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Two Pillars early ‘25: Ridiculousness

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Summary

While the U.S. has pulled out from the Global Tax Deal early 2025, threatening taking countermeasures, the latest batch of Inclusive Framework (IF) documents state several times that the IF countries accept the Pillar Two Model Rules and guidance and everything that is devised within the IF context as part of the ‘common approach’ in the 2021 Global Tax Deal. In the meanwhile, a resolution was adopted within the UN just before Christmas 2024 to further the envisaged UN Framework Convention on International Tax Cooperation out of dissatisfaction with how things transpired within the Inclusive Framework. So, what could be a nice term to describe all this, what we see happening here before our eyes, in a somewhat cheerful-pessimistic, almost resigned way?

1. Introduction

The OECD/G20 Inclusive Framework on BEPS (IF) published new documents on the OECD website on 13 January 2025 and 15 January 2025 on the two-pillar solution that was politically agreed upon within the IF by around 140 countries in 2021 to address the tax challenges arising from the digitalization of the economy.[1] On 20 January 2025, the United States White House published a memorandum on the position of the United States on the two-pillar solution.[2] The United States is no longer on board and is considering taking countermeasures if anyone would dare to take it up against the country by extraterritorially taxing American businesses against United States interests. The United States House Committee on Ways and Means is further strengthening the White House position by introducing a bill, on 22 January 2025, to levy up to 50% withholding taxes on payments to countries that would proceed to extraterritorial taxation against American interests by reference to, amongst others, the two-pillar agreement.[3] In the meanwhile, a resolution has been adopted within the United Nations on 24 December 2024, to further the work towards the envisaged Framework Convention on International Tax Cooperation because of some dissatisfaction various countries have on the turning of events within the IF.[4] This, against the wishes of, for example, the European Union Member States and some of the most developed countries in the world such as the United States and the United Kingdom, exacerbating the global divide in corporate tax matters between the Global North and Global South. This contribution discusses the rapid developments early 2025 in some technical detail with a view to the exploration of an appropriate term to label things.

2. Ridiculousness

2.1 What happened?

On 15 January 2025, the IF published several documents on Pillar Two, the second pillar of the two-pillar solution from the 2021 IF agreement that provides for a global minimum tax level of 15% for large multinational companies, the Global Minimum Tax (GMT).[5] The now released documents have been hanging over the market for a while and evoke the image, at least for me, of an almost desperate search for something to hold on to at a micro level in an ever changing international tax world that lacks anything to hold on to already when it comes the main lines.

The publications on Pillar Two focus on three sub-areas within the global 15% minimum tax: (i) the application of the transition rules; (ii) countries with temporarily qualifying Pillar Two rules, including the Qualified Domestic Minimum Top-up Tax (QDMTT) Safe Harbour, and (iii) the GloBE Information Return (GIR). The IF published its fifth batch of administrative guidance on the implementation of Pillar Two by countries in their national tax systems, focusing this time on the application of the transition rules for tax attributes (Article 9.1 Pillar Two Model Rules).[6] Moreover, the IF published several documents that should help achieve a streamlined globally coordinated international administrative operation of the global minimum tax. These documents include a list of countries with temporary 'qualifying' Pillar Two rules and some further administrative guidance in this regard,[7] and a Questions and Answers (Q&A) document,[8] as well as an update of the envisaged GloBE Information Return (GIR)[9] with some accompanying administrative guidance,[10] an updated GIR XML Schema and User Guide[11] and together with a GIR exchange framework in the form of a Multilateral Competent Authority Agreement (MCAA).[12] The administrative guidance released will be included in the Commentary to the Pillar Two Model Rules.

On January 13, 2025, the co-chairs of the IF issued a Statement on Pillar One, the first pillar of the two-pillar solution of the 2021 IF agreement.[13] This document, too, has been hanging over the market for a while and informs about the current state of affairs on developments within the Pillar One project. The statement focuses on the work done on Amount A, the formulaic company tax base redistribution towards market jurisdictions for the approximately 100 or so largest multinationals worldwide, and Amount B, the envisaged simplification of transfer pricing rules by means of a pricing matrix involving routine marketing and distribution activities in covered jurisdictions that choose to apply the envisaged transfer pricing rules. With regard to Amount A, the draft text of the Multilateral Convention (MLC) to implement Amount A that was published in October 2023 with a view to its finalisation in June 2024 has since then remained stable. The negotiations within the IF now focus on outstanding issues involving Amount B. The co-chairs write that some IF members consider that Amount B is an essential part of the Pillar One package. Some IF members also consider that the aforementioned pricing matrix does not lead to an appropriate remuneration for the aforementioned marketing and distribution activities. Within the IF, solutions are being sought and the IF countries remain fully committed to finding them. This is to secure agreement on the Pillar One package within the IF and to ensure a subsequent rapid implementation in countries worldwide.

The Pillar One statement evokes the image, at least for me, of a completely stalled international company tax reform project. 5 years ago I wrote in *Intertax* about the plans as a Frankenstein's monster with in the background The Animals playing their 1965 hit 'We gotta get out of this place'.[14] The monster lies stable, awaiting to be awoken. Perhaps we should just keep it like that.

2.2 What else happened?

Before proceeding to a discussion of the IF documents in some detail, it should be noted that on 24 December 2024, the United Nations General Assembly adopted a resolution (A/RES/79/235) on the negotiations on the envisaged UN Framework Convention on Tax Cooperation.[15] The resolution follows the adoption of the terms of reference by the Second Committee (Economic and Financial) of the United Nations on 27 November 2024. Almost 120 countries voted in favor. The United Kingdom, the United States and some other of the most developed countries voted against, while the Member States of the European Union abstained from voting. This is 'to express this positive attitude in addition to expressed concerns', the Dutch State Secretary for Finance mentioned in a recent letter to Dutch Parliament on the addressing of tax avoidance.[16] The EU Member States and some of the other most developed countries in the world cannot commit themselves to a framework convention if it interferes with the work of the OECD. We will have to see what will come of it.

Furthermore, on January 20, 2025, the day of the inauguration of the current President of the United States, the White House published a memorandum on the position of the United States in relation to the 2021 IF Two-pillar agreement.[17] The document opens with the following lines: *"The OECD Global Tax Deal supported under the prior administration not only allows extraterritorial jurisdiction over American income but also limits our Nation's ability to enact tax policies that serve the interests of American businesses and workers. Because of the Global Tax Deal and other discriminatory foreign tax practices, American companies may face retaliatory international tax regimes if the United States does not comply with foreign tax policy objectives. This memorandum recaptures our Nation's sovereignty and economic competitiveness by clarifying that the Global Tax Deal has no force or effect in the United States."* The development on the U.S. pulling out of the Global Tax Deal has been widely covered in the media.[18]

The White House memorandum also states that the U.S. Secretary of the Treasury, in consultation with the U.S. Trade Representative, will investigate whether there are jurisdictions that do not comply with the tax treaties with the United States, or otherwise apply (or are likely to apply) extraterritorial or disproportionate taxes and will report back to the U.S. President within 60 days on its findings, together with providing the White House an overview of the possibilities for subsequent introduction of countermeasures. One of the possibilities available to the United States President is the following (26 U.S. Code § 891 – Doubling of rates of tax on citizens and corporations of certain foreign countries): *"Whenever the President finds that, under the laws of any foreign country, citizens or corporations of the United States are being subjected to discriminatory or extraterritorial taxes, the President shall so proclaim and the rates of tax imposed... shall, ... for each taxable year thereafter, be doubled in the case of each citizen and corporation of such foreign country"*).[19] Of course, this mainly concerns the extraterritorial top-up taxation mechanisms from Pillar Two, such as the undertaxed profits rule (UTPR) and perhaps also the income inclusion rule (IIR), as well as the (possible) return of digital services taxes in countries worldwide. This blog has reported on emerging tensions in this regard several times.[20]

In addition, on January 22, 2025, the chairman of the United States House Committee on Ways and Means, with the support of all Republican representatives on this committee, introduced the so-called 'Defending American Jobs and Investment Act' (H.R. 591).[21] The bill is in fact a reintroduction of an earlier variant from May 2023,[22] which now also focuses on the undertaxed

profit rule (UTPR). The bill proposes to reverse withholding tax relief under the U.S. tax treaties via domestic legislation – which is possible under the United States Constitution I understand – in respect of withholding tax payments to jurisdictions that apply the undertaxed profit rule against American interests. The proposed measure increases the United States withholding tax rate by 5 percentage points in annual instalments to 20 percentage points after 4 years, on top of the existing 30% rate under national law.

That does indeed mean 50% United States withholding tax as a countermeasure. The application of this measure is eliminated as soon as the other country concerned withdraws its extraterritorial and discriminatory taxes. The measure remains dormant as long as the foreign countries concerned do not effectuate such taxes against the United States – that would be including the EU Member States under the Pillar Two Directive[23]. *"The Defending American Jobs and Investment Act will ensure that President Trump has every tool at his disposal to pushback against any foreign country that seeks to undermine America's economic vitality or unfairly target our workers and businesses,"* the chairman of the Ways and Means committee said.[24] Earlier, in July 2023, this committee introduced a proposal in response to the 2021 Global Tax Deal that tightens the U.S. Base Erosion and Anti-Abuse Tax (BEAT) – i.e., an alternative minimum tax of 10% on the relevant group company's adjusted profit (outgoing payments to group companies would be added back in), levied if the amount due under BEAT is higher than the standard amount of United States corporate tax that would be payable – in response to foreign taxation under the undertaxed profit rule. In short, the pressure has become even firmer than it already was.[25]

3. New transition rules

3.1 Deferred tax from the pre-Pillar Two period

The administrative guidance document of 15 January 2025 addresses the transition rules for deferred tax assets and deferred tax liabilities recorded in the financial statements in financial years prior to the operation of the Pillar Two rules, during the pre-Pillar Two period that is.[26] The administrative guidance document introduces countermeasures in response to the introduction by certain countries of government arrangements, including those in combination with the introduction of new corporate taxes, which interfere with the operation of the transition rules. The guidance document also provides some numerical examples of the application of the new rules.

The transition rules are laid down in Article 9.1 of the Pillar Two Model Rules and regulate the following.[27] If a group entity has deferred tax assets or deferred tax liabilities – reflected or disclosed in the financial statements – in the first reporting year in which the multinational group in question falls within the scope of the Pillar Two measures (the so-called transition year), such as deferred tax assets recorded in view of some vertical loss relief eligibility due to prior year losses, these deferred taxes can be recognised for Pillar Two purposes. This, at the applicable local company tax rate and up to a maximum of the Pillar Two minimum rate of 15% (Article 9.1.1).

However, the possibility of the import of deferred taxes from the pre-Pillar Two period into the Pillar Two system does not apply to deferred tax assets for items not included in the income calculations for Pillar Two purposes and that arose after 30 November 2021 (Article 9.1.2).[28] In practice, I understand, such deferred tax assets are referred to as 'Bad DTAs'. A similar exception applies to intra-group international asset transfers between 30 November 2021 and the transition year. Such asset transactions do not, in principle, lead to an increase in the carrying amount of the assets concerned (other than inventory) to fair market value in the entry jurisdiction for Pillar Two

purposes (no Pillar Two step-up; section 9.1.3.). Only if the capital gains in the jurisdiction from which the assets in question originated, the exit jurisdiction, in short, have been properly subject to company taxation, can a Pillar Two deferred tax asset or a Pillar Two step-up be formed. Without these exceptions, the effective rate for Pillar Two purposes could be unintentionally higher in some cases. With Ying Than, I wrote on the transition rules for asset transfers in *Bulletin* some years ago.[29]

3.2 Scope expansion

The administrative guidance document of 15 January 2025 focuses on the transition rules for transactions and government arrangements that have been identified and assessed by the IF as undesirable.[30] The document says that companies and/or governments should not be able to circumvent the application of the transition rules as a means to effectively dodge Pillar Two top-up taxation responsibilities. This, for instance, by setting up or facilitating transactions or arrangements outside the scope of the transition rules, to create deferred tax assets on that basis that effectively result in an increase in the effective tax rate for Pillar Two purposes upon their subsequent reversal under the scope of the Pillar Two rules. This, in order to shake off Pillar Two top-up taxes that would otherwise be levied. Apparently, there are some jurisdictions out there that at some point started to facilitate such arrangements for tax competitive reasons. This, for example, by granting tax credits or step-ups, on the basis of, for example, tax rulings or retroactively applicable elective regimes and on some occasions in the context of a newly introduced corporate income tax system. The jurisdictions concerned are not explicated or otherwise mentioned in the guidance document.

The administrative guidance document now retrospectively extends the scope of the transition rules to such transactions and arrangements made after 30 November 2021.[31] It is arranged that in this context, any related deferred taxes formed in the financial statements for purposes of the application of the Pillar Two rules are considered to be ‘Bad DTAs’ and therefore cannot be taken into account for Pillar Two purposes. Subsequently, for arrangements set up until 18 November 2024, a so-called ‘Grace Period’ is provided on the basis of which the deferred tax assets involved can still be partially taken into account on a temporary basis (for two or three reporting years, depending on the type of arrangement, while the benefit is capped at 20%). The measure applies to both the effective tax rate calculations under the detailed Pillar Two rules and those under the Transitional CbCR Safe Harbour. As an adjoining measure, it is arranged that the taking into account of deferred tax assets for losses from years prior to the introduction of a new corporate income tax will be limited to losses incurred up to 5 years prior to the adoption of the relevant corporate tax legislation.

3.3 No Benefit Requirement

The guidance document indicates that the allowing of the abovementioned deferred tax assets in the financial statements through government arrangements should be seen as a benefit provided in relation to the introduced Pillar Two rules in the jurisdiction concerned.[32] This, in the run-up to some further development of guidance within the IF on the question in which circumstances such related benefits do or do not exist. If any such related benefits are provided by some jurisdictions,

such forms the basis for the disqualification of the Pillar Two rules by some other jurisdictions, i.e., under the so-called 'no benefit requirement' or 'no benefit rule'. In a piece on this blog together with Den Ridder en Ruige called 'Fiscal Subsidies Aspirers Beware of the No Benefit Requirement in Pillar Two' we signaled the emerging issues and grave uncertainties involving the envisaged no benefit rule some years ago.[33] According to the newly released administrative guidance document, when a jurisdiction grants aforementioned 'related benefits' to circumvent the proper operation of the transition rules, this jurisdiction is also ineligible for the temporary 'qualification' under the 'transitional qualification mechanism' in the context of the peer review discussed further below.

The no-benefit requirement now already comes into play, it seems, when a country allows for a step-up in the corporate income tax environment outside the scope of the transition rules – for instance in conjunction with the introduction of a corporate income tax – and thereby allows the recording of a deferred tax asset for accounting purposes and with that also for Pillar Two purposes. This raises the question, at least for me, about the status under the no benefit rule of any other measures that operate relatively advantageous for taxpayers. What will happen, for example, if countries were to allow for Pillar Two top-up taxes, domestic top-up taxes for instance, to be credited against any top-up taxes imposed under these countries' controlled foreign company rules in their company tax systems? Would such a credit for Pillar Two top-up taxes against any CFC-taxes levied constitute a 'related benefit' as well, as Wisman wondered aloud while chairing the Erasmus Fiscal Studies autumn conference of 3 October 2024 in Rotterdam titled 'Do Pillars One and Two have a future?' (in Dutch: 'Hebben Pillars I en II wel toekomst?').[34]

And what about a generous interpretation of the operative Pillar Two rules in a country, for example in the context of a position taken by the local tax authorities or in the context of a ruling on, say, the Pillar Two participation exemption regime? Or what about a relatively generous application of any provision or any generous interpretation thereof in a country's (tax or subsidy) legislation? Think of a payroll tax incentive or payroll cost subsidy for companies in a country that has been recently introduced for policy instrumental reasons to mitigate some Pillar Two top-up tax exposure. Is that, then, a benefit granted that is related to the introduced Pillar Two rules too? To be honest, I wouldn't know why not. The issue here is that when it comes down to it, we have no idea how to explain all these rules that are being devised within the IF context and also who else to ask. Perhaps some non-EU countries will at some point find the interpretation by the Court of Justice of one or the other within the scope of EU law a related benefit; perhaps some EU-devised incentive measure of some sort following-up on the September 2024 Draghi report.[35] This, on that basis, to subsequently proceed to disqualify the Pillar Two Directive under their own domestic Pillar Two rules, and then to neutralize the intended effects of such European subsidy mechanisms through their domestic Pillar Two top-up tax levies.

We will see, and in any case I am very curious about the further guidance to be developed by the IF on the interpretation of the no benefit requirement. And I am also looking forward to the subsequent discussions about the legal status of such guidance and to the way in which countries will respond to any of such developments. I would like to ask those who see all this differently and believe that there is nothing the matter or going on at all, to please explain why that is and then also on what legal basis all such would be.

3.4 Exceptional derogation

As part of the agreed administrative guidance on the transition rules, it has been agreed within the IF context that as an 'exceptional derogation',[36] the abovementioned benefits-granting jurisdictions may still designate themselves as 'qualifying' in the context of the peer review via the 'self-certification' under the 'transitional qualification mechanism' for their domestic minimum top-up taxes and domestic minimum top-up tax safe harbours. This, based on the 'understanding' that the benefits-granting jurisdiction in question: (i) will neutralize the benefit up to the permitted cap under the aforementioned Grace Period and; (ii) that if the relevant jurisdiction does not apply the guidance on the transition rules, it will apply the so-called 'Switch-off Rule' in its domestic minimum top-up tax safe harbour, i.e. as a circumstance in which the safe harbour will not be applied to group entities in this jurisdiction. In that case, the thinking is, that any other guidance-implementing jurisdictions will then be enabled to neutralize the related benefit provided by that jurisdiction through their extraterritorial top-up tax mechanisms (income-inclusion rule or undertaxed profit rule, as applicable). For the latter, a framework will be developed within the IF context for the provision of relevant information in the context of the GloBE Information Return.

From the existence of this derogation, I deduce that there are apparently jurisdictions on the list to be discussed below of countries with temporarily qualifying Pillar Two rules, which provide or provided the aforementioned benefits and now close or have closed the unilaterally devised loopholes in exchange for inclusion in the list (at least, unless the IF would have developed meaningless derogations here, which I find difficult to imagine). Incidentally, the published guidance documents do not mention what would happen if it would turn out that the unidentified countries that are now on the list of qualifying jurisdictions based on the 'exceptional derogation' do not respect this 'understanding' and continue to maintain their loopholes or develop variations of these that fall just outside the scope of the now published administrative guidance. Are we going to remove those jurisdictions from the list on second thought in such an occasion? Retroactively perhaps? We will have to see.

3.5 Fairness, legality?

The administrative guidance document indicates that a monitoring procedure will be developed within the IF context for the application of the no benefit requirement. All forms of possible 'related benefits' (tax credits, government grants) will be subject to this procedure, according to the document.[37] The 'integrity of the GloBE Model Rules', whatever that may mean, will provide the benchmark of assessment.[38] The above noted piece on the no benefits rule wrote: *"[a]s matters currently stand, the current state of affairs is a vague rule allowing for wide ranging disparate rule-interpretation and operation, having potentially devastating implications for both countries and taxpayers. That will not bring fairness to taxation, that will bring a mess."* [39] We will have to see whether the aforementioned monitoring procedure will bring us the envisaged tax fairness. My estimate is that it will more likely bring discussion and muddle.

The aforementioned Bulletin paper on the transition rules wrote on the available guidance at the time that: *"… clarity, however, is relative, at least in terms of legal certainty. The legal status of the Pillar Two Administrative Guidance document – and, with that, its legal standing – is currently uncertain. The document is not a source of law. It is not an instrument of public international law, such as a treaty, and nor is it an instrument of supranational EU law, such as the EU Minimum*

Taxation Directive (2022/2523)."[40] This has not changed, when honestly assessed on its merits. We may now also look forward to see how any of the envisaged top-up taxes as based on the newly devised transitional rules scope extensions in the fifth batch of administrative guidance will acquire their legal status at some point in time, for instance under EU law. In the unlikely event – of course – that such would not succeed, for example because the Pillar Two Directive will not be amended to cater for such considering the required unanimity within the Council, I fear that the now published anti-arbitrage rules will turn out to be ineffective in view of their incompatibility with the principle of legality under EU law. Of course, the foregoing has little to nothing to do with clarification or interpretation – no matter how often the guidance documents themselves continue to say otherwise. When assessed as to their merits, what we see happening is not that much different from retroactive rulemaking by a democratically non-legitimised actor. In any country respecting the rule of law the charge to tax must find its basis in the law, i.e., also where it concerns the countering of loopholes in the Global Minimum Tax.

4. List of countries with temporary 'qualifying' Pillar Two rules

4.1 Central Record, Transitional Qualified Status

The list of countries with temporarily 'qualifying' Pillar Two rules, also published by the IF on 15 January 2025,[41] is a next step in the process of the development of a peer review procedure based on which countries assess each other's Pillar Two rules. The IF has already communicated on the procedure in the package of 17 June 2024 via a Frequently Asked Questions (FAQ) document on the streamlined peer-review by countries of their national Pillar Two rules.[42] Within the IF, something has been developed that is now called a 'fast-track process', i.e. a step-by-step plan to confirm the qualifying status of any local (draft) Pillar Two laws and regulations in jurisdictions, as of their (draft) date of entry into force that is, and all on the basis of a high-level self-certification process. The documents that have now been published concern the so-called Central Record of Legislation with Transitional Qualified Status (Annex B),[43] which has been developed, together with the 'transitional qualification mechanism' – i.e. some further administrative guidance to incorporate any agreed upon procedural regulations into the operation of the Pillar Two rules (which should then be Annex A I guess, although I did not find this in the documents). As an adjoining piece, on 15 January 2025, the IF published a Questions and Answers (Q&A) document,[44] i.e., a marketing expression basically similar to the Frequently Asked Questions document on the matter that the IF published on 17 June 2024.[45]

The now published 'Central Record of Legislation with Transitional Qualified Status' lists the jurisdictions that have gone through the agreed self-certification procedures and whose Pillar Two rules now temporarily qualify on this basis.[46] In short, the top-up tax mechanisms in the countries on the list will be given a "Q" via this means (income inclusion rule, IIR ("Q"IIR"), domestic minimum top-up tax, DMTT ("Q"DMTT), domestic minimum top-up tax safe harbour, DMTT SH ("Q"DMTT SH")), i.e., pending the results of the envisaged 'full legislative review and ongoing monitoring process', an in-depth review that is of any country Pillar Two rules and subject to a continuous monitoring. The in-depth review is expected to start no later than two years after the effective date of the Pillar Two legislation in the relevant jurisdiction, but – as I read in the Questions and Answers document of 15 January 2025 – which cannot yet be carried out and finalised in the short term.[47] It should be noted that if the outcome of this in-depth review would result in a loss of the transitional qualified status, this loss of status will not have a retroactive effect. In other words, loss of status does not work retrospectively, i.e., at least according to the documents published by the IF. Above I wrote that it remains unmentioned what would happen if

jurisdictions were to maintain their unilaterally devised loopholes despite the above noted ‘understanding’, which would remove the basis under the exceptional derogation that forms the basis for inclusion in the Central Record. Perhaps we will find out about that at some point in time.

In the list we find the income inclusion rules of 27 jurisdictions and domestic top-up taxes of 28 jurisdictions. Perhaps worthy of note, the Netherlands, the authors’ home country, is also on the list with its Minimum Tax Act 2024 (Wet minimumbelasting 2024[48]). I could not help wondering, however, if such should also be considered to apply to Bonaire, St. Eustatius and Saba and their 15% minimum tax system. These so-called BES islands are a part of the Netherlands, i.e., as one of the jurisdictions of the Kingdom of the Netherlands (next to the other jurisdictions of the Kingdom: Aruba, Curaçao and St Martin) although having some semi-autonomous status. The BES islands have their own tax system and, also for this purpose, are not part of the Netherlands under the Dutch General Act of Taxation (Algemene Wet inzake Rijksbelastingen[49]). The Dutch BES Tax Act (Belastingwet BES[50]), i.e., the BES tax system, is not on the list, while the islands actually did introduce Pillar Two. The thing here, I guess, is that the BES Tax Act refers to the Dutch Minimum Tax Act 2024 for this purpose and not the other way around. By inference this would mean that the BES Tax Act would also need to be included on the list, i.e., to temporarily qualify. Well, perhaps the Dutch tax authorities at some point in future will communicate an executive position on the matter saying that all is well (allowing the tax community to subsequently initiate a discussion as to the legal status of such a communication). Moreover, and interestingly perhaps, at least in my opinion, the Pillar Two Directive is only included indirectly in the list here and there, i.e., when the EU jurisdiction that is included in the list refers to the Directive in its Pillar Two legislation transposing the Directive into its domestic law. For Pillar Two purposes, at least from the perspective of the IF, it apparently seems that the EU may not even be considered to exist at all, I don’t know. If I’m not mistaken the EU is a full member though of the G20 though.

We also see a jurisdiction, Barbados, included in the list for the jurisdiction operating a so-called ‘Conditional DMTT’.[51] Conditional DMTTs apparently also exist now, and now are even eligible to be granted a “Q” for Pillar Two purposes, a “Q”CDMTT I suppose. A conditional DMTT is a domestic top-up tax that ‘only applies to a constituent entity when the MNE Group is subject to the GloBE Model Rules in another jurisdiction for 2024’. The listing exercise must have been based on interpretation, I assume, now that I have not seen the term ‘Conditional DMTT’ included in the Model Rules so quickly, or the EU Directive for that matter. The list will be updated regularly to ensure that those countries that have gone through the self-certification procedures are included in the list in an expeditious manner. If countries are not on the list, this notably does not mean that their Pillar Two rules would not qualify, but that the procedures have not yet been completed or have not been completed in full at the time of drawing up the list.

4.2 Interests and pressure points

Earlier, in a Dutch tax weekly, I wrote on the interests at stake here, and of course the pressure that is exerted in this regard.[52] If a country does not reach the minimum tax level of 15% while other countries do not proceed to neutralize things by imposing some top-up taxation extraterritorially, there will be a gap and non-top-up taxation will remain as a consequence. At the same time, countries each have an individual investment climate interest in undermining the minimum tax level, one way or the other and effectively that is, for tax competitive reasons. We have now seen that countries indeed seem to be doing this, for example through all kinds of loopholes unilaterally

created to circumvent the effective operation of the transition rules that the fifth batch of guidance now seeks to close. Countries, however, also have a tax revenue interest in disqualifying each other's top-up tax regimes by reference to any available grounds such as for instance the no benefit rule. So, considering things, if all will need to turn out well, countries will have to trust each other in each other's Pillar Two rule application and/or will have to mutually monitor/enforce/escalate otherwise, i.e., in view of the interlocking properties of the Pillar Two system – potentially initiating controversy. This, at least if we would actually want to prevent above par or below par effective Pillar Two minimum taxation.

The list of qualifying countries published by the IF must now solve all this. Countries will now have to respect each other's Pillar Two rules, politically that is, whenever these are qualified on a self-certification basis under the politically agreed upon procedures. I think this also means that the countries on the list should not then use their qualifying status as a shield to continue to achieve some old-fashioned tax policy objectives with a purpose to not subsequently being exposed to any top-up tax risks. This would be the case, for example, when it comes to attracting investment through the tax system or subsidy system, or through some flexible interpretations of national Pillar Two rules through, for example, position statements by the tax authorities or via rulings agreed with taxpayers. If such were to happen, who knows, any subsequent developments may very well turn out into something quite exciting.

The Q&A document from 15 January 2025 states that self-certification is also possible in the presence of 'minor inconsistencies' in the national Pillar Two laws and regulations, as compared to the documents published in the IF context, but that these will have to be remedied in due time, i.e., 'within an agreed timeframe' (not further specified).[53] Be that as it may, countries will be able to neutralize each other's inconsistencies regardless, i.e., in view of the mechanism in the Pillar Two system based on which any qualified domestic minimum top-up taxes are credited against any top-up taxes levied on the basis of the income inclusion rule or undertaxed profit rule. In such case, countries will proceed to impose some extraterritorial top-up taxes on top of some domestic minimum top-up taxes abroad, and the effect of the Pillar Two disparity will accordingly be taxed away. An example of such would be top-up taxation under the income inclusion rule in the parent entity's jurisdiction of residence, where it is found that the subsidiary entity's jurisdiction of residence has wrongly applied the Pillar Two participation exemption regime, from the perspective of the parent entity's jurisdiction that is, to some benefit from a shareholding to which the participation exemption regime may or may not apply, or perhaps should or should not apply. The list of countries, after all, indicates whether a Pillar Two regime 'qualifies', the "Q" in the IIR or DMTT that is, and does not provide for a mutual recognition of countries' interpretation of their domestic Pillar Two rules. The question then arises as to what to do if the extraterritorial top-up taxes are envisaged to be set at nil, on the basis that countries apply the qualified domestic minimum top-up tax safe harbour (QDMTT SH). Will countries then still accept the safe harbor in such cases, accordingly allowing for a top-up tax shield with a reference to the qualified status of the jurisdiction involved in the IF list? Or would they not? Or will countries, then, at some instance, be proceeding to disqualify each other's Pillar Two rules retroactively? We will have to see on that.

4.3 Legal status?

If pressure comes, and I honestly cannot think of why not as it is already there,[54] then it may

very well turn out to be that at some point things will be focusing, for example, on the status and legal force of the list. When it comes down to it, I am afraid that the fast-track procedure and the IF list as devised on the basis of it will prove to not produce any legitimate expectations, from a legal perspective that is. After all, basically everything that has to do with the list now presented by the IF has no basis in law. The list also has no legal status under EU law, for example.

For a while I was thinking that the ‘assessment of equivalence’ under the Pillar Two Directive (Article 52),[55] a procedure in the EU Directive to recognize equivalent Pillar Two rules, could provide some grounds for this purpose, i.e., at least within the EU. However, I have since understood that this Directive provision was written for countries, such as the United States and its GILTI rules, from the time when we still thought that the Americans would further develop their tax rules into an American Pillar Two regime. If this is indeed the case and Article 52 has been written only for countries such as the United States and its GILTI rules, then the Pillar Two Directive lacks a legal basis to direct the IF’s list of countries into the EU acquis. Then it remains to be seen what the Court of Justice will rule on matters in due course. For the implementation of the IF’s safe harbour rules, we have Article 32 of the Pillar Two Directive, i.e., regardless of the legal merits of the manner in which the EU Member States have sought to incorporate the IF safe harbour publications into the acquis at the end of 2023.[56] For the list of qualifying countries, at least it seems, we have nothing to substantiate it with some legal grounds. This said, for the effectuation of the list in EU law, we could perhaps seek to redirect the scope of Article 52 of the Pillar Two Directive at some point on some closer inspection. This, in order to produce a basis for the recognition under EU law of the IF’s list of countries for purposes of applying the Pillar Two Directive. But even then the question arises what the Court of Justice will think of all this when asked.

Who knows, maybe in due course we will see a statement appearing from one of the EU institutions, the European Commission for example, that everything is fine and we don’t have to worry at all about the legal status of the list from an EU law perspective, a bit like earlier in late 2023 with the safe harbours and the batches of administrative guidance as they were available up to that point. But even then, to be honest, I wonder where we will end up in a legal sense. In the currently pending Nordcurrent case (case C-228/24)[57], for example, we see that EU Member State Lithuania does not take much notice of the Commission’s statement that the Commission published at the time that the general anti-abuse measure (GAAR) was incorporated in the Parent-Subsidiary Directive (PSD),[58] some 10 years ago, saying that the PSD GAAR does not apply to the double tax relief mechanisms in the Directive but only to the withholding tax exemption.[59] After all, the text of the Directive does not say anything on any apparent scope limitations of the GAAR in the Directive for that matter, while Lithuania invokes the GAAR in this case to not apply their participation exemption in the hands of a corporate taxpayer receiving a dividend from a participation in the United Kingdom. Should the Court of Justice in this case come to a substantive review of the general anti-abuse measure in the Parent-Subsidiary Directive, regardless of where the Court of Justice will end up in terms of content, we will unavoidably discover that the Commission’s statement in the context of the Directive has no legal status whatsoever.

In a country governed by the rule of law, it is up to the judiciary to interpret the applicable rules and explain them to us. Taxpayers and tax authorities seek the law that has been drafted by the legislature, while the judiciary finds it. Subsequently, there will be nothing that can lead to a different observation when it comes to the status of the various statements that we have seen, and perhaps we will see in due time, on the impact of the documents from the IF for purposes of the operation of the Pillar Two Directive and thus EU law.

Challenges are coming, I guess. And then we have not even assessed the matter identified in the literature what exactly the state of play is with regards to any potential disqualification by tax authorities of the safe harbours devised and agreed upon by the IF, on the basis that any top-up taxation interests with reference to the application of the detailed Pillar Two rules would be otherwise at stake (Article 8.2.2. Pillar Two Model Rules).[60] Do these top-up taxation interests relate to matters involving data utilization issues or do these top-up taxation interests relate to matters involving substantive differences between the safe harbour rules on the one hand and the detailed rules on the other? Should we understand safe harbours as merely an administrative convenience enhancing aid? Or should we understand these to also provide some means to shield any top-up taxes otherwise due under the detailed rules? If any safe harbour application should not be understood as a means to circumvent top-up taxation under the detailed rules, the safe harbours of the IF could transpose, at least potentially that is, in an – actually not that safe – soft harbour.

5. Top-up tax information return and information exchange framework

5.1 GloBE Information Return and Multilateral Competent Authority Agreement

On 15 January 2025, a package of documents was also published concerning the envisaged Pillar Two top-up tax information return and the envisaged information exchange framework.[61] These documents concern an update of the GloBE Information Return (GIR)[62] and an adjoining administrative guidance document,[63] an updated GIR XML Schema and User Guide for Tax Administrations,[64] together with a GIR exchange framework in the form of a Multilateral Competent Authority Agreement (MCAA).[65] Between 10 July 2024 and 19 August 2024, a public consultation was held on the so-called GIR XML Schema and User Guide to further facilitate the administrative processes surrounding the information return and the exchange of information.[66] Within the EU context, the European Commission published the proposal for a Directive amending the Administrative Cooperation Directive (DAC9; COM(2024) 497 final.[67] The Directive proposal serves the purpose of providing a legal basis for the implementation of the envisaged top-up tax information return in a coordinated and consistent manner within the EU.

The information return is a standardized administrative form developed within the context of the IF in 2023 that in-scope multinational enterprises must complete and submit to the tax authorities. The tax authorities, the thinking goes, then exchange the data with each other (dissemination approach) on the basis of a multilateral information exchange framework. The Top-up tax return provides for this purpose an information collection framework as a basis for tax authorities to be able to verify Pillar Two calculations provided, to determine Pillar Two top-up tax obligations and to perform appropriate risk analyses. The idea is thus to facilitate the reporting obligation for businesses and the exchange of information between tax authorities on Pillar Two. The MCAA, published on 15 January 2025 as well, serves to facilitate a centralized filing of the information return by companies and the subsequent exchange of information between tax authorities.[68] This would be based on Article 6 of Convention on Mutual Administrative Assistance in Tax Matters.[69] The competent authorities may commit themselves by signing the MCAA to become a signatory to the agreement.

5.2 Simplification?

The now published administrative guidance on the top-up tax tax information return states that the

basic principle is that the reporting must be based on the Pillar Two Model Rules.[70] Subject to certain exceptions, the reporting obligation for this purpose is therefore not linked to the domestic Pillar Two legislation of the implementing countries. Nor is there any reference to the Pillar Two Directive for that matter. If differences arise between the Pillar Two Model Rules and the national implementation laws and regulations, i.e., those Pillar Two rules that are actually in force, then – according to the guidance – the reporting companies are *"also required to report the impact of those differences on key indicators in the GIR"*. Some tax authorities, according to the guidance, *"may require further information about these specific differences to perform an effective risk assessment or evaluate the correctness of a Top-up Tax liability according to their legislation".[71]* The tax authorities can then collect the relevant information based on subsequent information requests, the guidance says.

Quite useful, of course, a uniform set of rules as a basis for reporting obligations and the exchange of information; as well as a basis for a reconciliation of Pillar Two Model Rules and domestic implementation rules (so we will at least be sure to know where to be finding the inevitable disputes that will be arising). It is just a pity that this uniform set of rules does not actually apply or have any legal standing for that matter. After all, the Pillar Two Model Rules concern template legislation, and that pinches. It's template rules, not actual rules. Nevertheless, the guidance continues by saying that if and to the extent that any national rules in countries stand in the way of basing any reporting obligations and data collection n on some non-existing laws or regulations – the guidance refers to 'constitutional or administrative law constraints' for this purpose[72] – countries can surely bend their national laws and regulations for that purpose in the proper direction to cater for such regardless, and to establish a basis for reporting and administrative obligations by reference to the Pillar Two Model Rules. According to the guidance that is. The guidance continues by issuing a warning, saying that any such legislative interventions would need to be necessary and proportionate and should not create any additional compliance burdens and regulatory pressures.

The DAC9 Directive proposal makes a single reference to the IF's Pillar Two Model Rules, in the preamble,[73] noting that the proposal provides a framework for the operational implementation of the Pillar Two Directive based on the common approach contained in the Model Rules. For the remaining part everything in the Directive refers to reporting requirements concerning top-up taxation under the provisions of the Pillar Two Directive. The Directive does not mention any reporting obligations concerning the imposition of any top-up taxes based on some template legislation. Anyway, supranational EU law will surely bend to the extent whenever necessary, at least that seems to be the idea here. This will then have to be done though by amending the Directive by unanimity in the Council.

Whether the shocking bits of these passages here lies in ignorance, naivety or loftiness – or perhaps panic – I am happy to leave to the reader. In any case, from a constitutional rule of law perspective, it is of course completely absurd what is happening here. Then we would have had to incorporate the global 15% minimum tax into a globally operating instrument of public international law, a multilateral treaty that is; and then we would not have ended up in the situation we now have found ourselves in. The MCAA, incidentally, is intended to form a so-called Qualifying Competent Authority Agreement (QCAA) for Pillar Two purposes, of course as defined in the Pillar Two Model Rules.

Notably, the OECD's press release of 15 January 2025 states that within the IF some *"[f]urther work will be undertaken on a common approach towards data consistency and quality in the form*

of validation rules to be applied to the GIR information prior to filing and exchange."[74] Even more rules, that is, to ensure the consistency and quality of information provided. All this, of course, as a simplification measure that will of course not result in any further compliance and regulatory burdens for taxpayers and tax authorities, and as clarification and interpretation, of course.

Earlier, in a Dutch tax weekly, I wrote that the future will have to show whether tax authorities will be satisfied with the information as made available by its peer jurisdiction in which the filing group entity resides in order to determine their taxing rights on this basis, or whether they will (in addition) divert to some tax enforcement mechanisms and administrative competences available under domestic law for the necessary data collection and verification to determine their taxing rights on this basis.[75] The future will also have to show to what extent things will proceed in an orderly manner or will give rise to discussions, disputes and controversy. For any disputes, should they arise – unexpectedly of course –, no dispute resolution instruments are yet available. The word 'dispute' is mentioned once in the documents on the GIR and MCAA, namely to ensure that 'any dispute upon differences in the interpretation or the application of the GloBE Rules between jurisdictions would not be covered'.[76] Whether this inspires confidence or makes one rather feel disheartened, I am happy to leave that to the reader.

6. Final remarks

While preparing this blog contribution I looked into some of my earlier writings on the topic. In my chapter on policy initiatives in the handbook *European Tax Law* I wrote that, '[w]hen writing this chapter in early 2022, international tax-political processes and discussions began to blend with processes and discussions of a more tax-technical nature, initiating a new and interesting stage in the company tax reform process.[77] That year I also reflected a bit more philosophically, in *Bulletin*,[78] referring to the developments as an emerging new tax paradigm, a '2020s Compromise' even, querying whether 'we now have arrived at that "far distant future", about which Coates wrote in his 1924 reflection on the League of Nations Report of 1923, in which "the solution of the problem lies"? I observed that 'to be honest, my feeling is that it will not', as, amongst others, 'unlike 100 years ago, the now proposed measures are not even based on existing best practices'. In my latest paper on this blog I wrote that 'we are in for a messy time, of relentless controversy, red tape, multiple taxation, legal proceedings, fiscal fragmentation, and ongoing discussions on how to best move forward.'[79]

Earlier, in 2019, Wisman and I wrote in a chapter on the topic in the IBFD book 'Taxing the Digital Economy' that *"the proposed reforms encroach on the essence of corporate tax systems as they currently stand and the scope available to countries to pursue their tax policies in this field. Implementing any of the proposed reforms unaltered would have a substantial impact on countries' international business income tax systems. Not only would the rules for tax jurisdiction establishment and transfer pricing be changed significantly, but also – perhaps more importantly – countries would no longer be able to base their own international tax policies for taxpayers' direct investments abroad on the universally accepted policy principle of capital and labour import neutrality,"* emphasizing that, *"whatever the case, it is important for countries to keep a very close eye on developments and to ensure they position themselves in good time."*[80] During 2010-2015 I endeavored to devise a company tax model to fix the broken international company tax regime in a bit of a BEPS query of my own called 'Sharing the Pie'.[81] Later, when the Global Tax Deal came, I started to worry some about the rule of law assurance of everything that came after,[82] the tax strategisation opportunities of countries and companies I identified,[83] the tensions with

international tax treaties I observed,[84] the arbitrariness and inequities in the system I noticed,[85] and the emerging controversy in that regard.[86]

So here we are, it is now early 2025. While the United States has pulled out from the 2021 Global Tax Deal threatening taking countermeasures if other countries do not, the IF documents state several times that the IF countries accept the Model Rules and administrative guidance releases and everything that has been devised within the IF context as part of the 'common approach' in the Global Tax Deal. Sure. Of course. The above noted 'we are in for a messy time' alone no longer fits, and any 'ensuring by countries of positioning themselves in good time' lies behind us for a while now as well. I am already looking forward to the revelations in due course from journalists, the '20xy Pillar Leaks' that is, that none of us all, of course, could ever have anticipated beforehand. So, what could be a nice term to describe all this, in 2025, in a somewhat cheerful-pessimistic, almost resigned way, of what we see happening here before our eyes? Ridiculousness. Yes, that's it, ridiculousness. Wasn't that some TV show?[87]

[1] See https://www.oecd.org/en/about/news/announcements/2025/01/global-minimum-tax-release-of-compilation-of-qualified-legislation-and-information-filing-and-exchange-tools.html.

[2] See https://www.whitehouse.gov/presidential-actions/2025/01/the-organization-for-economic-co-operation-and-development-oecd-global-tax-deal-global-tax-deal/.

[3] See https://waysandmeans.house.gov/2025/01/22/ways-and-means-republicans-introduce-legislation-to-reinforce-trump-administrations-rejection-of-biden-global-tax-surrender/.

[4] See https://documents.un.org/doc/undoc/gen/n24/427/22/pdf/n2442722.pdf.

[5] See https://www.oecd.org/en/about/news/announcements/2025/01/global-minimum-tax-release-of-compilation-of-qualified-legislation-and-information-filing-and-exchange-tools.html.

[6] See https://www.oecd.org/content/dam/oecd/en/topics/policy-sub-issues/global-minimum-tax/administrative-guidance-article-9-1-globe-rules-pillar-two-january-2025.pdf.

[7] See https://www.oecd.org/content/dam/oecd/en/topics/policy-sub-issues/global-minimum-tax/administrative-guidance-globe-rules-pillar-two-central-record-legislation-transitional-qualified-status.pdf.

[8] See https://www.oecd.org/content/dam/oecd/en/topics/policy-sub-issues/global-minimum-tax/qualified-status-under-the-global-minimum-tax-questions-and-answers.pdf.

[9] See https://www.oecd.org/en/publications/2025/01/tax-challenges-arising-from-the-digitalisation-of-the-economy-globe-information-return-january-2025_b03274ed.html.

[10] See https://www.oecd.org/content/dam/oecd/en/topics/policy-sub-issues/global-minimum-tax/administrative-guidance-article-8-1-4-article-8-1-5-globe-rules-pillar-two-january-2025.pdf.

[11] See https://www.oecd.org/en/publications/2025/01/globe-information-return-pillar-two-xml-schema_3980638f.html.

[12] See https://www.oecd.org/content/dam/oecd/en/topics/policy-sub-issues/global-minimum-tax/multilateral-competent-authority-agreement-exchange-of-globe-information.pdf.

[13] See https://www.oecd.org/en/about/news/announcements/2025/01/pillar-one-update-co-chair-statement-oecd-g20-inclusive-framework-on-beps.html, and https://www.oecd.org/content/dam/oecd/en/topics/policy-issues/beps/pillar-one-update-co-chair-statement-inclusive-framework-on-beps-january-2025.pdf.

[14] See https://kluwerlawonline.com/journalarticle/Intertax/48.1/TAXI2020002.

[15] See https://documents.un.org/doc/undoc/gen/n24/427/22/pdf/n2442722.pdf.

[16] See https://open.overheid.nl/documenten/a535e139-274b-4eb3-8a20-5e77c21b630c/file.

[17] See https://www.whitehouse.gov/presidential-actions/2025/01/the-organization-for-economic-co-operation-and-development-oecd-global-tax-deal-global-tax-deal/.

[18] See, e.g., https://www.reuters.com/world/us/trump-declares-oecd-tax-deal-has-no-force-or-effect-us-2025-01-21/.

[19] See https://www.law.cornell.edu/uscode/text/26/891.

[20] See, e.g., https://kluwertaxblog.com/author/maarten-de-wilde/

[21] See https://waysandmeans.house.gov/2025/01/22/ways-and-means-republicans-introduce-legislation-to-reinforce-trump-administrations-rejection-of-biden-global-tax-surrender/.

[22] See https://www.finance.senate.gov/ranking-members-news/crapo-statement-on-ways-and-means-republicans-defending-american-jobs-and-investment-act.

[23] See https://waysandmeans.house.gov/2025/01/22/ways-and-means-republicans-introduce-legislation-to-reinforce-trump-administrations-rejection-of-biden-global-tax-surrender/.

[24] See https://waysandmeans.house.gov/2025/01/22/ways-and-means-republicans-introduce-legislation-to-reinforce-trump-administrations-rejection-of-biden-global-tax-surrender/.

[25] See https://estes.house.gov/uploadedfiles/estes_unfair_tax_prevention_act.pdf, and https://waysandmeans.house.gov/2023/07/19/rep-estes-introduces-legislation-to-protect-americans-from-unfair-taxes-in-global-tax-pact/.

[26] See https://www.oecd.org/content/dam/oecd/en/topics/policy-sub-issues/global-minimum-tax/administrative-guidance-article-9-1-globe-rules-pillar-two-january-2025.pdf.

[27] See https://www.oecd.org/en/publications/tax-challenges-arising-from-digitalisation-of-the-economy-global-anti-base-erosion-model-rules-pillar-two_782bac33-en.html.

[28] See https://www.oecd.org/en/publications/tax-challenges-arising-from-digitalisation-of-the-economy-global-anti-base-erosion-model-rules-pillar-two_782bac33-en.html.

[29] See https://www.ibfd.org/shop/journal/pillar-two-and-transitional-rule-intra-group-asset-transfers.

[30] See https://www.oecd.org/en/publications/tax-challenges-arising-from-digitalisation-of-the-economy-global-anti-base-erosion-model-rules-pillar-two_782bac33-en.html.

[31] See https://www.oecd.org/en/publications/tax-challenges-arising-from-digitalisation-of-the-economy-global-anti-base-erosion-model-rules-pillar-two_782bac33-en.html.

[32] See https://www.oecd.org/en/publications/tax-challenges-arising-from-digitalisation-of-the-economy-global-anti-base-erosion-model-rules-pillar-two_782bac33-en.html.

[33] See https://kluwertaxblog.com/2023/09/18/fiscal-subsidies-aspirers-beware-of-the-no-benefit-requirement-in-pillar-two/.

[34] See https://www.erasmusfiscalstudies.nl/conferences/efs-congres-hebben-pillars-i-en-ii-wel-toekomst/, and see for a conference report authored by Boei and Voogt (in Dutch, an English version is forthcoming): https://www.inview.nl/document/id497364e7d7174532a3999e75ad3614b7/weekblad-fiscaal-recht-hebben-pillars-i-en-ii-wel-toekomst?ctx=WKNL_CSL_183&tab=tekst.

[35] See https://commission.europa.eu/topics/strengthening-european-competitiveness/eu-competitiveness-looking-ahead_en.

[36] See https://www.oecd.org/content/dam/oecd/en/topics/policy-sub-issues/global-minimum-tax/administrative-guidance-article-9-1-globe-rules-pillar-two-january-2025.pdf.

[37] See https://www.oecd.org/content/dam/oecd/en/topics/policy-sub-issues/global-minimum-tax/administrative-guidance-article-9-1-globe-rules-pillar-two-january-2025.pdf.

[38] See https://www.oecd.org/content/dam/oecd/en/topics/policy-sub-issues/global-minimum-tax/administrative-guidance-article-9-1-globe-rules-pillar-two-january-2025.pdf.

[39] See https://kluwertaxblog.com/2023/09/18/fiscal-subsidies-aspirers-beware-of-the-no-benefit-requirement-in-pillar-two/.

[40] See https://www.ibfd.org/shop/journal/pillar-two-and-transitional-rule-intra-group-asset-transfers.

[41] See https://www.oecd.org/content/dam/oecd/en/topics/policy-sub-issues/global-minimum-tax/administrative-guidance-globe-rules-pillar-two-central-record-legislation-transitional-qualified-status.pdf.

[42] See https://www.oecd.org/content/dam/oecd/en/topics/policy-sub-issues/global-minimum-tax/faqs-on-model-globe-rules.pdf.

[43] See https://www.oecd.org/content/dam/oecd/en/topics/policy-sub-issues/global-minimum-tax/qualified-status-under-the-global-minimum-tax-questions-and-answers.pdf.

[44] See https://www.oecd.org/content/dam/oecd/en/topics/policy-sub-issues/global-minimum-tax/qualified-status-under-the-global-minimum-tax-questions-and-answers.pdf.

[45] See https://www.oecd.org/content/dam/oecd/en/topics/policy-sub-issues/global-minimum-tax/faqs-on-model-globe-rules.pdf.

[46] See https://www.oecd.org/content/dam/oecd/en/topics/policy-sub-issues/global-minimum-tax/qualified-status-under-the-global-minimum-tax-questions-and-answers.pdf.

[47] See https://www.oecd.org/content/dam/oecd/en/topics/policy-sub-issues/global-minimum-tax/qualified-status-under-the-global-minimum-tax-questions-and-answers.pdf: *"In the short term it will not be possible to conduct and finalise a full legislative review for each implementing jurisdiction that is implementing IIR and/or DMTT legislation effective as of 2024."*

[48] See https://wetten.overheid.nl/BWBR0049111/2023-12-31.

[49] See https://wetten.overheid.nl/BWBR0002320/2025-01-01/0

[50] See https://wetten.overheid.nl/BWBR0029244/2025-01-01.

[51] See https://www.oecd.org/content/dam/oecd/en/topics/policy-sub-issues/global-minimum-tax/administrative-guidance-globe-rules-pillar-two-central-record-legislation-transitional-qualified-status.pdf.

[52] See https://www.ndfr.nl/zoeken?query=NTFR+2024%2F1214.

[53] See https://www.oecd.org/content/dam/oecd/en/topics/policy-sub-issues/global-minimum-tax/qualified-status-under-the-global-minimum-tax-questions-and-answers.pdf.

[54] See for some analysis https://kluwertaxblog.com/2024/09/24/taxing-digital-whats-next/.

[55] See https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:32022L2523.

[56] See for the relevant statements https://taxation-customs.ec.europa.eu/taxation/business-taxation/minimum-corporate-taxation_en.

[57] See https://curia.europa.eu/juris/liste.jsf?language=nl&jur=C,T,F&num=C-228/24&td=ALL.

[58] See https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:32015L0121.

[59] See https://data.consilium.europa.eu/doc/document/ST-5547-2015-ADD-1/en/pdf: *"Statement by the Commission: "The Commission confirms that the proposed amendments to Article 1, paragraph 2 of the Parent Subsidiary directive are not intended to affect national participation exemption systems in so far as these are compatible with the Treaty provisions.""*

[60] See https://www.inview.nl/document/idff38ae4e35404ad18db7cb91bc38fd52/tijdschrift-voor-fiscaal-ondernemingsrecht-over-de-unierechtelijke-on-houdbaarheid-van-het-effectief-belastingtarief-en-de-bijheffing-van-de-wmb-2024?ctx=WKNL_CSL_160&tab=tekst (C. Wisman, 'On the EU law (in)compatibility of the 'effective tax rate' and the ' top-up taxation' of the Dutch Minimum Tax Act 2024?, Tijdschrift Fiscaal Ondernemingsrecht 2024/192.2)

[61] See https://www.oecd.org/en/about/news/announcements/2025/01/global-minimum-tax-release-of-compilation-of-qualified-legislation-and-information-filing-and-exchange-tools.html.

[62] See https://www.oecd.org/en/publications/2025/01/tax-challenges-arising-from-the-digitalisation-of-the-economy-globe-information-return-january-2025_b03274ed.html.

[63] See https://www.oecd.org/content/dam/oecd/en/topics/policy-sub-issues/global-minimum-tax/administrative-guidance-article-8-1-4-article-8-1-5-globe-rules-pillar-two-january-2025.pdf.

[64] See https://www.oecd.org/en/publications/2025/01/globe-information-return-pillar-two-xml-schema_3980638f.html.

[65] See https://www.oecd.org/content/dam/oecd/en/topics/policy-sub-issues/global-minimum-tax/multilate

ral-competent-authority-agreement-exchange-of-globe-information.pdf.

[66] See https://www.oecd.org/en/events/public-consultations/2024/07/draft-user-guide-for-the-globe-information-return-xml-schema.html.

[67] See https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:52024PC0497.

[68] See https://www.oecd.org/content/dam/oecd/en/topics/policy-sub-issues/global-minimum-tax/multilateral-competent-authority-agreement-exchange-of-globe-information.pdf.

[69] See https://www.oecd.org/en/topics/sub-issues/convention-on-mutual-administrative-assistance-in-tax-matters.html.

[70] See https://www.oecd.org/content/dam/oecd/en/topics/policy-sub-issues/global-minimum-tax/administrative-guidance-article-8-1-4-article-8-1-5-globe-rules-pillar-two-january-2025.pdf.

[71] See https://www.oecd.org/content/dam/oecd/en/topics/policy-sub-issues/global-minimum-tax/administrative-guidance-article-8-1-4-article-8-1-5-globe-rules-pillar-two-january-2025.pdf.

[72] See https://www.oecd.org/content/dam/oecd/en/topics/policy-sub-issues/global-minimum-tax/administrative-guidance-article-8-1-4-article-8-1-5-globe-rules-pillar-two-january-2025.pdf.

[73] See https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:52024PC0497.

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[75] See https://www.ndfr.nl/zoeken?query=NTFR+2023%2F1587+ and https://www.ndfr.nl/zoeken?query=NTFR+2024%2F1799.

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[82] See https://kluwertaxblog.com/2024/06/11/on-pillar-2-controversy-and-trust/.

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