p>DPE meets the payment obligations of the MNE Group directly to all market jurisdictions.</p>	<p>Compensation payment to the DPE</p> <p>To fund the DPE, relief entities in the group must make a compensation payment⁴ equal to the tax paid by the DPE with respect to the relief entity's portion of the Amount A relief amount.⁵</p>
---	---

⁴ These compensation payments are a condition to claim double tax relief, but are otherwise ignored for tax purposes (e.g., no tax deduction, no withholding tax).
⁵ However, MNE Groups may reduce these payments in line with a Covered Group's Amount A funding agreement.

Payment of tax deadline **18 months** after the end of the period.

Step 5.3: Double Tax Relief process
(Articles 12 & 13)

Relief method	Process	Guardrails in the MLC	
<p>Relieving jurisdiction must choose between four relief methods:</p> <ol style="list-style-type: none"> Direct payment Refundable tax credit Non-refundable tax credit Deduction (of profit amount) 	<p>Relief is claimed by each relief entity (as per step 4.3) through the domestic tax process of the relieving jurisdiction.</p>	<p>Timing</p> <p>Relieving jurisdictions must provide relief:</p> <ul style="list-style-type: none"> within 90 days after a valid claim is submitted; or through a reduction in their next tax instalment payment by the relevant amount of relief. 	<p>Carry forward</p> <p>If relief cannot be fully utilised in the relevant period, the relieving jurisdiction is required to allow for the relief attribute to be carried forward for a minimum of three fiscal years.</p>



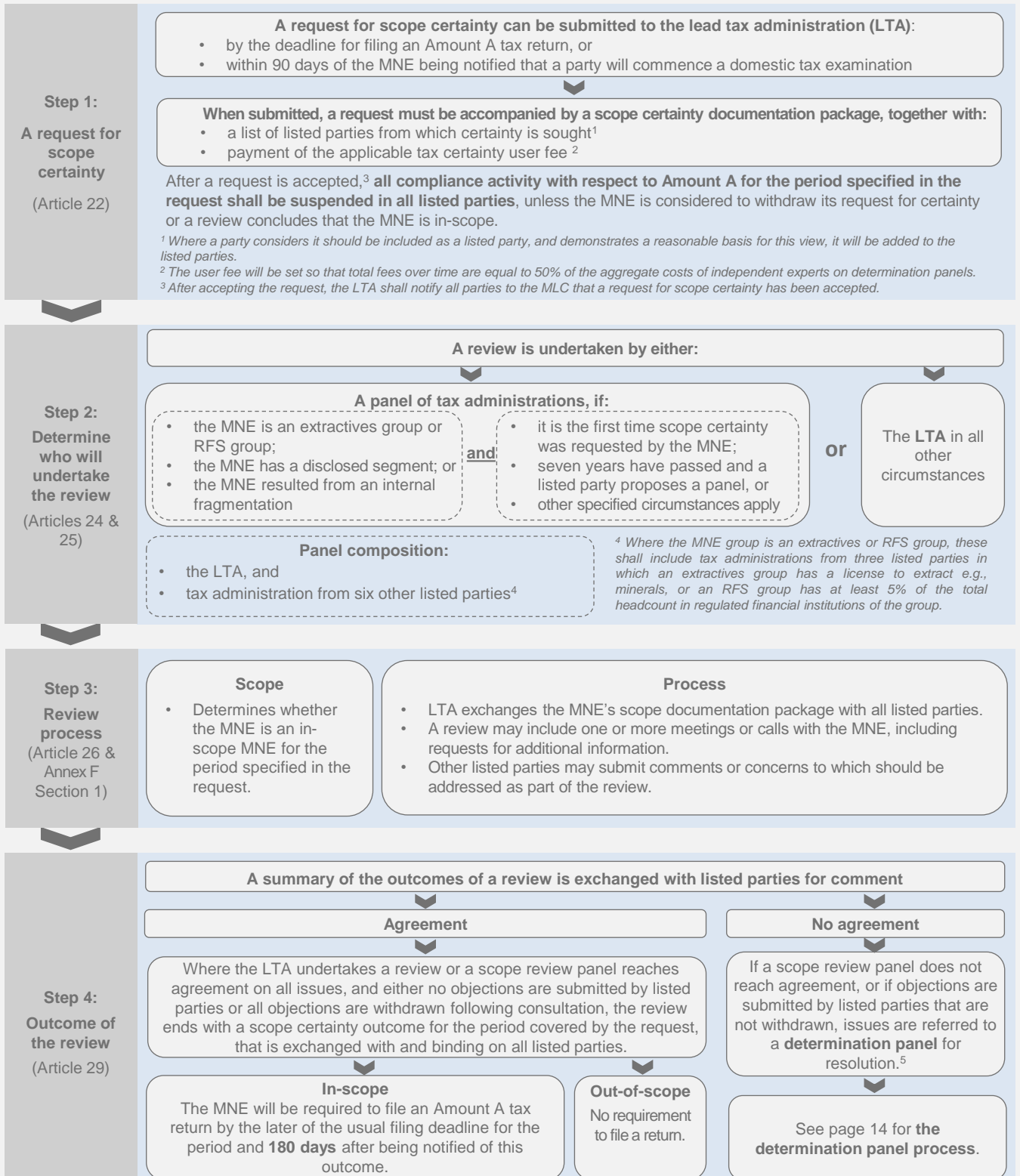
2. AMOUNT A TAX CERTAINTY FRAMEWORK



Scope certainty

A scope certainty review provides an MNE with binding multilateral certainty from listed parties specified in the request, on whether it is in-scope in a particular period. This addresses the risk of unilateral compliance action in jurisdictions where the MNE sells its products.

A follow-up scope certainty review based on simplified documentation is also available to extractives groups and groups that include one or more regulated financial institutions (RFS groups), subject to conditions. This is not reflected in the Process Map below. A timeline for a scope certainty outcome is provided on page 15.





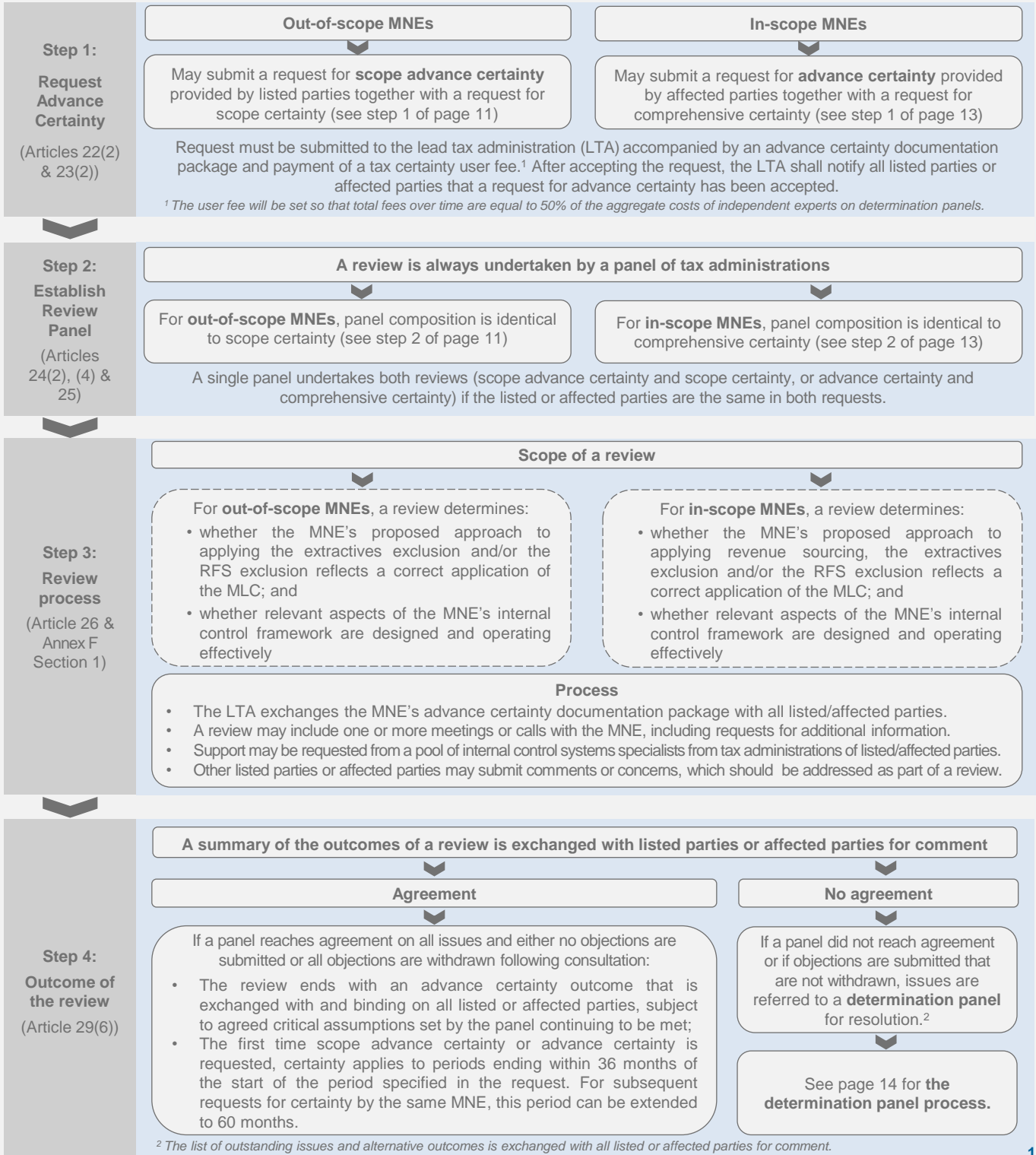
Advance certainty

An advance certainty review provides an MNE with binding multilateral certainty that its methodology for applying specific provisions of the MLC will be accepted for a number of years, subject to critical assumptions continuing to apply, and that relevant elements of the MNE's internal control framework are considered to be designed and operating effectively.

For out-of-scope MNEs, scope advance certainty is provided by parties proposed by the MNE ("listed parties") and may cover the categorization of revenues and costs for the purposes of rules on extractives groups and

groups that include one or more regulated financial institutions (RFS groups).

For in-scope MNEs, advance certainty is provided by parties in which the MNE meets the nexus threshold or that are required to provide relief for the elimination of double taxation ("affected parties") and may in addition cover the categorization of revenues and choice of reliable method for the purposes of revenue sourcing. A timeline for an advance certainty outcome is provided on page 15.





Comprehensive certainty

A comprehensive certainty review provides an in-scope MNE with binding multilateral certainty over all aspects of its application of the MLC for a period in all parties. This ensures consistent taxation of

the MNE across jurisdictions and the full elimination of double taxation. A timeline for a comprehensive certainty outcome is provided on page 15.

Step 1: Request comprehensive certainty (Article 23)

A request for comprehensive certainty can be submitted to the lead tax administration (LTA):

- with an MNE's Amount A tax return and common documentation package (including a list of affected parties)¹, or
- after filing an Amount A tax return and common documentation package, within 30 days of the MNE being notified that two or more parties will commence a multilateral tax examination over the application of Amount A.

A request must be accompanied by payment of the applicable tax certainty user fee.² After a request is accepted,³ all compliance activity with respect to Amount A for the period specified in the request shall be suspended in all parties, unless the MNE is considered to have withdrawn its request for certainty.

¹ Where a party considers that the MNE has revenues in its jurisdiction that meet the applicable nexus threshold and demonstrates a reasonable basis for this view, it will be added to the list of affected parties.

² The user fee will be set so that total fees over time are equal to 50% of the aggregate costs of independent experts on determination panels.

³ After accepting the request, the LTA shall notify all parties to the MLC that a request for comprehensive certainty has been accepted.

Step 2: Determine who will undertake a review (Articles 23(3) & 25(5))

A review is undertaken by either:

A panel of tax administrations, if:

- it is the first time comprehensive certainty is requested by the MNE,
- five years have passed or there is a minimum change in the jurisdictions where Amount A profit or Amount A relief is allocated, and a panel is proposed by an affected party, or
- other specified circumstances apply

or
The LTA in all other circumstances

Panel composition:

- (a) the LTA, and
- (b) tax administrations from three affected parties providing relief for the elimination of double taxation, and
- (c) tax administrations from three other affected parties, being: one from an affected party that is a specified low- or middle-income jurisdiction (i.e., low- or middle-income jurisdictions excluding OECD and G20 members); one from an affected party that is not a specified low- or middle-income jurisdiction; and another from another affected party that is not in (b).

Scope

A review covers all relevant aspects of the MLC for a period, except to the extent an advance certainty outcome applies.⁴

Process

The LTA exchanges the MNE's Amount A tax return and common documentation package with all affected parties.

Phase 1⁵: confirms the accuracy of information upon which Amount A profit and Amount A relief are allocated (e.g., calculation of excess profits, application of exemptions, calculation of jurisdiction RODP etc.).

Phase 2: confirms that allocations of Amount A profit and Amount A relief to affected parties are correct.

A review may include one or more meetings or calls with the MNE, including requests for additional information. Other affected parties may submit comments or concerns, which should be addressed as part of a review.

⁴ Where advance certainty does apply, a review shall consider any information that could indicate an agreed approach has not been implemented or agreed critical assumptions are no longer met.

⁵ A review may progress directly from Phase 1 to Phase 2 or may seek agreement to the outcomes of Phase 1 and the resolution of disagreements before progressing to Phase 2.

Step 3: Review process (Article 26)

A summary of the outcomes of a review is exchanged with affected parties for comment

Agreement

Where the LTA undertakes a review or the review panel reaches agreement on all issues, and there are no objections by affected parties or all objections are withdrawn following consultation, the review ends with a comprehensive certainty outcome for the period covered by the request, that is exchanged with affected parties. All parties to the MLC, including those that are not affected parties, are bound by this outcome.

No agreement

If a review panel does not reach agreement or if objections are submitted that are not withdrawn, issues are referred to a **determination panel** for resolution.⁶

See page 14 for the **determination panel process**

Step 4: Outcome of the review (Article 29(3), (4))

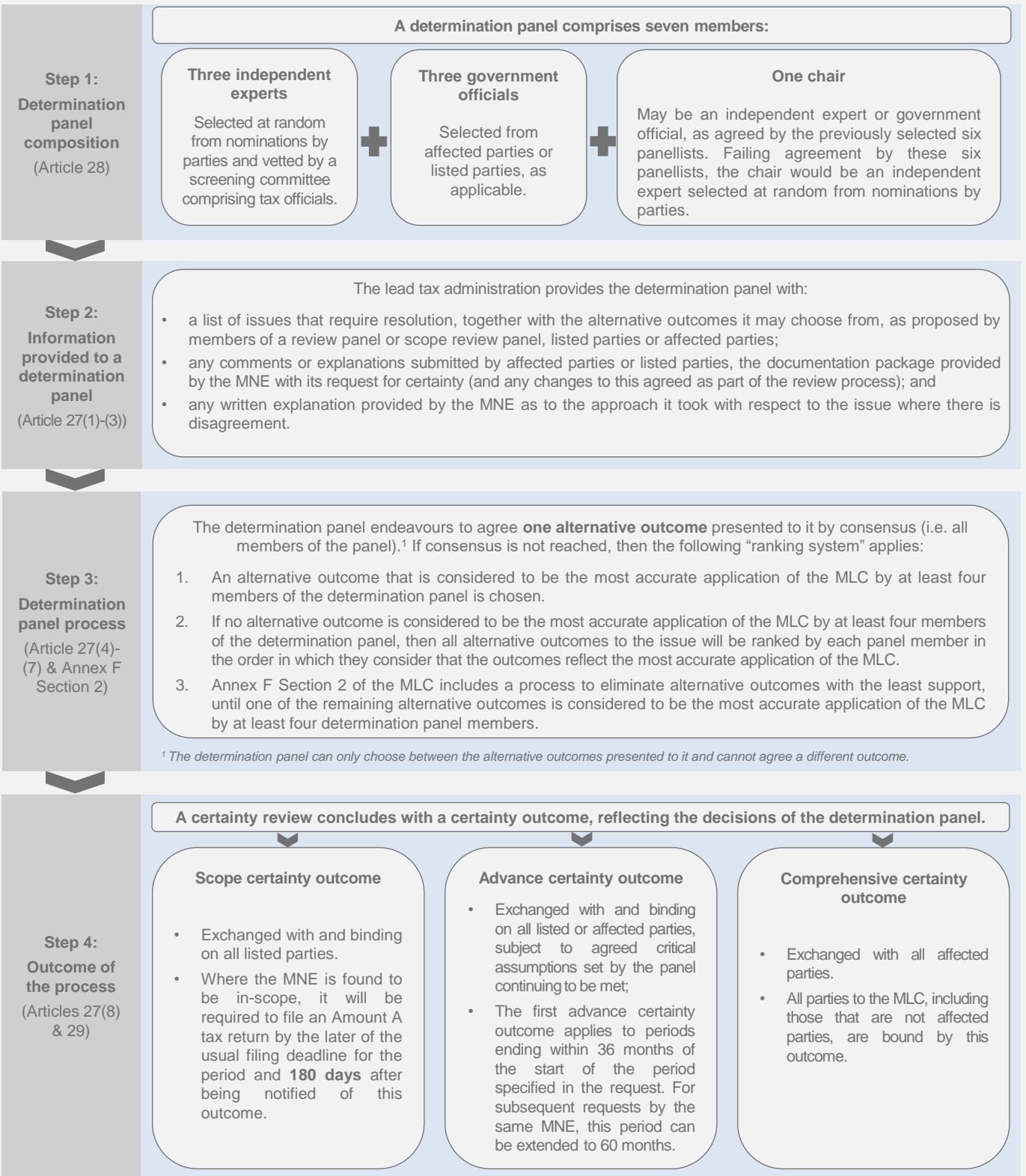
⁶ The list of outstanding issues and alternative outcomes is exchanged with all affected parties for comment.



Determination panel to resolve disagreements

Advance certainty, scope certainty and comprehensive certainty are all supported by a binding determination panel process to resolve any disagreements that arise. Where a review panel or scope review panel conducting a review does not reach agreement on a matter, or if other affected parties or listed parties do not agree with the outcomes of a

review, a determination panel is formed which will choose from among the alternative outcomes available. The decision of the determination panel is binding on all relevant parties. A timeline for resolving disagreements involving a determination panel is provided on page 15.





Timeframes for a certainty review

Scenario 1¹

The lead tax administration undertakes a review, or the review panel or scope review panel reaches agreement on all issues, and there are no objections by listed parties or affected parties.

Start of review²

Scope certainty – 180 days³
 Advance certainty – 270 days
 Comprehensive certainty – 365 days⁴

Deadline for the end of the review stage

120 days⁵

Deadline for comments and objections

Under Scenario 1, certainty is provided within the following periods after the review commences:

- Scope certainty – 300 days (c.10 months)
- Advance certainty – 390 days (c.13 months)
- Comprehensive certainty – 485 days (c.16 months)

Scenario 2¹

Objections are raised by listed parties or affected parties, but these are withdrawn following consultation including input from the MNE.

Deadline for comments and objections

90 days

Deadline for consideration of objections and consultation with relevant listed/affected parties

Under Scenario 2, certainty is provided within the following periods after the review commences:

- Scope certainty – 390 days (c.13 months)
- Advance certainty – 480 days (c.16 months)
- Comprehensive certainty – 575 days (c.19 months)

Scenario 3¹

The review panel or scope review panel does not reach agreement on all issues, or there are objections by listed parties or affected parties that are not withdrawn, and resolution by a determination panel is needed.

Deadline for consideration of objections and consultation with relevant listed/affected parties⁶

120 days⁵

Deadline for comments on issues where there are objections and alternative outcomes

120 days⁵

Deadline for a determination panel to deliver its decisions

Under scenario 3, certainty is provided within the following periods after the review commences:⁶

- Scope certainty – 540-630 days (c.18-21 months)
- Advance certainty – 630-720 days (c.21-24 months)
- Comprehensive certainty – 725-815 days (c.24-27 months)

NB: There are no scenarios where certainty can be delayed beyond the timeframes provided in the MLC

Notes

1. All timeframes for a review stage are increased by 90 days for the first time certainty is requested. They may also be extended by a total of 30 days where a member of a review panel or scope review panel has been unable to reach a decision on a particular issue and requires such an increase, or by a period equal to any delay caused by the MNE.
2. These timeframes begin from the point where a review commences. The timeframe between a request for certainty being submitted and a review commencing is determined by a number of factors set out in the MLC.
3. The timeframe for a scope certainty review is increased by 90 days where the MNE is an extractives group or regulated financial services group, where it may have a disclosed segment or where it resulted from an internal fragmentation. The timeframe for a scope certainty review is also increased by 90 days where an advance certainty outcome applies but it is determined that one or more critical assumptions applicable to that outcome no longer applies.
4. The timeframe for a comprehensive certainty review assumes that a review progresses directly from the first phase to the second phase. The timeframe for a comprehensive certainty review is increased by 90 days where an advance certainty outcome applies but it is determined that one or more critical assumptions applicable to that outcome no longer applies.
5. The 120 days for the deadlines for comments and for a determination panel to deliver its decisions include 30 days for the lead tax administration to make documents available to listed parties/affected parties or the determination panel, as applicable.
6. Where a review panel or scope review panel does not reach agreement on all issues, but no further objections are raised by listed parties or affected parties, the 90 days provided for consideration of objections and consultation will not apply.



3. TAX CERTAINTY FOR ISSUES RELATED TO AMOUNT A



Dispute resolution for issues related to Amount A

Since Amount A will co-exist with the existing international tax rules, the MLC provides also in-scope MNEs with improved tax certainty processes for issues related to Amount A (hereafter “Related Issues”).

“Related Issues” cover a broad range of disputes on existing tax treaty rules, namely: transfer pricing, business profit or withholding tax characterisation disputes that have an impact on Amount A. A dispute has an impact on Amount A for this purpose if:

- the adjustment involved could change the jurisdictions that eliminate double taxation with respect to Amount A or the tier for relief; or
- all adjustments made by a jurisdiction during a year amount to at least EUR 1.5 million.

There are also exclusions that correspond to exclusions from Amount A and an option for qualifying developing countries to make binding resolution of unresolved MAP issues ‘elective’.

The related improved tax certainty processes include:

- access to the mutual agreement procedure (MAP); and
- for unresolved MAP cases, after two years, a mechanism ensuring timely resolution in a mandatory and binding manner (where no similar mechanism already exists)

This framework creates clear incentives for dispute prevention approaches while also guaranteeing that double taxation is eventually avoided, where dispute resolution becomes necessary.

A “Related issue” is a **transfer pricing, business profit or withholding tax characterisation dispute covered by a tax treaty** where the adjustment involved either: ¹

Step 1
Determine if a dispute on existing tax treaty rules involving an in-scope MNE is a ‘Related Issue’

(Article 34)

(a) impacts the allocation of the obligation to relieve double taxation arising from Amount A (see step 4.2. on page 8)

Condition (a) is met if there is a change in the jurisdictions providing relief or the RODP tier of a relieving jurisdiction (see step 4.2.), if the full adjustment has been added to the MNE’s jurisdictional profit of the adjusting jurisdiction for the year of adjustment.

OR

(b) materially impacts the calculation of the MNEs profit in a jurisdiction for Amount A purposes (see step 4.1. on page 8)

Condition (b) is met where the aggregate quantum of all adjustments asserted by a jurisdiction concerning a member of the MNE during a year is at least EUR 1.5 million (after a EUR 3 million threshold for an initial three-year period).

¹As “Related Issues” are only relevant for in-scope MNEs, disputes involving MNEs/segments that are excluded from Amount A as per the rules described on page 5 (steps 1.1 and 1.2) are also excluded from “Related Issue”.

(a) Overview

The MLC provides two mechanisms to ensure timely and effective resolution of “Related Issues”:

1. The Mutual Agreement Procedure (Article 33)

A standalone MAP provision is provided in the MLC, in addition to MAP under existing instruments that do not include mandatory binding dispute resolution. This provision allows:

- Filing of MAP requests to both competent authorities, ensuring access to MAP;
- Implementation of all MAP agreements notwithstanding domestic time-limits; and
- Possibility of bilateral/multilateral advance pricing arrangements (APAs) where not possible under existing treaties.

2. A mandatory binding dispute resolution (MDBR)³ process (Article 35)

An enhanced process that allows “Related Issues” that are both

- unresolved in MAP for more than two years; and
- not otherwise subject to mandatory binding resolution under existing instruments (tax treaties or EU instruments)

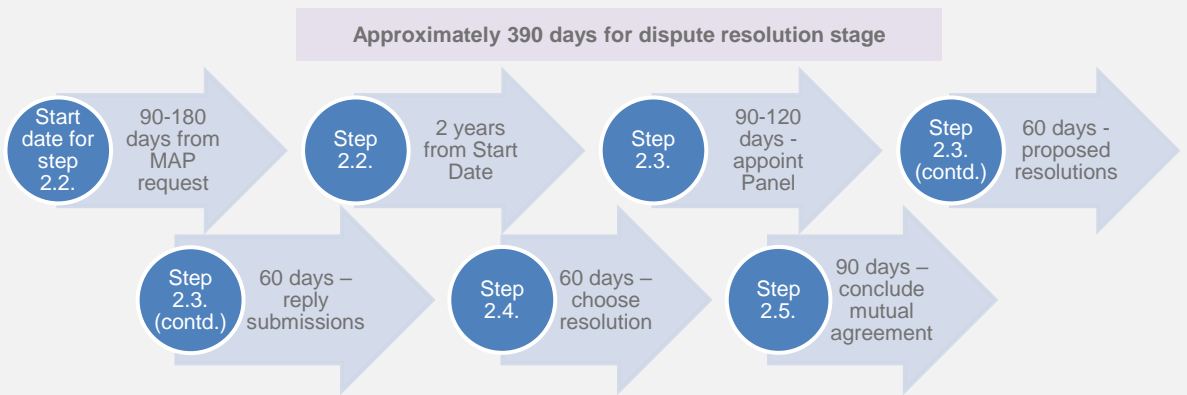
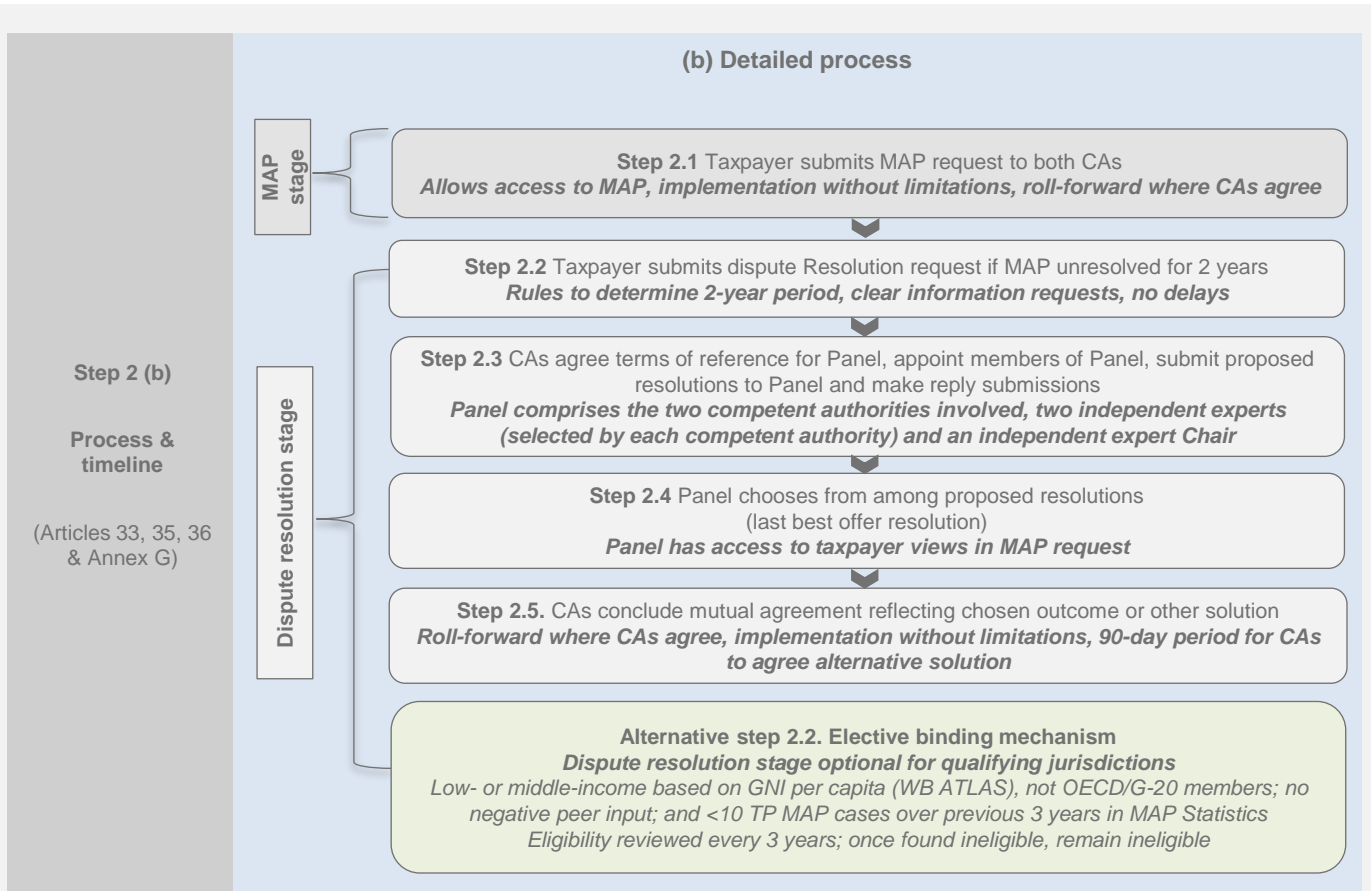
to be resolved by an independent expert majority panel in a mandatory and binding manner. This process is subject to clear time-limits, and represent a significant improvement compared to existing processes.

NB: For qualifying developing countries, an **elective binding dispute resolution process (Article 36)** replaces the mandatory binding dispute resolution process under Article 35.

Step 2 (a)
Apply improved tax certainty processes
(Articles 33, 35, 36 & Annex G)



Dispute resolution for issues related to Amount A



Key expected benefits for in-scope MNEs

- **Encourages tax administrations to focus on dispute prevention** to avoid resource outlay ensuring more predictability with respect to adjustments made to in-scope MNEs and more focus on risk assessment, APAs and other such processes
- **Ensures that where disputes arise despite these efforts, they are handled in the most efficient, effective and timely manner**, with several procedural features that address issues noted by taxpayers in existing procedures
- **Allow in-scope MNEs to leverage this process to seek to resolve transfer pricing/business profit treaty disputes**, including those that have remained unresolved in MAP over the years
- **Allows developing countries with limited MAP experience** to develop experience in MAP and then, engage in MAP arbitration on an elective basis before moving to mandatory, binding resolution once there is sufficient experience in MAP



4. REMOVAL AND STANDSTILL OF DIGITAL SERVICE TAXES AND RELEVANT SIMILAR MEASURES



DSTs and relevant similar measures

The removal and standstill of DSTs and relevant similar measures is an integral part of the MLC rules on Amount A. These commitments apply with respect to all companies, not only the companies that are in-scope of Amount A. The MLC contains a list of existing measures that must be withdrawn by Parties when Amount A starts applying. It also includes a review process within the Conference of the Parties (CoP) designed to ensure that

Amount A allocations are denied for any Jurisdiction that is determined to have applied a DST or relevant similar measure in the future. Separately, the MLC includes provisions addressing additional measures (such as “significant economic presence” nexus rules) that are not DSTs (because they are within the scope of tax treaties), but that overlap with the purpose of Amount A.

<p>Withdrawal of existing DSTs (Article 38)</p>	<p>The MLC (Annex A) includes a list of existing measures that the Parties commit to withdraw when Amount A starts applying.</p>
<p>Definition of DSTs and Exclusions (Article 39)</p>	<p>DSTs and relevant similar measures are defined by three cumulative criteria:</p> <div style="display: flex; justify-content: space-around; align-items: center;"> <div style="border: 1px solid black; padding: 5px; width: 30%;">1. Application depends on market-based criteria (e.g. location of customers and users);</div> <div style="font-size: 2em;">➤</div> <div style="border: 1px solid black; padding: 5px; width: 30%;">2. Ring-fenced to non-resident or foreign-owned businesses;</div> <div style="font-size: 2em;">➤</div> <div style="border: 1px solid black; padding: 5px; width: 30%;">3. Outside the scope of tax treaties.</div> </div> <p>Definition also contains explicit exclusions for: Consumption taxes, transaction taxes that apply on a per-unit or per-transaction basis, and rules to address artificial avoidance of permanent establishments.</p>
<p>Review Process in the CoP (Annex H)</p> <div style="border: 1px dashed black; padding: 5px; margin-top: 10px;"> <p>Stage 1 (maximum duration of 6 months)</p> </div> <div style="border: 1px dashed black; padding: 5px; margin-top: 10px;"> <p>Stage 2 (maximum duration of 6 months)</p> </div>	<div style="border: 1px solid black; padding: 10px; margin-bottom: 10px;"> <p>A jurisdiction contemplating a measure (enacting Party) or A jurisdiction other than the enacting Party (requesting Party) submits a written request to the Depository to convene a meeting of CoP</p> </div> <div style="border: 1px solid black; padding: 10px; margin-bottom: 10px;"> <p>CoP endeavours to reach a decision by consensus (the enacting Party and, if different, the requesting Party do not take part to the vote)</p> <ol style="list-style-type: none"> Depository notifies the Parties within one month of receiving a request The enacting Party submits a self-assessment of the measure to the Depository. Depository convenes the meeting of the CoP. CoP endeavours to decide by consensus </div> <div style="display: flex; justify-content: space-between;"> <div style="width: 45%;"> <p style="text-align: center;">If Consensus is not reached</p> <div style="border: 1px solid black; padding: 5px; text-align: center;"> <p>CoP establishes Ad hoc advisory panel*</p> <p><small>*consists of the enacting Party, the requesting Party, the Party who thinks the measure is DST, and 5 other designated members</small></p> </div> <div style="border: 1px solid black; padding: 5px; text-align: center;"> <p>Ad hoc advisory panel examines the measure and submits recommendation to CoP</p> </div> <div style="border: 1px solid black; padding: 5px; text-align: center;"> <p>Panel recommendation adopted unless a majority of Parties supports the opposite</p> </div> </div> <div style="width: 45%;"> <p style="text-align: center;">If Consensus is reached</p> <div style="border: 1px dashed black; padding: 5px; text-align: center;"> <p>If CoP decides the measure is a DST or relevant similar measure ➔ Denial of Amount A</p> </div> <div style="display: flex; justify-content: space-around; margin-top: 10px;"> <div style="border: 1px solid black; padding: 5px; text-align: center;"> <p>Retroactive denial up to 3 years - Default rule</p> </div> <div style="border: 1px solid black; padding: 5px; text-align: center;"> <p>Denial only from the date of the CoP decision - If measure existed before MLC and was not listed in Annex A - If request from the enacting Party - If CoP decides so</p> </div> </div> </div> </div>
<p>Subnational measures (Annex H)</p>	<p>Review process also applies for determining whether a measure enacted by a subnational entity of a Party is a DST or relevant similar measure.</p> <p>If the CoP decides that the subnational measure is a DST or relevant similar measure, then:</p> <ul style="list-style-type: none"> the Party needs to make best efforts to remove the subnational measure and submit the report to the CoP, and the CoP publishes its decision with the report, although Amount A allocation is not denied.
<p>Specific measures in-scope of tax treaties (Article 40)</p>	<p>There are some measures in scope of tax treaties that apply irrespective of physical presence, such as Significant Economic Presence (SEP) legislations. Because their intent overlaps with the intent of Amount A, Parties must not apply them to in-scope MNEs. They can, however, apply them to other companies.</p>

The Multilateral Convention to Implement Amount A of Pillar One – Factsheets, December 2023



For more information:

 ctp.contact@oecd.org

 www.oecd.org/tax/

 [@OECDtax](https://twitter.com/OECDtax)

 [OECD tax](https://www.linkedin.com/company/oecd-tax)