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31 October 2022

Kathryn Davy
Assistant Secretary
International Tax Branch
Corporate and International Tax Division
Treasury
Canberra ACT 2600

Dear Ms Davy,

RE: Global Agreement on Corporate Taxation

The Australian Chamber of Commerce and Industry (ACCI) appreciates this opportunity to provide comment to the Treasury on the *Global Agreement on Corporation Taxation* and the implementation of the OECD's Two-Pillar Inclusive Framework.

The increased digitisation of the global economy has led to improved consumer choice, innovation, productivity, and economic growth. It has facilitated the ability for large multinational enterprises (MNEs) to provide goods and services and develop profits from international markets through online platform. The government is looking to ensure that MNEs are taxed appropriately for the value they derive from the local market.

The new global agreement, the Two-Pillar solution, endorsed by the Australian government and over 130 other countries, to reform international corporate tax will help address the challenges arising from the digitalisation of the economy. Pillar 1, applying to MNEs with global revenues exceeding EUR20 billion per annum (over AU\$30 billion) and have a profit-before-tax to revenue ratio exceeding 10%, re-allocates taxing rights over MNEs from their home countries to the markets where they have business activities and earn profits. Pillar 2, applying to MNEs with a global revenue of at least EUR750 million per annum, sets a 15% global minimum corporate tax rate, and removes the ability to "profit shift."

The adoption of the Two-Pillar solution is expected to provide a boost to the Australian budget, with Pillar 1 re-allocating the taxing right on more than USD125 billion of global profits, and Pillar 2 estimating to add USD150 billion in global tax revenue annually.

The tax system should be designed to place all businesses operating in Australia on an equal footing. The Two-Pillar solution will go some way to levelling the playing field.

As noted in the consultation paper, Pillar 1 is unlikely to apply to any Australian business given the threshold revenues of EUR20 billion per annum. With only 100 multinationals caught in the scope of Pillar 1, it appears to be applied narrowly. That said, the Pillar 1 MNEs based in other jurisdictions that are providing services in Australia, should be taxed

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on the profits they generate in Australia. Where these companies are paying lower tax rates, they have a competitive advantage over Australian-based businesses providing similar services to Australian customers.

The Global anti-Base Erosion Model Rules under Pillar 2, which allows countries to apply the Undertaxed Payment Rule to collect a top up tax on profits undertaxed in jurisdictions, is expected to provide an increase in revenues from the tax collected on MNEs residing in low tax jurisdictions. The Government's current Budget forecasts expect Australia's share of the approximately EUR150 billion to be around AU\$970 million over the four years from 2022-23.

Pillar 2 complements Australia's new patent box arrangement, which lowers the tax rate to 17% on profits generated from eligible innovation developed in Australia. If it is applied, with only a marginal difference between the tax rates, the patent box will help retain patents and other intellectual property in Australia and support the commercialisation of this innovation domestically.

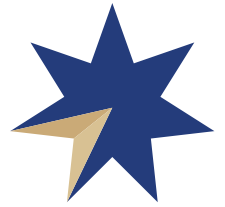
Australia's company tax rate remains very high relative to other advanced economies (at 30%, double the proposed minimum tax rate). This, and other taxation regulations, detract from investment by multinationals in Australia. Other factors such as foreign investment review, environmental approval processes, environmental standards, labour laws, etc. can also make it challenging for large multinationals to invest in Australia.

In addition to applying the Two-Pillar solution to ensure multinationals pay their fair share of tax in Australia, the Government should also be undertaking major company tax and regulatory reform. Australia needs a tax and regulatory environment that enables our businesses to be more competitive internationally and makes Australia a more attractive destination for foreign multinationals to invest here.

The timelines for implementing the Two Pillar solution are short, with Pillar 2 to come into effect in 2023 and Pillar 1 to come into effect in 2024. In delivering on its commitment to implement the Two-Pillar solution, the Government should not cut corners or rush to meet the OECD's proposed timelines.

Of particular note is the need to ensure MNEs don't go from being under-regulated to over-regulated. There are already a patchwork of regulations targeting MNEs, including *transfer pricing*, *diverted profits tax*, *multinational anti-avoidance law* and *hybrid mismatch rules*. The implementation of the OECD's Two-Pillars will need to address these laws to ensure MNEs are not discouraged from participation on Australian shores due to double taxation, over-regulation and large administrative costs. Under the OECD framework, all digital services taxes and other relevant similar measures are to be removed. Any change in tax laws and other measures in Australian domestic law in lieu of the Two-Pillars needs to be consulted by with industry to determine the unintended consequences.

Further, new rules and regulations need to be clearly articulated to the Australian and global business community. Businesses that are directly engaged with the reforms should have clarity regarding their tax obligations. This ensures that the costs of administration and regulation are minimised as the MNE can easily compute their taxation requirements.



In summary, ACCI supports the notion that MNEs need to be taxed their fair share based upon their level of operations in Australia. Any policy changes should be discussed with Australian industry to minimise any unintended consequences on Australia businesses.

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Chief Policy and Advocacy

