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Manal Corwin
Director
OECD Centre for Tax Policy and Administration
2, Rue André Pascal
75775 Paris, France

Re: Stocktake Exercise on the OECD BEPS Package

The National Foreign Trade Council (the "NFTC") is providing written input into the stocktake exercise that the OECD/G20 Inclusive Framework on BEPS ("IF") is undertaking to examine the research and evidence on the economic and behavioral impacts of the BEPS Project, both in aggregate and for each of the 15 BEPS Actions. We thank the OECD for this opportunity to provide input. In general, the BEPS Project precipitated significant changes to the international tax rules applicable to NFTC member companies and many other multinational enterprises ("MNEs"). These changes removed incentives under prior law to shift taxable profits in a manner that was not aligned with economic substance or commercial reality. As a result, these changes influenced the behavior of MNEs in accordance with the objectives of the BEPS Project. In light of the successes of the BEPS Project, the IF should consider a reorientation in its work toward eliminating tax barriers to cross-border investment and trade, which would promote investment and growth.

The NFTC, organized in 1914, is an association of U.S. business enterprises engaged in all aspects of international trade and investment. Our membership covers the full spectrum of industrial, commercial, financial, and service activities, accounting for over $6 trillion in revenue and employing nearly 6 million people in the United States. Our members value the work of the OECD and the IF in establishing and maintaining international tax and transfer pricing norms that provide certainty to MNEs.

The NFTC welcomes the opportunity to provide input. Stocktake exercises are important because they help establish the efficacy of minimum standards and recommendations, which can then inform the direction of future work. In general, the NFTC believes that the objectives of the BEPS Project have been achieved as a result of significant changes since 2015 to the international tax rules applicable to MNEs.

The BEPS Actions have been widely adopted. Four BEPS Actions (Actions 5, 6, 13, and 14) constituted minimum standards, subject to ongoing monitoring and peer review, and three additional BEPS Actions (Actions 8-10) have been incorporated into the OECD Transfer Pricing Guidelines. Other BEPS Actions, such as those with respect to interest deductions (Action 4) and hybrid arrangements (Action 2), have been widely adopted into law by many jurisdictions, including notably the United States and EU Member States. Widespread adoption has marked a notable change in approach. For example, BEPS Actions 8-10, particularly the concept of DEMPE, resulted in a fundamental shift in how profits are allocated amongst related party entities.

Further, the BEPS Project laid the foundation for even more fundamental changes to international tax rules in EU Member States, the United States, and other jurisdictions. Following the BEPS Action reports, the EU introduced Anti-Tax Avoidance Directives in 2016 and 2017. In addition to adopting rules addressing interest deductions and hybrid arrangements, these directives provided for controlled foreign corporation ("CFC") rules, exit taxes, and a general anti-avoidance rule to address base erosion and profit shifting. In addition to adopting rules addressing interest deductions and hybrid arrangements, the United States in 2017 introduced new global minimum tax rules that subjected most income of U.S. CFCs to current U.S. tax, and introduced new minimum tax rules targeting base eroding payments. Legislation enacted in early July 2025 broadened the scope of CFC income taxed under the U.S. global minimum tax rules, and increased the applicable rate of tax.

It is also important to note that tax compliance for MNEs changed significantly with the adoption of country-by-country reporting ("CbCR") as part of Action 13. New reporting mechanisms and systems were developed to be able to report the detailed financial and tax information required for disclosure under CbCR. Also, there have been a significant number of incremental reporting requirements (*e.g.*, Mandatory Disclosure Rules report as part of Action 12). While these requirements have substantially increased the compliance burden on MNEs, we have not seen utilization of that information by jurisdictions where such reports are filed.

For MNEs whose ultimate parent entity is in the United States or in an EU Member State, or MNEs with significant U.S. or EU operations, these changes removed incentives under prior law to shift taxable profits in a manner that was not aligned with economic substance or commercial reality. The changes foreclosed pre-2017 structures or arrangements resulting in a double non-taxation of income, particularly for U.S.-parented MNEs subject to the U.S. global minimum tax rules. As a result, these changes had a significant effect on the behavior of MNEs. Anecdotally, several publicly traded U.S.-parented MNEs reported in public securities filings a repatriation of intangible property to the United States. Many more MNEs repatriated or on-shored intangible property to the United States or other jurisdictions with substantial research and development or other intangible development functions.

While the NFTC understands that the stocktake exercise is not intended to address the effects of the Two-Pillar Solution, we note that the IIR component of the Pillar Two rules is broadly consistent with the U.S. global minimum tax rules introduced in 2017 and stems in part from the BEPS Action 5 work on CFC regimes. IIR rules have been broadly adopted by EU Member States and have led to the widespread adoption of domestic minimum tax rules by other jurisdictions seeking to preserve taxing rights over domestic income. These changes have had real implications for MNEs at least since the adoption of the GloBE Model Rules at the end of 2021. The emerging side-by-side system in which the United States maintains its global minimum tax rules applicable to U.S. companies and their CFCs, and EU Member States and other jurisdictions maintain IIRs and domestic minimum tax rules applicable to their companies and CFCs, would reinforce and preserve the achievements of the BEPS Project.

In light of the success of the BEPS Project, the NFTC would welcome a reorientation in the work of the IF toward eliminating excessive gross basis taxation, double taxation, and other tax barriers to cross-border investment and trade, which would promote investment and growth without undermining the objectives of the BEPS Project. Aspects of the BEPS Project, together with other novel and aggressive assertions of taxing jurisdiction over income in the digital economy and otherwise, have led to excessive taxation or conflicting claims by two or more jurisdictions over the same income. In this regard, to the extent conflicting claims are governed by tax treaties, the BEPS Action 14 Minimum Standard and review mechanism has strengthened dispute resolution under such treaties. This work has resulted in changes to the administrative practices of some countries to increase access to the mutual agreement procedure ("MAP") under tax treaties, and standardized reporting of MAP inventories and outcomes. Further work on dispute avoidance and resolution would be welcome. In addition, the NFTC would welcome simplifications to the overall Pillar Two administration and compliance framework suggested in the June 28, 2025, G7 Statement on Global Minimum Tax.

Finally, with regard to anti-hybrid rules under Action 2, there are observed differences between jurisdictions (*e.g.*, the definition of Dual Income Inclusion and the concept of a double deduction) which result in disparate application. Given jurisdictions may apply Action 2 differently, there is a concern that MNEs may be faced with double disallowances on the same potential mismatch leading to effective double taxation. NFTC believes that a mechanism for peer review of anti-hybrid systems would be beneficial to ensure consistent application of Action 2 globally.

Thank you for your consideration. We would welcome the opportunity to discuss these matters further with you.

Sincerely,

National Foreign Trade Council