PUBLIC CONSULTATION DOCUMENT

Pillar One – Amount A: Draft Model Rules for Nexus and Revenue Sourcing

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Background

Introduction

Following years of intensive negotiations to update and fundamentally reform international tax rules, 137 members of the OECD/G20 Inclusive Framework on BEPS (Inclusive Framework) joined the *Statement on the Two-Pillar Solution to Address the Tax Challenges Arising from the Digitalisation of the Economy* (the Statement) released in October 2021. The Statement sets out the political agreement on the key components of Pillar One and Pillar Two.

Amount A of Pillar One has been developed as part of the solution for addressing the tax challenges arising from the digitalisation of the economy. It introduces a new taxing right over a portion of the profit of large and highly profitable enterprises (hereafter, "Covered Groups") for jurisdictions in which goods or services are supplied or consumers are located (hereafter, "market jurisdictions").

The Inclusive Framework has mandated the Task Force on the Digital Economy (TFDE) – a subsidiary body – to advance the work needed to implement Amount A. In particular, the TFDE has been charged with developing the Multilateral Convention (MLC) and its Explanatory Statement as well as the Model Rules for Domestic Legislation (Model Rules) and related Commentary through which Amount A will be implemented.

Model Rules

The Model Rules, once finalised, will reflect the substantive agreement of the members of the Inclusive Framework on the functioning of Amount A and will serve as the basis for the substantive provisions that will be included in the MLC. The Model Rules are also being developed to provide a template that jurisdictions could use as the basis to give effect to the new taxing rights over Amount A in their domestic legislation. They will be supported by a commentary. Jurisdictions will be free to adapt these Model Rules to reflect their own constitutional law, legal systems, and domestic considerations and practices for structure and wording of legislation as required, whilst ensuring implementation is consistent in substance with the agreed technical provisions governing the application of the new taxing rights.

The Model Rules will cover all aspects of Amount A that would be translated into domestic law. They will consist of different titles. This document contains the sections on nexus and revenue sourcing (which are currently Title 4).

Model Rules on Nexus and Revenue Sourcing

This document contains the draft Model Rules for nexus and revenue sourcing, which would be contained in Title 4 of the Model Rules described above, and translated into the MLC and its Explanatory Statement.

The Inclusive Framework has agreed the new special purpose nexus rule for Amount A. The Model Rules for nexus translate that agreement. The thresholds for the Amount A nexus have been designed to limit the compliance costs for taxpayers and tax administrations. The thresholds ensure that the nexus test is only satisfied when the amount of revenue of a Covered Group derives from a jurisdiction is material.

The new special purpose nexus rule applies solely to determine whether a jurisdiction qualifies for profit re-allocation under Amount A and will not alter the nexus for any other tax or non-tax purpose. In other words, the nexus rule has been designed as a stand-alone provision to limit any unintended spill-over effects on other existing tax or non-tax rules.

To determine whether a Covered Group satisfies the nexus test for Amount A in a jurisdiction, it will have to apply the revenue sourcing rules. These rules identify the jurisdiction in which revenue arises for the purposes of Amount A. It does this by identifying the market jurisdiction for a given type of revenue: finished goods, components, services, intangible property, real property, government grants, and non-customer revenues.

The revenue sourcing rules have been designed to balance the need for accuracy with the need to limit compliance costs. The revenue sourcing rules provide a methodology for a Covered Group to use available information to reliably identify the market jurisdiction based on a range of possible indicators, or, in cases where a back-stop is needed, based on an allocation key that is expected to provide a reasonable approximation of the market jurisdiction. The use of these allocation keys recognises that in certain circumstances, the commercial reality is such that (particularly for third party distribution arrangements, components, certain services and intangible property) it will be challenging and sometimes impossible for a Covered Group to source revenue to the defined market jurisdiction, based on transactional data, despite reasonable efforts. These allocation keys are used to provide rules that reasonably approximate the source jurisdiction, are administrable, and avoid disputes. As a last resort, in very specific cases, a back-stop rule is provided in order to ensure that no revenue shall be unsourced.

The revenue sourcing rules are structured as a general legislative article that articulates the sourcing principles, supported by a schedule setting out the detailed rules for applying the revenue sourcing principle for the type of revenue in question. Both the general article and the schedule are binding. The rules will be supported by a Commentary to provide further clarification where needed. Footnotes are included in this document to explain certain issues, and to note matters that have already been identified for inclusion in the Commentary.

The revenue sourcing rules will be supported by detailed record-keeping requirements, based on a systemic-level review of the approach taken to revenue sourcing, rather than a requirement to retain and supply information from every transaction to tax administrations. This means showing a clear, intelligent internal control framework demonstrating a Covered Group's conceptual approach to revenue sourcing, how it obtains the necessary data and that it has sound internal checks to monitor the accuracy of that data. These detailed requirements will be further elaborated in the standardised documentation requirements contained in the Model Rules, and will be designed in conjunction with tax administrations and businesses.

Public Consultation instructions

This is a working document released by the OECD Secretariat for the purposes of obtaining input from stakeholders. It does not reflect the final views of the Inclusive Framework members. It presents the work undertaken to date, which has reached a sufficient level of detail and stability such that it is now suitable for consultation. The TFDE has agreed that this working version can be released on the basis that it is without prejudice to the final agreement. As such, while the rules are intended to illustrate the framework for nexus and revenue sourcing, and a work-in-progress approach to a number of the rules, further changes may be made. Further changes may also be needed once the scope exclusions for Regulated Financial Services and Extractives have been agreed, to ensure that there is an appropriate revenue sourcing rule for all relevant types of income. Thus, the release of this document reflects consensus within the TFDE as a procedural matter that public comments should be sought at this time, but does not reflect consensus within the TFDE regarding the substance of the document.

Comments are sought with respect to the nexus and revenue sourcing rules in this document. Where relevant, input should refer to the relevant section of the rules. While comments are invited on any aspect of the rules, input will be most helpful where it explains the additional guidance that would be needed to apply the rules to the circumstances of a particular type of business, as well as input on whether anything is missing or incomplete in the rules.

Interested parties are invited to send their comments on this discussion draft before 18 February 2022. These comments will be examined at the following meeting of the TFDE.

Comments on this discussion draft should be sent electronically (in Word format) by email to tfde@oecd.org and may be addressed to: Tax Treaties, Transfer Pricing and Financial Transactions Division OECD/CTPA.

Unless otherwise requested at the time of submission, comments submitted in response to this invitation will be posted on the OECD website. Comments submitted in the name of a collective "grouping" or "coalition", or by any person submitting comments on behalf of another person or group of persons, should identify all enterprises or individuals who are members of that collective group, or the person(s) on whose behalf the commentator(s) are acting.

General Articles

Title 4: Nexus and Source rules

Article [X]: Nexus test

1. The nexus test is satisfied for a Period if the Revenues[1] of a Covered Group arising in [a Jurisdiction] pursuant to [*reference to the Article on Source rules*] for the Period are equal to or greater than [EUR 1 million / EUR 250 thousand].[2] Where the Period is shorter or longer than twelve months, the [EUR 1 million / EUR 250 thousand] amount is adjusted proportionally to correspond with the length of the Period.
2. Paragraph [1] applies solely to determine whether a Group Entity of a Covered Group is liable to tax charged in accordance with this Act in [a Jurisdiction], and has no other implications for any Group Entity of the Covered Group.

Article [X]: Source rules

1. This Article determines when Revenues of a Covered Group arise in [a Jurisdiction] for the purposes of this Act. For the purposes of applying the rules contained in this Article, supplementary provisions as set out in Schedule A apply.
2. Revenues must be sourced on a transaction-by-transaction basis, or as otherwise provided by Schedule A.[3]

[1] Throughout the Model Rules, Revenues is a defined term and refers to revenue derived from third parties. Revenues means the Total Revenues of a Group after the exclusion of Revenues derived from exclusions of Extractive and Regulated Financial Services. "Total Revenues" means the Revenues reported in the Consolidated Financial Statements of a Group prepared in accordance with an Acceptable Financial Accounting Standard, after applying the agreed adjustments to the tax base, as relevant.

[2] The nexus threshold will be EUR 1 million for jurisdictions with annual GDP equal to or greater than EUR 40 billion and EUR 250 thousand for jurisdictions with annual GDP of less than EUR 40 billion. The revenue threshold is currently denominated in a single currency in line with the October Statement. This raises a number of coordination issues related to currency fluctuations which will need to be discussed for the development of the MLC. The suggestion is therefore to use bracketed language in the Model Rules until an approach is agreed under the MLC, noting that for domestic legislation a re-basing mechanism is likely to be required for jurisdictions that would denominate the threshold in another currency.

[3] The Commentary will explain the transaction-by-transaction approach. This means that for each item that generates revenue, the Covered Group must determine where that revenue item should be sourced. The "transaction" is the item that generates income (e.g. the individual item of inventory, or the "clicks" on an online advertisement); it does not mean the invoice (which could contain multiple items charged at different prices). It further means that if there are different items or services contained on one invoice or contract and goods or services are sold in different jurisdictions on that one invoice or contract, then the allocation of the revenue must be in proportion to the revenue earned in each market, rather than an equal split. As such, if the contract specifies different prices for the different locations, then these pricing differences must be taken into account. However, certain parts of the revenue sourcing rules recognise

3. Revenues must be sourced according to the category of Revenues earned from the transaction. A transaction comprising different elements that fall under more than one category is sourced according to its predominant character. Revenues from Supplementary Transactions may be sourced according to the Revenues from the Main Transaction.
4. In applying the sourcing rules, a Covered Group must source all Revenues. Revenues must be sourced using a Reliable Method[4] based on the Covered Group's specific facts and circumstances.
5. Revenues derived from a transaction for the sale of Finished Goods sold to a Final Customer arise in [a Jurisdiction] when the place of the delivery of the Finished Goods to that Final Customer is in [a Jurisdiction].
6. Revenues derived from a transaction for the sale of Digital Goods arise in accordance with the rules in paragraph 8(g) (if the Final Customer is a Consumer) or in accordance with the rules in paragraph 8(h) (if the Final Customer is a Business), unless the sale is of a Digital Good that is a Component.
7. Revenues derived from a transaction for the sale of Components arise in [a Jurisdiction] when the place of delivery to the Final Customer of the Finished Good into which the Component is incorporated is in [a Jurisdiction].
8. Revenues derived from a transaction for the provision of services shall be sourced as follows:
   a. Location-specific services:
      i. Revenues derived from a transaction for the provision of Services Connected to Tangible Property and Services Performed at the Location of the Customer arise in [a Jurisdiction] when the place of performance of the service is in [a Jurisdiction].
   b. Advertising Services:
      i. Revenues derived from a transaction for the provision of online Advertising Services arise in [a Jurisdiction] when the Location of the Viewer of the advertisement is in [a Jurisdiction];
      ii. Revenues derived from a transaction for the provision of Advertising Services other than those covered in subparagraph (i) arise in [a

that, despite best efforts, a Covered Group may not be able to isolate the source for every transaction (e.g. tail-end revenue, components, B2B services), and in such case an allocation key is provided. In these cases, there is no information about the sale to any given market, and so there can be no information on how much the item was sold for in a certain market. The allocation key applies to the remaining portion of revenue that cannot be sourced at a transaction level. However, given the way that the macro-economic proxies are calculated, they do reflect differences in economies, and in that sense are a proxy for pricing differences that would have been taken into account on a transactional level if the data had been available. The Commentary would clarify that where an allocation key is used as permitted by the rules, it is in line with the requirement in the general article to source on a transaction-by-transaction basis. There is then a separate, but related, question of how the Covered Group documents its revenue sourcing. While the allocation of the revenue is at an itemised level, which necessitates access to the initial transaction record to answer the sourcing rule, the Covered Group is not required to retain that data on every item. Instead, as noted in the introduction, the approach to compliance would be at a systems level, and not at an individual transaction level.

[4] This is a defined term that will be included in the main body of the Model Rules. Reliable Method means a method that identifies where Revenues arise using a Reliable Indicator (as defined in Schedule A) or an Allocation Key as authorised for that purpose in Schedule A.

Jurisdiction] when the place of display or reception of the advertisement is in [a Jurisdiction].

c. Online Intermediation Services:

   i. Revenues derived from a transaction for the provision of Online Intermediation Services that facilitate the sale or purchase of tangible goods, Digital Goods or Digital Services arise in two places:

      a) Half of those Revenues arise in [a Jurisdiction] when the Location of the Purchaser of the tangible goods, Digital Goods or Digital Services is in [a Jurisdiction]; and

      b) Half of those Revenues arise in [a Jurisdiction] when the Location of the Seller of the tangible goods, Digital Goods or Digital Services is in [a Jurisdiction].

   ii. Revenues derived from a transaction for the provision of Online Intermediation Services that facilitate the sale or purchase of Offline Services arise in two places:

      a) Half of those Revenues arise in [a Jurisdiction] when the Location of the Purchaser of the Offline Service is in [a Jurisdiction]; and

      b) Half of those Revenues arise in [a Jurisdiction] when the place where the service is performed in [a Jurisdiction].

d. Transport services:

   i. Revenues derived from a transaction for the provision of Passenger Transport Services arise in [a Jurisdiction] when the Place of Destination of the Passenger Transport Service is in [a Jurisdiction].

   ii. Revenues derived from a transaction for the provision of Cargo Transport Services arise in [a Jurisdiction] when the Place of Origin or the Place of Destination of the Cargo Transport Service is in [a Jurisdiction].

e. Customer Reward Programs:

   i. Customer Reward Programs Revenues arise in [a Jurisdiction] in proportion to the percentage share of Active Members of the Customer Reward Program whose Location is in [a Jurisdiction].

f. Provision of Financing:

   i. Revenues derived from a transaction for the provision of Financing arise in accordance with the rules in subparagraph (g) (if the borrower is a Consumer) or in accordance with the rules in subparagraph (h) (if the borrower is a Business Customer).

g. Business to Consumer services:

   i. Revenues derived from a transaction for the provision of Business to Consumer services to which subparagraphs (a) to (e) do not apply arise in [a Jurisdiction] when the Location of the Consumer is in [a Jurisdiction].

h. Business to Business services:

   i. Revenues derived from a transaction for the provision of Business to Business services to which subparagraphs (a) to (e) do not apply arise in [a Jurisdiction] when the place of use of the services is in [a Jurisdiction].

9. Revenues derived from a transaction for the licensing, sale or other alienation of:
    a. Intangible Property arise in [a Jurisdiction] when:
        i. the place of use of the service supported by the Intangible Property is in [a Jurisdiction]; or
        ii. the place of use of the Intangible Property by Final Customers in all other cases is in [a Jurisdiction].
    b. User data arise in [a Jurisdiction] when the Location of the User associated with the data is in [a Jurisdiction].
10. Revenues derived from Real Property located in [a Jurisdiction] arise in [a Jurisdiction].
11. Revenues derived from Government Grants arise in [a Jurisdiction] when the Government Grant was made or funded by Government of [a Jurisdiction].
12. Non-customer Revenues arise in [a Jurisdiction] in proportion to the other Revenues arising under paragraphs 5 – 11 of this Article.

Schedule A – Detailed Revenue Sourcing Rules[5]

Part 1 – Categorising transactions[6]

A – Nature of a transaction

1. A transaction is categorised based on its ordinary or predominant character.[7]
2. The character is determined by reference to the substance of the transaction irrespective of legal form.
3. A transaction that does not fit within any category of Revenues provided in Article [X] of this Act and this Schedule shall be sourced according to the most analogous category of Revenues.

B – Supplementary Transactions[8]

1. If a Covered Group derives Revenues from two or more transactions, comprising a Main Transaction and one or more Supplementary Transactions

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[5] These rules will be supported by Commentary. On the sourcing rules in general, the Commentary will provide further guidance on for instance:

- An explanation of the transaction-by-transaction approach, with examples of common cases where pricing differences are likely to be relevant (e.g. when the advertising "click" is charged at different prices in different jurisdictions). The examples will also cover instances where a single price is charged for a service provided in more than one jurisdiction and confirm that the income should be allocated according to volume of use of the service in each jurisdiction. For example, if an online advertiser charged a single price to display ads to viewers globally, that revenue would be allocated in proportion to the number of viewers in each jurisdiction. If the advertiser agreed to display ads globally but charged higher prices for ads displayed to customers in certain jurisdictions, the revenue would be allocated in proportion to both the number of users in a jurisdiction and the price charged per user. If an advertiser agreed to display billboard ads in three jurisdictions, the revenue would be split equally between those three jurisdictions.
- A confirmation that all revenue must be sourced and that a Covered Group cannot claim that no Reliable Indicator is available or proxy applies and leave revenue unsourced.

[6] The Commentary will provide further guidance on the rules in Part 1, for instance:

- How typical transactions would be categorised, in particular in areas where there may be borderline cases, such as services, franchises, licensing of IP (noting that the sourcing rules have been designed to achieve similar results in order to reduce the pressure on these distinctions).
- Examples of how to apply the predominant test. For example, the provision of software with an embedded helpdesk function that is not separately charged. The helpdesk service is a small and supportive part of the transaction, which is in very large part (in terms of how it is presented to the customer) for the provision of software. The software would be the predominant transaction.

[7] The Commentary will provide examples of when the predominant test would be relevant, which, as noted in the General Article paragraph 3, is when one single transaction comprises different elements or characteristics that that fall under more than one category.

[8] This rule is an administrative simplification at the option of the Covered Group. It contemplates that some lines of business may comprise multiple separate transactions which are categorised differently under these rules, such as a

which are related but are categorised differently under this Schedule, the Covered Group may source all Revenues from those Supplementary Transactions in accordance with the sourcing rule that applies to the Main Transaction.

Part 2 – Reliable Method[9]

1. Revenues must be sourced using a Reliable Indicator, or, if the conditions in paragraph 6 are met, an Allocation Key.
2. For the purposes of this Schedule, the term "Indicator" means information (other than an Allocation Key) that identifies the source of Revenues.
3. For the purposes of this Schedule, a "Reliable Indicator" is an Indicator that satisfies the following two requirements:
   a. The Indicator must produce results that are consistent with the sourcing rule for the transaction at issue;[10] and
   b. The Indicator must meet one or more of the following reliability tests:
      i. The Indicator is relied upon by the Covered Group for commercial purposes or to fulfil legal, regulatory, or other related obligations;

Finished Good that is sold alongside a B2C service. An example is the purchase of a car that is sold separately to, but alongside, a roadside assistance service. Although revenue could be sourced separately for those two transactions, it may reduce compliance burdens to allow such transactions to be sourced together under these rules. This is permitted if the definition of "Supplementary Transaction" is met. Another example is customer financing provided to purchase the Covered Group's goods such as an automobile. The financing portion could be separated, but for administrative ease and given the interrelated nature of the transactions, the financing income could be sourced in the same way as the sale of the automobile.

[9] The Commentary will provide further guidance on the rules in Part 2, for instance:

- Guidance on applying reliable indicators, including what would be regarded as reasonable steps to identify a reliable indicator.
- Guidance on applying Another Reliable Indicator.
- Examples of reliable information, which include situations where sales by the Independent Distributor to customers are contractually restricted to a jurisdiction, where sales of the product are only authorised by law to be made to a particular jurisdiction (such as pharmaceutical products), or where it is a common business practice for substantially all of the types of goods to be sold in the jurisdiction of the distributor, such as in the case of basic building materials.
- Examples of what is not reliable information, e.g. that billing address cannot be a reliable indicator in all cases, for example, where the billing address is not an indicator of place of use but is instead a procuring entity only.
- How the Group should document its rationale for using the particular indicators, and demonstrate that those indicators give a reliable sourcing outcome, including a description of its internal control framework. A template for the internal control framework, and the associated record keeping obligations, will be included in the Model Rules.
- Guidance that the wording "commercial purposes" in the first reliability test includes that the information could be for an internal, non-tax related purpose, even if not subsequently reported externally by the Group. It can also include information provided by a customer, distributor or another intermediary.

[10] The Commentary would refer to the rules below on B2B services and the circumstances in which billing address would not meet this test for reliability.

ii. The Indicator is verified by information provided to the Covered Group by a third party that has collected the information pursuant to its own commercial, legal, regulatory or other obligations;

iii. That Indicator and one or more other Indicators included in the sourcing rule identify the same Jurisdiction; or

iv. The Indicator is verified in another manner that is functionally equivalent to the above paragraphs 3(b)(i) to (iii).

4. For the purposes of this Schedule, “Another Reliable Indicator” is information other than an enumerated Indicator that is available to or prepared by a Covered Group that indicates the source of the Revenues in accordance with the rules in Article 5, provided the information meets the requirements of paragraph 3.

5. Indicators used by a Covered Group to determine the Jurisdiction of source must be used consistently.[11]

6. An Allocation Key may only be used:

   a. Where it is permitted in the relevant revenue sourcing rule;

   b. If the Covered Group demonstrates that it has taken reasonable steps to identify a Reliable Indicator and has concluded that no Reliable Indicator is available;[12] and

   c. After the application of the Knock-out Rule.

7. Notwithstanding paragraph 6, where:

   a. The Covered Group used an Indicator (including Another Reliable Indicator) that the Tax Certainty Panel or Lead Tax Administration concluded was not a Reliable Indicator and the Covered Group demonstrates that it does not have information available to apply any Reliable Indicator;

   b. The Covered Group demonstrates it does not have information available to apply any Reliable Indicator and no Allocation Key is provided in the relevant revenue sourcing rule; or

   c. The Covered Group did not take reasonable steps to use a Reliable Indicator,

   the Covered Group must use either the Allocation Key provided in the relevant revenue sourcing rule or, in the absence of such an Allocation Key, the Global Allocation Key.

[11] The Commentary will explain what is meant by consistent use of an indicator. It will also explain when a change in the indicators or a change in the outcome would be expected, for example, when a Covered Group collects new data or applies a new method that enables it to more accurately determine the source jurisdiction or the Covered Group becomes aware of defects in the indicators used.

[12] The Commentary will provide guidance on the expectation with respect to “reasonable steps.” This will be tailored and proportionate to the nature of the transaction in question. For example, it is acknowledged that obtaining reliable information on the revenue source for Components, certain B2B services and certain IP will be difficult, because of the commercial operation of those businesses. For example, given that they do not directly transact with the customer in the revenue source jurisdiction as defined in these rule, the Covered Group may be unable to obtain reliable indicators in any circumstance, such as by virtue of competition or privacy reasons. In these cases, the “reasonable steps” must reflect that commercial reality and not impose undue burdens.

8. A Covered Group must demonstrate that its internal control framework ensures that a Reliable Method is used in accordance with this Part.[13]

Part 3 – Finished Goods[14]

A – Revenues from Finished Goods sold to Final Customers directly by a Covered Group

1. Revenues derived from a transaction for the sale of Finished Goods to the Final Customer other than those covered in paragraph B(1) are deemed to arise in [a Jurisdiction] when the place of the delivery of the Finished Goods to that Final Customer is in [a Jurisdiction].
2. For the purposes of paragraph A(1), the place of the delivery of the Finished Goods to the Final Customer is determined using the following Indicators, provided they meet the definition of a Reliable Indicator in Part 2:

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[13] The revenue sourcing rules will be supported by detailed record-keeping requirements, based on a systemic-level review of the approach taken to revenue sourcing, based on the Covered Group's internal control framework, rather than a requirement to retain and supply information from every transaction to tax administrations. This means showing a clear control framework demonstrating a Covered Group's conceptual approach to revenue sourcing, how it obtains the necessary data and has sound internal checks to monitor the accuracy of that data. These detailed requirements will be further elaborated in the standardised documentation requirements contained in the Model Rules, and will be designed in conjunction with tax administrations and businesses.

[14] The Commentary will provide further guidance on the rules in Part 3, for instance:

- Confirmation that the rules for finished goods also includes the sale of capital assets, such as machinery.
- Explanation that there may be genuine commercial reasons as to why no reliable indictors are available in the context of sales through an Independent Distributor and that provided the Covered Group has taken reasonable steps to identify Reliable Indicators, there should be no negative inference from the use of the Allocation Keys permitted in the rule.
- Guidance on what reasonable steps a Covered Group would be expected to take to ensure that Tail-End Revenue does not exceed the [5] percent threshold.
- Guidance on how the allocation key for the Tail-End Revenue for the sale of Finished Goods through an Independent Distributor apply, including further examples.
- Guidance on when it would be reasonable to assume that the Independent Distributor is ordinarily located in the place of the delivery of the goods to a Final Customer. Examples could include: language, packaging, high shipping costs that mean that it would be uneconomic to resell outside the jurisdiction of the independent distributor, independent third-party databases, warranty registrations, electronic activations.
- Confirmation that the Covered Group can use information about contractual restrictions on the Independent Distributor limiting the jurisdiction(s) in which it is permitted to sell, and should not be liable for an error in revenue sourcing on that basis when a distributor breaches that term of the contract.
- Guidance that if goods are sold to a government, it is reasonable to assume that the government is located in its own jurisdiction and that revenue sourcing can take place based on paragraph B(2)(b). This would apply similarly to goods sold to an NGO, unless this is in a specific region; then sourcing would take place based on paragraph B(3).
- Examples of how the Covered Group might demonstrate that the goods sold through an Independent Distributor are not sold in one or more Low Income Jurisdictions, for the purpose of the allocation of the Tail-End Revenue using the Low Income Jurisdiction Allocation Key. Examples include legal or trade restrictions (e.g. sanctions) or currency constraints, but could also include commercial information such as market research information.

   a. The delivery address of the Final Customer;
   b. The place of the retail storefront selling to the Final Customer; or
   c. Another Reliable Indicator as defined in Part 2(3).

B – Revenues from Finished Goods sold to Final Customers through an Independent Distributor

1. Revenues derived from a transaction for the sale of Finished Goods to the Final Customer through an Independent Distributor are deemed to arise in [a Jurisdiction] when the place of the delivery of the Finished Goods to that Final Customer is in [a Jurisdiction].
2. For the purposes of paragraph B(1), the place of the delivery of the Finished Goods to the Final Customer is determined using the following Indicators, provided they meet the definition of a Reliable Indicator in Part 2:
   a. The Indicators in paragraph A(2) as reported to the Covered Group;
   b. The Location of the Independent Distributor, provided that the Independent Distributor is contractually restricted to selling in that Location or that it is otherwise reasonable to assume that the Independent Distributor is located in the place of the delivery of the Finished Goods to the Final Customer; or
   c. Another Reliable Indicator as defined in Part 2(3).
3. To the extent no Reliable Indicator is available under paragraph B(2) and provided the conditions in Part 2(6) are met:
   a. Where a Covered Group can demonstrate that for legal or commercial reasons a portion of the Revenues arise in a Region, the Revenues from that portion shall be treated as arising in [a Jurisdiction] using the Regional Allocation Key, provided that [a Jurisdiction] is in the Region; or
   b. After the application of paragraph B(3)(a), any remaining Revenues (the "Tail-End Revenues") shall be treated as arising in [a Jurisdiction] using the Low Income Jurisdiction Allocation Key, provided that [a Jurisdiction] is a Low Income Jurisdiction. In the event that the Covered Group demonstrates that Revenues did not arise in any Low Income Jurisdiction, the Tail-End Revenues shall be treated as arising in [a Jurisdiction] using the Global Allocation Key.
4. If the Tail-End Revenues of a Covered Group are equal to or greater than [5] percent of the Revenues derived from a transaction for the sale of Finished Goods for the Period, the Covered Group must take reasonable steps to reduce the size of the Tail-End Revenues arising in subsequent Periods. The reasonable steps must be completed within two Periods from the first Period in which the Tail-End Revenues are equal to or greater than [5] percent.[15] For the avoidance of doubt, unless or until the Covered Group is able to determine where Revenues arise under paragraph B(2) or are deemed to arise by applying the Regional Allocation Key, it shall continue to be treated as arising

[15] The Commentary will provide guidance and examples as to how this rule applies. This will recognise that it may take time to undertake the efforts to reduce the size of the Tail-End Revenues, but the Covered Group should complete its efforts within two years from the first year in which the Tail-End Revenues are equal to or greater than [5] percent. However, this obligation does not mean that if the efforts are successful, there would need to be an amended Amount A filing. Instead, the revenues would be sourced using the new information on a going forward basis, from the start of the next Period following the one in which the new information was obtained.

as provided in paragraph B(3)b, irrespective of whether the Tail-End Revenues are equal to or greater than [5] percent.[16]

5. For the purposes of this part:

   a. When using the "Regional Allocation Key," the Revenues are deemed to arise in [a Jurisdiction], provided it is in the Region, in proportion to the percentage of its share of the final consumption expenditure from the calendar year prior to the Period as published by the United Nations Conference on Trade and Development. The proportion is the portion of [a Jurisdiction]'s final consumption expenditure divided by the total final consumption expenditure of all Jurisdictions in the Region. [If final consumption expenditure is not available for [a Jurisdiction], an approximation of final consumption expenditure is calculated based on [a Jurisdiction]'s population and the average ratio of final consumption expenditure to population for all Jurisdictions for which final consumption expenditure was available.]

   b. When using the "Low Income Jurisdiction Allocation Key," the Tail-End Revenues are deemed to arise in [a Jurisdiction], provided it is a Low Income Jurisdiction, in proportion to the percentage of its share of the final consumption expenditure as published by the United Nations Conference on Trade and Development. The proportion is the portion of [a Jurisdiction] final consumption expenditure divided by [the total final consumption expenditure of all Low Income Jurisdictions] apart from those Low Income Jurisdictions in which the Covered Group has demonstrated pursuant to the Knock-out Rule that Revenues did not arise. [If final consumption expenditure is not available for [a Jurisdiction], an approximation of final consumption expenditure is calculated based on [a Jurisdiction]'s population and the average ratio of final consumption expenditure to population for all Jurisdictions for which final consumption expenditure was available.[17]]

C – Revenues from Digital Goods[18]

1. Revenues derived from a transaction for Digital Goods are deemed to arise in the same way as Revenues derived from a:

   a. Business to Consumer Service (in accordance with the rules in Part 5(G)) where the Final Customer is a Consumer; or

   b. Business to Business Service (in accordance with the rules in Part 5(H)) where the Final Customer is a Business Customer,

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[16] The section on Administration of Amount A will include provisions on non-compliance, including with the revenue sourcing which would include how penalties would apply when the Covered Group does not take reasonable steps to reduce the size of the tail-end revenue.

[17] The Commentary will provide further guidance on how to apply the macro-economic proxies, e.g. on calculation of the approximation, including an example.

[18] This rule links to the B2C and B2B services rule for convenience only (given that the sourcing rule and indicators would be the same) without prejudice to any characterisation issue as to whether such goods (e.g. software) are a service or a sale or other form of transaction. This approach is designed to ensure that revenue from all sales of Digital Goods (software and other digital content, e.g., computer games, eBooks) are treated in the same way for the purposes of the revenue sourcing rules, regardless of the legal nature of the transaction (i.e., sale of a good or a service or something else). The rule also recognises that if the Digital Good is a Component (e.g. software pre-installed on the sale of a laptop), then the Components rule governs. See also the definition of Component.

unless the sale is of a Digital Good that is a Component.

Part 4 – Components[19]

A – Revenues from Components

1. Revenues derived from a transaction for the sale of Components are deemed to arise in [a Jurisdiction] when the place of delivery to the Final Customer of the Finished Good into which the Component is incorporated is in [a Jurisdiction].
2. For the purposes of paragraph A(1), the place of delivery to the Final Customer of the Finished Good into which the Component is incorporated is determined using the following Indicators, provided they meet the definition of a Reliable Indicator in Part 2:
   a. The indicators in Part 3(A)(2)(a) and (b) or Part 3(B)(2)(a) and (b) as reported to the Covered Group; or
   b. Another Reliable Indicator as defined in Part 2(3).[20]
3. To the extent that no Reliable Indicator is available under paragraph A(2) and provided the conditions in Part 2(6) are met, the remaining Revenues derived from the sales of those Components shall be treated as arising in [a Jurisdiction] using the Global Allocation Key.

Part 5 – Services

A – Revenues from location-specific services

Services Connected to Tangible Property

1. Revenues derived from a transaction for the provision of Services Connected to Tangible Property are deemed to arise in [a Jurisdiction] when the place of performance of the service is in [a Jurisdiction].
2. For the purposes of paragraph A(1), the place of performance of the Service Connected to Tangible Property is determined using the following Indicators, provided they meet the definition of a Reliable Indicator in Part 2:

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[19] The Commentary will provide further guidance on the rules in Part 4, for instance:

- Guidance on when a Covered Group might be able to demonstrate that Revenues do not arise in a Jurisdiction when using the Global Allocation Key, e.g., a Covered Group that commercially orients its components to be incorporated into a specific type of finished good that is only sold in certain markets, and can provide detailed information on this, it should be reasonable to assume that the Covered Group is only selling there.

[20] The Commentary will include specific examples on how to use Another Reliable Method for Covered Groups selling Components. One of the examples would include the case where the Covered Group selling Components also sells finished goods, and can use its internal information on the revenue from finished goods as a proxy for its revenue from components, under specific conditions where the reliability of this approach could be demonstrated. This would need to include factors such as the materiality of the Covered Group's sales of finished goods, the connection between the type of finished goods on which the proxy is based and the type of component sold, and detailed information demonstrating a strong correlation in market share of the Covered Group's finished goods with the market share for the same finished goods of the firms that are purchasing the components.

a. The place where the tangible property is situated when the service is performed;[21] or

b. Another Reliable Indicator as defined in Part 2(3).

3. For the purposes of paragraph A(2)(a) if the service involves:

   a. A lease of tangible property, and the tangible property is or may be situated in international waters or international airspace during the term of the lease; or

   b. Services described in paragraph (a) of the definition of Services Connected to Tangible Property, and the tangible property is situated in international waters or international airspace when the service is performed,[22]

   that tangible property shall be deemed to be situated at the Location of the Customer when the service is performed.[23]

Services Performed at the Location of the Customer

4. Revenues derived from a transaction for the provision of Services Performed at the Location of the Customer are deemed to arise in [a Jurisdiction] when the place of performance of the service is in [a Jurisdiction].

5. For the purposes of paragraph A(4), the place of performance of the Service Performed at the Location of the Customer is determined using the following Indicators, provided they meet the definition of a Reliable Indicator in Part 2:

   a. The place where the Customer or its agent is situated when the service is performed; or

   b. Another Reliable Indicator as defined in Part 2(3).

B – Revenues from Advertising Services

Online Advertising Services[24]

1. Revenues derived from a transaction for the provision of online Advertising Services are deemed to arise in [a Jurisdiction] when the Location of the Viewer of the online advertisement is in [a Jurisdiction].

2. For the purposes of paragraph B(1), the Location of the Viewer of the advertisement is determined using the following Indicators, provided they meet the definition of a Reliable Indicator in Part 2:

   a. The User Profile Information of the Viewer;

[21] It is possible in the case of certain leasing of tangible property, e.g. car hire, that the property may be used in more than one jurisdiction. The Commentary will confirm that for simplicity, the Covered Group may assume that the place where the service is performed is the place of delivery.

[22] This could include, for example, repairs to an oil rig in international waters.

[23] The Commentary will confirm that the Customer is the lessee and that their place of residence is the place of tax residence and in the absence of actual confirmation of the lessee's place of tax residence, the Covered Group can assume that the billing address of the lessee represents their place of residence.

[24] The Commentary will provide further guidance on the distinction between online advertising and non-online advertising e.g. watching free-to-air television online on a computer.

b. The geolocation of the device of the Viewer on which the online advertisement is displayed;

c. The IP address of the device of the Viewer on which the online advertisement is displayed; or

d. Another Reliable Indicator as defined in Part 2(3).

Advertising Services other than online Advertising Services[25]

3. Revenues derived from a transaction for the provision of Advertising Services other than online advertising services covered in paragraph B(1) are deemed to arise in [a Jurisdiction] when the place of display or reception of the advertisement is in [a Jurisdiction].

4. For the purposes of paragraph B(3), the place of display or reception of the advertisement is determined using the following Indicators, provided they meet the definition of a Reliable Indicator in Part 2:

   a. For advertisements displayed on a billboard or at another fixed site, the location of the billboard or other fixed site where the advertisement is displayed;

   b. For advertisements displayed in newspapers, magazines, journals or other publications, the place where the publication is circulated or expected to be circulated;

   c. For advertisements displayed on television or broadcast on radio, the place where the television or radio programming is received or expected to be received;

   d. The information included in the contract or other commercial documentation on the place where the advertisement will be displayed or received; or

   e. Another Reliable Indicator as defined in Part 2(3).

C – Revenues from Online Intermediation Services[26]

Online Intermediation of tangible goods, Digital Goods or Digital Services

1. Half of the Revenues derived from a transaction for the provision of Online Intermediation Services that facilitate the sale or purchase of tangible goods,

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[25] The Commentary will provide further guidance on:

- Indicators for non-online advertising include the expected place of circulation for print advertising or for television or radio advertising where the programming is received or expected to be received as may be provided in the advertising services contract.
- Indicators for advertising displayed on an international transport service (in-flight magazine, or advertising on the outside of a train, in an aircraft or ship), include the information in the contract or other commercial documentation on the place where the advertisement will be displayed or received. However, in most cases, it is expected that such advertising income would be treated as Revenues from Passenger Transport Services.

[26] The Commentary will provide further guidance on:

- Examples on how the sourcing rules apply for this category. For example, for online intermediation services, if the purchaser and the seller were in the same jurisdiction, each rule would allocate half of the revenue to that jurisdiction, adding up to 100% (in other words, the two halves are additive, not two tests pointing only to the same half). A further example for inclusion relates to online intermediation services when fees charged

Digital Goods, or Digital Services are deemed to arise in [a Jurisdiction] when the Location of the Purchaser of the tangible goods, Digital Goods or Digital Services is in [a Jurisdiction].

2. Half of the Revenues derived from a transaction for the provision of Online Intermediation Services that facilitate the sale or purchase of tangible goods, Digital Goods or Digital Services are deemed to arise in [a Jurisdiction] when the Location of the Seller of the tangible goods, Digital Goods or Digital Services is in [a Jurisdiction].
3. For the purposes of paragraph C(1), the Location of the Purchaser is determined using the following Indicators, provided they meet the definition of a Reliable Indicator in Part 2:
    a. The delivery address of the Purchaser, in the case of a purchase of tangible goods;
    b. The billing address of the Purchaser;
    c. The User Profile Information of the Purchaser;
    d. The geolocation of the device of the Purchaser through which the purchase of the tangible goods, Digital Goods or Digital Services is made;
    e. The IP address of the device of the Purchaser through which the purchase of the tangible goods, Digital Goods or Digital Services is made; or
    f. Another Reliable Indicator as defined in Part 2(3).
4. For the purposes of paragraph C(2), the Location of the Seller is determined using the following Indicators, provided they meet the definition of a Reliable Indicator in Part 2:
    a. The billing address of the Seller;
    b. The User Profile Information of the Seller; or
    c. Another Reliable Indicator as defined in Part 2(3).

Online Intermediation of Offline Services

5. Half of the Revenues derived from a transaction for the provision of Online Intermediation Services that facilitate the sale or purchase of Offline Services are deemed to arise in [a Jurisdiction] when the Location of the Purchaser of the Offline Service is in [a Jurisdiction].
6. Half of the Revenues derived from a transaction for the provision of Online Intermediation Services that facilitate the sale or purchase of Offline Services are deemed to arise in [a Jurisdiction] when the place where the Offline Service is performed is in [a Jurisdiction].
7. For the purposes of paragraph C(5), the Location of the Purchaser of the Offline Service is determined using the following Indicators, provided they meet the definition of a Reliable Indicator in Part 2:
    a. The geolocation of the device of the Purchaser through which the purchase of the Offline Service is made;
    b. The IP address of the device of the Purchaser through which the purchase of the Offline Service is made;

for online intermediation services are not tied to transactions, in which case these fees should be sourced as per the rule that applies to B2C digital services or B2B services, as those fees are more similar to paying for hosting services rather than intermediation.

c. The User Profile Information of the Purchaser; or

d. Another Reliable Indicator as defined in Part 2(3).

8. For the purposes of paragraph C(6), the place where the Offline Service is performed is determined using the following Indicators, provided they meet the definition of a Reliable Indicator in Part 2:

   a. The place where the Offline Service is performed;[27] or

   b. Another Reliable Indicator as defined in Part 2(3).

D – Revenues from Transport Services

Air Transport Services

1. Revenues derived from a transaction for the provision of Passenger Air Transport Services are deemed to arise in [a Jurisdiction] when the Place of Landing of the Passenger Air Transport Service is in [a Jurisdiction].
2. For the purposes of paragraph D(1), Revenues shall be treated as arising in [a Jurisdiction] when it is the Place of Landing using the Passenger Air Transport Allocation Key.
3. Revenues derived from a transaction for the provision of Cargo Air Transport Services are deemed to arise in [a Jurisdiction] when the Place of Take-off or the Place of Landing of the Cargo Air Transport Service is in [a Jurisdiction].
4. For the purposes of paragraph D(3), Revenues shall be treated as arising in [a Jurisdiction] when it is the Place of Take-off or the Place of Landing using the Cargo Air Transport Allocation Key.

Non-air Transport Services

5. Revenues derived from a transaction for the provision of Passenger Non-air Transport Services are deemed to arise in [a Jurisdiction] when the Place of Destination of the Passenger Non-air Transport Service is in [a Jurisdiction].
6. For the purposes of paragraph D(5), Revenues shall be treated as arising in [a Jurisdiction] when it is the Place of Destination using the Passenger Non-air Transport Allocation Key.
7. Revenues derived from a transaction for the provision of Cargo Non-air Transport Services are deemed to arise in [a Jurisdiction] when the Place of Origin or the Place of Destination of the Cargo Non-air Transport Service is in [a Jurisdiction].[28]

[27] The Commentary will confirm that if the Offline Service is a Transport Service, it will be treated as performed in accordance with the rules on transport services (i.e. place of destination of the service).

[28] The Commentary will include examples demonstrating how the rule works including examples where the transport is facilitated by more than one Group. It should be noted that it is not intended that the Covered Group would be required to find out from other transport providers where the goods were originally transported from or are ultimately intended to be delivered. The Place of Origin is the place the Covered Group is paid to transport the cargo from and the Place of Destination is the place the Covered Group is paid to deliver to cargo to. If a Covered Group is engaged to ship cargo from A to B, the origin is A and the destination of B, irrespective of whether the cargo originated in a factory in X and was finally delivered to a factory in Y. Alternatively, and perhaps more unusually in practice, Company X is engaged to transport cargo from A to B. A and B are both inland and Company X only operates ships. Company X operates the sea-leg of the journey (Port C to Port D) and engages sub-contractors for the overland transport.

8. For the purposes of paragraph D(7), Revenues shall be treated as arising in [a Jurisdiction] when it is the Place of Origin or the Place of Destination using the Cargo Non-air Transport Allocation Key.

E – Customer Reward Programs

Customer Reward Program Revenues

1. Customer Reward Program Revenues are deemed to arise in [a Jurisdiction] in proportion to the percentage share of the Active Members of a Customer Reward Program located in [a Jurisdiction].
2. For the purposes of paragraph E(1), the Location of Active Members of a Customer Reward Program is determined using the following Indicators, provided they meet the definition of a Reliable Indicator in Part 2:
   a. The User Profile Information of the Active Member of a Customer Reward Program;
   b. The billing address of the Active Member of a Customer Reward Program;
   c. The place of the international dialling code associated with the telephone number of the Active Member of a Customer Reward Program; or
   d. Another Reliable Indicator as defined in Part 2(3).

F – Revenues from Financing[29]

1. Revenues derived from a transaction for the provision of Financing to a Customer are deemed to arise:
   a. In accordance with the rules in paragraphs G(1) and G(2), if the borrower is a Consumer; and
   b. In accordance with the rules in paragraph H, if the borrower is a Business Customer.

G – Revenues from Business to Consumer services

1. Revenues derived from a transaction for the provision of Business to Consumer Services (whether sold directly to the Consumer or through a Reseller) to which paragraphs A to E do not apply are deemed to arise in [a Jurisdiction] when the Location of the Consumer is in [a Jurisdiction].
2. For the purposes of paragraph G(1), unless the service is provided over the internet or an electronic network, the Location of the Consumer is determined using the following Indicators, provided they meet the definition of a Reliable Indicator in Part 2:

Company X engages Company Y to transport the cargo from A to Port C and Company Z to transport the cargo from Port D to B. As Company X is engaged to transport the cargo from A to B, the Place of Origin will be A and the Place of Destination will be B. If Company Y was also a Covered Group, the Place of Origin for the purposes of its Amount A allocation would be A and the Place of Destination would be Port C.

[29] The Statement provided that revenue from regulated financial services would be excluded and it is expected that the vast majority of financing revenue will be excluded under that provision. However, it remains the case that certain businesses that may not fall within the regulated financial services exclusion may lend money to consumers and other businesses. As work on the regulated financial services exclusion progresses, this provision will be revisited to ensure that it accurately reflects the agreement on the scope exclusion.

a. The billing address of the Consumer;

b. The place of the international dialling code associated with the Consumer's telephone number; or

c. Another Reliable Indicator as defined in Part 2(3).

3. For the purposes of paragraph G(1), if the service is provided over the internet or an electronic network, the Location of the Consumer is determined using the following Indicators, provided they meet the definition of a Reliable Indicator in Part 2:

   a. The User Profile Information of the Consumer;

   b. The billing address of the Consumer;

   c. The geolocation of the device of the Consumer through which the purchase of the service is made;

   d. The IP address of the device of the Consumer through which the purchase of the service is made;

   e. Information reported to the Covered Group by the Reseller on the Location of the Consumer based on the Indicators in paragraphs G(3)(a) to (d); or

   f. Another Reliable Indicator as described in Part 2(3).

4. To the extent no Reliable Indicator is available to determine the Location of the Consumer under paragraph G(3) and provided the conditions in Part 2(6) are met, those Revenues shall be treated as arising in [a Jurisdiction] using the Global Allocation Key.

H – Revenues from Business to Business services

1. Revenues derived from a transaction for the provision of Business to Business Services to which paragraphs A to E do not apply are deemed to arise in [a Jurisdiction] when the place of use of the Business to Business Service is in [a Jurisdiction].

2. For the purposes of paragraph H(1), the place of use of the Business to Business Service is determined using the following Indicators, provided they meet the definition of a Reliable Indicator in Part 2:[30]

   a. Information reported to the Covered Group by the Business Customer on the place of use of the service;

   b. The place identified in the contract or other commercial documentation as the place where the service will be used by the Business Customer; or

   c. Another Reliable Indicator[31] as defined in Part 2(3).

[30] Given the complexities of identifying the place of "use" for certain services, the Commentary will give examples where information reported by the customer or information in the contract or commercial documentation would be reliable (such as consulting services that related to a specific acquisition or part of the business, or technical support services which names the location of the users that would be serviced, or services provided to a government agency). It will also clarify that there may be genuine commercial reasons as to why no Reliable Indicators are available, and that provided the Covered Group has taken reasonable steps to identify Reliable Indicators, there should be no negative inference from the use of the Allocation Keys permitted in the rule.

[31] The Commentary will confirm that the billing address may be treated as Another Reliable Indicator for a business customer as follows. For a small business customer or a small contract, the billing address may be used provided the Covered Group has no reason to believe that billing address is the address of a procurement hub or other place that

3. The billing address of a Business Customer that is not a Large Business Customer is deemed to be Another Reliable Indicator for the purposes of paragraph H(2) unless the Covered Group has actual knowledge that the billing address is not the place of use of the Business to Business Service.
4. To the extent that no Reliable Indicator is available under paragraph H(2):
   a. If the Business Customer is not a Large Business Customer, the place of incorporation of the Ultimate Parent Entity of the Business Customer is deemed to be a Reliable Indicator; or
   b. If the Business Customer is a Large Business Customer, the Covered Group shall apply the method described in paragraph H(5).
5. Where a Business to Business Service is provided to a Large Business Customer and provided the conditions in Part 2(6) are met, the Revenues derived from that service shall be treated as arising in [a Jurisdiction] using the Headcount Allocation Key. In order to apply the Headcount Allocation Key, the Covered Group must take reasonable steps to obtain the jurisdictional breakdown of headcount of the Large Business Customer.
6. If the information is not obtained by the Covered Group under paragraph H(5) and provided the conditions in Part 2(6) are met, the Covered Group must apply the Aggregate Headcount Allocation Key.
7. For the purposes of applying paragraphs H(2) to H(6), the Covered Group must take reasonable steps to determine whether a Business Customer is a Large Business Customer.

Business to Business Services sold through Resellers

8. Revenues derived from a transaction for the provision of Business to Business Services sold through a Reseller are deemed to arise in [a Jurisdiction] when the place of use of the service by the Final Customer of the Reseller is in [a Jurisdiction].[32]
9. For the purposes of paragraph H(8), the place of use of the Business to Business Service by the Final Customer is determined using:
   a. The following Indicators, provided they meet the definition of a Reliable Indicator in Part 2:
      i. Information on the Location of the Final Customer provided to the Covered Group by the Final Customer;[33]

has no connection to the place of use of the service and a new paragraph has been added to the rule (paragraph 3) to reflect that position. For a Large Business Customer with a large total invoice amount for the fiscal year (i.e. above EUR [1 – 3 million]), the Covered Group would need to demonstrate that the billing address was reliable. This would be expected to be relatively limited in application, for example, where the Large Business Customer is not a multinational enterprise and only has a presence in one Jurisdiction which is the billing address.

[32] The Commentary would give examples of when a Covered Group would be expected to know that the purchaser was a Reseller. Generally, this would be evident from the contractual arrangements. The rule for Blended Transactions would apply where the Reseller was reselling the first service with its own services (e.g. a software package combined with a consulting service) in a combined transaction.

[33] The Commentary would give examples of when this might be the case, and when it would be reliable. For example, in the case of resale of software, the Final Customer may register the product directly with the Covered Group and include its details, including its address. However, this would not be a reliable indicator if the Covered Group knew that this was not the place of use of the service, for example, where the Final Customer is itself a Large Business Customer

ii. Information reported by the Reseller to the Covered Group on the place of use of the service by the Final Customer determined by applying the Indicators in paragraphs H(2)(a) and (b);

iii. The Location of the Reseller, provided that the Reseller is contractually restricted to selling in that Location or that it is otherwise reasonable to assume that the Reseller is located in the place of use of the services by the Final Customer; or

iv. Another Reliable Indicator as defined in Part 2(3); or

b. The method described in paragraph H(10), to the extent no Reliable Indicator is available.

10. To the extent that no Reliable Indicator is available under paragraph H(9), and provided the conditions in Part 2(6) are met, the Revenues derived from the sales of those services through a Reseller shall be treated as arising in [a Jurisdiction] using the Global Allocation Key.

Part 6 – Intangible Property[34]

A – Revenues from licensing, sale or other alienation of Intangible Property

1. Revenues derived from a transaction for licensing, sale or other alienation of Intangible Property are deemed to arise in [a Jurisdiction]:

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that is able to use the product in multiple jurisdictions. In practice, it is expected that services provided by a reseller are generally to smaller businesses, with the most complex and larger contracts provided directly by the Covered Group.

[34] The Commentary will provide further guidance on the rules in Part 6, for instance:

- Context for applying the rules, which includes that they have been designed to ensure coherent outcomes whether a good or service is provided directly or whether IP is provided to support that good or service. This means that the rule for IP will generally follow the same types of indicators as would be the case for the relevant underlying good or service; for IP attached to finished goods, copyrighted work, and other IP, the indicators (or allocation key) looks for the Final Customer, and for services it depends on the type of service to which the IP relates.
- Guidance on when Intangible Property is used to support a service, as per paragraph A(1)(a), which includes a licence to use a character at a theme park (a location-specific service), a licence to use know-how and other intangibles in a fast food franchise (a location-specific service), a licence to use a computer code which is used to provide a cloud service (a B2B service). The rule refers the Covered MNE to the indicators and allocation keys used under the rule for that type of service in Part 5.
- Guidance on when Intangible Property relates to a finished good, as per paragraph A(2)(a), which would include when the intangible attaches to a finished good directly (e.g. a logo on a t-shirt), as well as attaching to a component that is incorporated into a finished good (e.g., branding related to a computer chip that appears on a laptop). This rule achieves coherence with the rule on components, which also looks to the Final Customer that uses the finished good. This is important, for example, where a transaction relating to a type of IP could be the sale of a component, for example, in respect of active ingredients in pharmaceuticals.
- Guidance on when Intangible Property relates to a Copyrighted Work, as per paragraph A(2)(b), which includes music provided on a streaming service.
- Guidance on when Intangible Property falls into paragraph A(2)(c), such as goodwill or un-commercialised IP. The rule in paragraph A(2)(c) is a catch-all category. This provides simplicity in the rules, and avoids

a. When the Intangible Property supports the provision of a service and the place of use of that service is in [a Jurisdiction]. The place of use of the service is identified using the relevant Indicators identified in Part 5, provided they meet the definition of a Reliable Indicator in Part 2; or

b. In all other cases, when the place of use of the Intangible Property by the Final Customer is in [a Jurisdiction].

2. For the purposes of paragraph A(1)(b), the place of use of Intangible Property by the Final Customer is determined using the following Indicators, provided they meet the definition of a Reliable Indicator in Part 2:

a. If the Intangible Property relates to a Finished Good:

i. The place(s) of delivery of the Finished Goods to the Final Customer reported to the Covered Group by the licensee, Purchaser or other transferee (as applicable); or

ii. The place of the retail storefront selling the Finished Goods to the Final Customer; or

iii. Another Reliable Indicator as defined in Part 2(3).

b. If the Intangible Property relates to a Copyrighted Work:

i. The place(s) of delivery of the Copyrighted Work to the Final Customer reported to the Covered Group by the licensee, Purchaser or other transferee (as applicable) on:

a) The User Profile Information of the Final Customer;

b) The billing address of the Final Customer;

c) The geolocation of the device of the Final Customer on which the Copyrighted Work is received;

d) The IP address of the device of the Final Customer on which the Copyrighted Work is received;

e) The place of the retail storefront selling the Copyrighted Work to Final Customers; or

ii. Another Reliable Indicator as defined in Part 2(3).

c. If the Intangible Property is not covered by paragraphs A(1)(a), A(2)(a) or A(2)(b):

i. The Location of the Final Customer of the licensee, as reported by the licensee, Purchaser or other transferee (as applicable); or

ii. Another Reliable Indicator as defined in Part 2(3).

3. To the extent that no Reliable Indicator is available under paragraphs A(1)(a) or A(2) and provided the conditions in Part 2(6) are met, Revenues derived

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characterisation disputes that could arise from having different types of IP sourcing rules based on the uses of different types of IP. As is the case for components, it is recognised that obtaining reliable indicators on the final place of use is likely to be challenging, and for this reason an Allocation Key is provided in paragraph A(3).

- Guidance on how a Covered Group might demonstrate that revenue should not be treated as arising in a Jurisdiction using the Global Allocation Key.

from a transaction for licensing, sale or other alienation of Intangible Property shall be treated as arising in [a Jurisdiction] using the Global Allocation Key.

B – Revenues from licensing, sale or other alienation of user data

1. Revenues derived from a transaction for licensing, sale, or other alienation of user data are deemed to arise in [a Jurisdiction] when the Location of the User that is the subject of the data being transferred is in [a Jurisdiction].
2. For the purposes of paragraph B(1), the Location of the User that is the subject of the data being transferred can be determined using the following Indicators, provided they meet the definition of a Reliable Indicator in Part 2:
    a. The User Profile Information of the User;
    b. The geolocation of the device of the User through which the user data is transferred;
    c. The IP address of the device of the User through which the user data is transferred; or
    d. Another Reliable Indicator as defined in Part 2(3).

Part 7 – Real Property

A – Revenues from sale, lease or other alienation of Real Property

1. Revenues derived from sale, lease or other alienation of Real Property are deemed to arise in [a Jurisdiction] when the Real Property is located in [a Jurisdiction].
2. For the purposes of paragraph A(1), the location of Real Property is determined using the following Indicators, provided they meet the definition of a Reliable Indicator in Part 2:
    a. The address of the Real Property;
    b. The Jurisdiction granting the right to exploit the Real Property; or
    c. Another Reliable Indicator as defined in Part 2(3).

Part 8 – Government Grants

A – Revenues from Government Grants

1. Revenues derived from a Government Grant are deemed to arise in [a Jurisdiction] when the Government Grant was made or funded by Government of [a Jurisdiction].
2. If a Government Grant is funded by Government of [a Jurisdiction] and Governments of other Jurisdictions, the Revenues are deemed to arise in each Jurisdiction in proportion to the percentage share of the funding provided by each Jurisdiction and in the absence of such information, the Revenues are deemed to arise equally in each Jurisdiction.

Part 9 – Non-customer Revenues

1. Non-customer Revenues are deemed to arise in [a Jurisdiction] in proportion to the share of Revenues that arise in [a Jurisdiction] under Parts 3 to 8.

Part 10 – Definitions[35]

1. For the purposes of Article[X] of the Model Rules and this Schedule, the following definitions apply:

General definitions

2. "Allocation Key" means the Regional Allocation Key, the Low Income Jurisdiction Allocation Key, the Global Allocation Key, the Aggregate Headcount Allocation Key, the Cargo Air Transport Allocation Key, the Cargo Non-air Transport Allocation Key, the Headcount Allocation Key, the Passenger Air Transport Allocation Key, and the Passenger Non-air Transport Allocation Key.
3. "Business Customer" means a person who acquires a good or service in a capacity other than as a Consumer and includes a Government.
4. "Consumer" means an individual who acquires a good or service for personal purposes, rather than for commercial or professional purposes.
5. "Customer" means a person who acquires a good or service, digital content, user data or Intangible Property from the Covered Group in the ordinary course of trade of the Covered Group.
6. "Final Customer" means a person (including a Government) acquiring the Finished Good, Copyrighted Work or service for consumption or use, other than a Component.
7. "Global Allocation Key" means that Revenues are deemed to arise in each Jurisdiction in proportion to its percentage share of [final consumption expenditure][36] as published by the United Nations Conference on Trade and Development, apart from those Jurisdictions in which the Covered Group has demonstrated that Revenues did not arise pursuant to the Knock-out Rule. If final consumption expenditure is not available for [a Jurisdiction], an approximation of final consumption expenditure is calculated based on [a Jurisdiction]'s population and the average ratio of final consumption expenditure to population for all Jurisdictions for which final consumption expenditure was available.[37]
8. "Government" includes a government, a political subdivision or local authority thereof, the central bank of the Jurisdiction or any institution wholly owned by that Jurisdiction or a political subdivision or local authority thereof.
9. "Jurisdiction" means a country or territory that is a jurisdiction for tax purposes.[38]

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[35] The Commentary will provide further guidance on the rules in Part 8, for instance:

- Guidance on the classification of certain goods and services, such as under which category electricity supply would fall, as well as the alienation of movable properties and immovable properties.

[36] The use of final consumption expenditure or another proxy such as GDP is still under consideration for revenues from Components and B2B services sold through a reseller.

[37] The Commentary will provide further guidance on how to apply the macro-economic proxies, e.g. on calculation of the approximation, including an example.

[38] Certain jurisdictions will not participate in Amount A and are not a "Participating Jurisdiction", i.e. because they have not joined the consensus, have not implemented legislation and the Multilateral Convention, or are not Inclusive

10. “Knock-out Rule” means, in the context of applying an Allocation Key, a requirement that the Covered Group must identify a Jurisdiction or a group of Jurisdictions where it can be reasonably assumed that Revenues did not arise.[39]
11. “Location” means in the context of a business where that business has its physical premises from where it operates and in the context of an individual the place where an individual is habitually located.[40]

Part 1 – Categorising transactions

12. “Main Transaction” means a transaction entered into by a Covered Group with a Customer that is the primary profit driver of a multi-transaction bundle.
13. “Supplementary Transaction” means a transaction that:
    a. Would not have been entered into but for the Main Transaction;
    b. Is entered into by the Covered Group with the same Customer as the Main Transaction; and
    c. From which the gross receipts will not exceed [5]% of the total gross receipts from the Supplementary Transaction(s) and Main Transaction(s) combined.

Part 3 – Finished Goods

14. “Digital Good” means the provision of content through digital means (e.g. music, books, videos, texts, games, applications, computer programmes, software, online newspapers, online libraries and online databases), whether for access one time, a limited period or in perpetuity.
15. “Finished Good” means any tangible good sold to a Final Customer.

Framework members. In this regard, it is important to make a distinction between sourcing and allocation. Sourcing answers the question of where revenue is deemed to arise for the purposes of Amount A. All revenue must be sourced – that is, the question must be answered as to where the revenue arose. Allocation is the process of sharing the profit with a jurisdiction. Allocation only takes place if (i) the sourcing rule identifies the Jurisdiction as being the market for the revenue in question; (ii) the Jurisdiction is a Participating Jurisdiction; and (iii) if the nexus conditions have been met. In other words, a Jurisdiction that is not a Participating Jurisdiction cannot receive an Amount A allocation. As the profit allocation rules are finalised, some aspects of the revenue sourcing rules, such as whether the allocation keys should apply to Participating Jurisdictions only or all jurisdictions, will be updated accordingly.

[39] The Commentary will provide further guidance on the application of the knock-out rule, and that the Covered Group should take reasonable steps to apply the knock-out rule before allocating revenue based on the allocation key. The knock-out rule is provided so that where there is reliable information about the locations where a good or service is ultimately used (even if this cannot be allocated in specific proportions), revenue would be only sourced to those jurisdictions under this “knock-out rule.” The knock-out rule applies in two ways. First, where the Covered Group has actual knowledge that the good or service is not provided to certain jurisdictions, such as where there is a trade embargo. Second, where the Covered Group has actual knowledge (e.g. from the contract or from the customer) that the good or service is ultimately consumed in a specific set of jurisdictions, then the allocation would be according to headcount only in that set of jurisdictions, and all other jurisdictions can be removed from the allocation – and in this sense it operates as a “knock-in” rule.

[40] Commentary will provide additional guidance on the meaning of this term and will confirm that the tax residence of the business or individual (where that is known to the Covered Group) can be taken as its location.

16. “Independent Distributor” means an enterprise that is not a member of the Covered Group that distributes or resells the Covered Group’s Finished Goods.
17. “Low Income Jurisdiction” means a Jurisdiction that is defined for the Period by the World Bank as a Low-Income Economy or as a Lower-Middle Income Economy.
18. “Region” means a group of Jurisdictions in which an Independent Distributor distributes or resells Finished Goods of the Covered Group, whether associated by geographical proximity or not.

Part 4 – Components

19. “Component” means a tangible good or a Digital Good sold to a Business Customer that will be incorporated into another good for sale.

Part 5 – Services

20. “Active Member of a Customer Reward Program” means a member of that program that has redeemed or earned units during the Period.
21. “Advertising Service” means the provision or facilitation of advertising and includes services for the purchase, storage and distribution of advertising messages, and for advertising monitoring and performance measurement.
22. “Aggregate Headcount Allocation Key” means that Revenues are deemed to arise in each Jurisdiction in proportion to the percentage share of aggregated employee headcount identified in:
    a. the aggregated Country-by-Country Reporting statistics of the Jurisdiction of which the Ultimate Parent Entity of the Large Business Customer is resident [as published by the OECD / made available on the Amount A filing portal]; or
    b. the Alternative Aggregate Headcount Statistics [as published by the OECD / made available on the Amount A filing portal], if the aggregated Country-by-Country Report statistics of the Jurisdiction identified in (a) are not available,

    apart from those Jurisdictions in which the Covered Group has demonstrated pursuant to the Knock-out Rule that Revenues did not arise.[41]
23. “Alternative Aggregate Headcount Statistics” are those statistics [published by the OECD / made available on the Amount A platform] for the purpose of allocating Revenues from Business to Business Services provided to a Large Business Customer where the aggregated Country-

[41] The Commentary would explain that if the UPE of the Large Business Customer is in a jurisdiction with less than the de minimis number of CBCR filers, a separate proxy will be provided to protect taxpayer confidentiality, for example, based on a significant portion being allocated to the headquarters jurisdiction and a portion using regional aggregated statistics. The Commentary would further explain that the most recent aggregated CBCR data that is made available [in the Amount A portal] should be used for this purpose, even though the data in the aggregated CBCR information would relate to a fiscal year prior to the one for which revenue is being sourced.

by-Country Report statistics of the Jurisdiction of which the Ultimate Parent Entity of the Large Business Customer are unavailable.[42]

24. "Business to Business Service" means a service that is provided to a Business Customer, but does not include transactions subject to the rules in Part 6 (Intangible Property).
25. "Business to Consumer Service" means a service that is provided to Consumers.
26. "Cargo Air Transport Service" means any service for the carriage of cargo from one location to another by air and includes transactions that supplement those services provided by the Covered Group that would not be entered into by the Covered Group but for the services they supplement.[43] Such a service is not treated as any other type of service for the purposes of Part 5.
27. "Cargo Air Transport Allocation Key" means that Revenues are deemed to arise in each Jurisdiction in proportion to the percentage share of cargo weight transported from a Place of Take-off or to a Place of Landing by a Covered Group in each Jurisdiction. The proportion is determined as:
    a. The sum of the cargo weight transported by a Covered Group in a Period from a Place of Take-off in [a Jurisdiction] and the cargo weight transported by a Covered Group in a Period to a Place of Landing in [a Jurisdiction]; divided by
    b. The sum of the cargo weight transported by a Covered Group in a Period from Places of Take-off in all Jurisdictions plus the cargo weight transported by the Covered Group in a Period to Places of Landing in all Jurisdictions.
28. "Cargo Non-air Transport Allocation Key" means that Revenues are deemed to arise in each Jurisdiction in proportion to the percentage share of cargo transported in a Period from a Place of Origin or to a Place of Destination in each Jurisdiction. The proportion is determined as:
    a. The sum of the volume or weight (as the case may be) of cargo transported by a Covered Group in a Period from a Place of Origin in [a Jurisdiction] and the volume or weight (as the case may be) of cargo transported by a Covered Group in a Period to a Place of Destination in a Jurisdiction; divided by
    b. The sum of the volume or weight (as the case may be) of cargo transported by the Covered Group in a Period from Places of Origin in all Jurisdictions and to Places of Destination in all Jurisdictions.[44]

[42] Options for developing alternative data points that may be used in the absence of UPE-specific aggregated CBCR data are under consideration, and could include statistical trends related to the concentration of employees in the UPE jurisdiction, and / or statistical trends related to certain regions.

[43] The Commentary will give typical examples of such transactions, e.g., terminal services and revenue from code-share arrangements.

[44] The Commentary will give examples of how to apply the 50/50 split in this allocation key, including that for bulk carriers, oil tankers and chemical tankers and gas tankers, volume is measured in metric tonnes; for liner shipping the volume of cargo is measured based on the volume of destination containers discharged (and that the volume of empty containers discharged should be excluded from the volume of destination containers discharged); for Roll-on/roll-off (RoRo) ships the volume is measured in lane metres; for Car Carriers the volume is measured in Car Equivalent Units;

29. “Cargo Non-air Transport Service” means any service, other than Cargo Air Transport Services, for the carriage of cargo from one location to another and includes transactions that supplement those services provided by the Covered Group and that would not be entered into by the Covered Group but for the services they supplement.[45] Such a service is not treated as any other type of service for the purposes of Part 5.
30. “Cargo Transport Service” means a Cargo Air Transport Service or a Cargo Non-air Transport Service.
31. “Customer Reward Program” means a marketing program of a Covered Group designed to win customer loyalty by awarding units to a Customer which may be redeemed for other goods and services and includes such marketing programs where the Covered Group sells units to third party Business Customers for award to mutual Customers.
32. “Customer Reward Program Revenues” means Revenues generated from the operation of a Customer Reward Program other than Revenues generated from the redemption of awarded units for goods or services provided by the Covered Group.
33. “Digital Service” means a service that is provided over the internet or an electronic network, including streaming, gaming or other services for accessing online content but does not include Digital Goods.
34. “Financing” means the lending of money.
35. “Headcount Allocation Key” means that Revenues are deemed to arise in each Jurisdiction in proportion to the percentage share of employee headcount of the Large Business Customer as reported in its most recently filed Country-by-Country Report, apart from those Jurisdictions in which the Covered Group has demonstrated that Revenues did not arise pursuant to the Knock-out Rule.
36. “Large Business Customer” means a Business Customer that is a member of a Group that is required to file a Country-by-Country report, as defined [add title or reference to the domestic Country-by-Country Reporting legislation]. If the total invoice amount for services provided to a Business Customer does not exceed EUR [1-3] million in the Period, the Covered Group may treat the Business Customer as not being a Large Business Customer.[46] If the Covered Group has taken reasonable steps to confirm whether a Business Customer is a Large Business Customer, the Covered Group may rely on that conclusion.[47] If upon taking reasonable steps, the

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and for Passenger Roll-on/Roll-off (RoPax) ships the volume is measured in lane metres plus total number of passengers.

[45] The Commentary will include typical examples of the transactions that would be regarded as supplementing revenue from the carriage of cargo, including for example, revenue earned from detention fees imposed for the late return of containers.

[46] The ability to treat a Large Business Customer as not being a Large Business Customer is designed to ease the compliance burden for Covered Groups. However, this treatment is optional and the Covered Group may choose not to rely on this provision and continue to treat the Business Customer as a Large Business Customer, for example if it is burdensome to accurately identify the total invoice amount in the Period.

[47] Commentary will give guidance on what reasonable steps should be taken to confirm whether the Business Customer is a Large Business Customer. If the invoice amount for services provided to the Business Customer exceeds EUR [1-3] million in the Period, such reasonable steps could require the Covered Group to ask the Business Customer if it meets the definition of a Large Business Customer. The Covered Group may rely on the information

Covered Group cannot confirm whether a Business Customer is a Large Business Customer, the Covered Group may treat the Business Customer as not being a Large Business Customer.

37. “Offline Service” means a service that is not delivered over the internet or an electronic network, irrespective of the manner in which that service was procured and includes the supply of personal or business accommodations or premises, on a short-term or long-term basis.[48]

38. “Online Intermediation Service” means the provision of an online platform to enable users to sell, lease, advertise, display or otherwise offer goods or services to other users provided the Revenues derived from the service are dependent on the conclusion of transactions between users of the service. It does not include the online sale of goods and services of the platform’s own inventory.

39. “Passenger Air Transport Allocation Key” means that Revenues are deemed to arise in each Jurisdiction in proportion to the percentage share of available passenger capacity[49] arriving to a Place of Landing in each Jurisdiction. The proportion is determined as:

    a. The available passenger capacity of a Covered Group in a Period arriving to Place of Landing in a Jurisdiction; divided by

    b. The available passenger capacity of the Covered Group in a Period arriving to Places of Landing in any Jurisdiction.

40. “Passenger Air Transport Service” means any service for the carriage of passengers from one location to another by air and includes transactions (other than Customer Reward Program Revenue) that are ancillary to those services provided by the Covered MNE Group and would not be entered into by the Covered Group but for the services they supplement.[50] Such a service is not treated as any other type of transaction for the purposes of this Schedule.

41. “Passenger Non-air Transport Allocation Key” means that Revenues are deemed to arise in each Jurisdiction in proportion to the percentage share of passengers transported in a Period to a Place of Destination in each Jurisdiction. The proportion is determined as:

    a. The number of passengers transported by a Covered Group in a Period to Places of Destination in a Jurisdiction; divided by

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provided by the Business Customer unless it has actual knowledge that it is incorrect. The Covered Group could be expected to undertake online research to view the financial statements of that Customer and whether such statements record consolidated group revenue exceeding EUR 750 million. In addition, once CBCR data is made publicly available in EU jurisdictions, a Covered Group would be expected to check whether the business customer has made such information available publicly. A Covered Group would not be expected to require this information from its customer as a contractual term.

[48] The Commentary will confirm that Offline Services includes: hotel, apartment and house accommodations, taxi services, food delivery.

[49] The Commentary will clarify that available passenger capacity should be measured by reference to the number of passenger seats on an aircraft.

[50] The Commentary will give typical examples of such transactions, such as on-board sales of food and goods, on-board advertising, on the ground lounge and terminal services, revenue from code-share arrangements and ancillary maintenance services provided to other airlines.

b. The number of passengers transported by the Covered Group in a Period to Places of Destination in any Jurisdiction.

42. “Passenger Non-air Transport Service” means any service, other than Passenger Air Transport Services, for the carriage of passengers from one location to another and includes transactions (other than Customer Reward Programs) that supplement those services provided by the Covered Group and would not be entered into by the Covered Group but for the services they supplement.[51] Such a service is not treated as any other type of service for the purposes of Part 5.

43. “Passenger Transport Service” means a a Passenger Air Transport Services or Passenger Non-air Transport Services.

44. “Place of Destination” for Non-air Transport Services means the place in a Jurisdiction where passengers alight or cargo is unloaded from the ship, train, bus, truck or other vessel by or on behalf of the Covered Group but does not include Transit Stops and for Air Transport Services means the Place of Landing.

45. “Place of Landing” means the Jurisdiction where the passengers alight or cargo is unloaded from the aircraft, helicopter or other air transport vessel.

46. “Place of Origin” for Non-air Transport Services means the place in a Jurisdiction where passengers board or cargo is loaded onto the ship, train, bus, truck or other vessel by or on behalf of the Covered Group but does not include Transit Stops and for Air Transport Services means the Place of Take-off.

47. “Place of Take-off” means the place in a Jurisdiction where the cargo is loaded onto the aircraft, helicopter or other air transport vessel.

48. “Purchaser” means the party making a payment under a contract to acquire a good or service.

49. “Reseller” means a Business Customer that buys a service subject to the condition that the service is solely for onward sale to a third party but does not include a Business Customer that acquires a service as an input to facilitate the provision of a different service to a third party.

50. “Seller” means the party providing the good or service under a contract with a Purchaser.

51. “Service Connected to Tangible Property” means a service which satisfies one of the following conditions:

    a. Substantially all of the service is performed at the location of the tangible property and the service results in physical manipulation of the property whether through building, demolition, manufacturing, assembly, maintenance or repair;

    b. Any lease of, hire of or licence to use tangible property;

    c. The provision of utilities services to a fixed premises including electricity, internet and telecommunications services and for this purpose, the fixed premises is the relevant tangible property;

[51] The Commentary will give typical examples of the type of income that might be regarded as supplementing transactions for the carriage of passengers, including, sales of food and duty free on-board and revenue from advertising displayed on-board.

d. Architectural, engineering, design or other advisory services in relation to the development, acquisition, disposal, lease or other alienation of real estate; or

e. Any service facilitating the arrival or departure of an aircraft, ship or other vessel to, from or in a jurisdiction, including pilotage, towage and port, airport and terminal services and for this purpose the aircraft, ship or other vessel is the tangible property.

52. "Service Performed at the Location of the Customer"[52] means a service that is physically performed in person and where the Customer or its agent must be present for substantially all of the time at the place where the service is physically performed.

53. "Transit Stop" means an intermediate place where the passenger alights or the cargo is unloaded to facilitate the onward transport of the passenger or cargo by or on behalf of the Covered Group.[53]

54. "User" means any person accessing a service, but does not include:

a. The provider, or a member of the same Covered Group as the provider, of that service; and

b. An employee of a person referred to in paragraph (a) acting in the course of that person's business.

55. "User Profile Information" means information that the Group holds for commercial purposes identifying an Active Member of a Customer Reward Program, Consumer, Final Customer, Purchaser, Seller, User or Viewer (as the context requires), that may include:

a. Information on Location obtained from recurring data on geolocation or IP address of the device of the Active Member of a Customer Reward Program, Consumer, Final Customer, Purchaser, Seller, User or Viewer (as the context requires);

b. Billing address of the Active Member of a Customer Reward Program, Consumer, Final Customer, Purchaser, Seller, User or Viewer (as the context requires);

c. The place of the international dialling code associated with the telephone number of the Active Member of a Customer Reward Program, Consumer, Final Customer, Purchaser, Seller, User or Viewer (as the context requires); or

d. Information on Location provided by the Active Member of a Customer Reward Program, Consumer, Final Customer, Purchaser, Seller, User or Viewer (as the context requires).

56. "Viewer" means the individual to whom an advertisement is displayed.

[52] Commentary to include examples of the types of services that are Services Performed at the Location of the Customer including medical treatments, concerts, sport and other entertainment events. It will further confirm that the agent of a customer includes employees of a business customer.

[53] Commentary will confirm that intermediate destinations on a cruise service are regarded as a Transit Stop (and therefore not a Place of Destination), provided that the stop is for less than 24 hours. If the stop is for 24 hours or more, it is regarded as a Place of Destination to which revenue would be sourced.

Part 6 – Intangible Property

57. “Copyright” means the protection described in the Berne Convention for the Protection of Literary and Artistic Works (as amended on September 28, 1979) but shall not include the protection for computer programs that benefit from the protection for computer programs covered by the WIPO Copyright Treaty.
58. “Copyrighted Work” means literary and artistic work that benefits from the protection described in the Berne Convention for the Protection of Literary and Artistic Works (as amended on September 28, 1979) but shall not include computer programs covered by the WIPO Copyright Treaty.
59. “Intangible Property” means property which is not in tangible form and which is capable of being owned or controlled for use in commercial activities but does not include financial assets, Digital Goods, user data or computer programs that benefit from the protection for computer programs covered by the WIPO Copyright Treaty. It includes Copyrights, trademarks, tradenames, logos, designs, patents, know-how and trade secrets.

Part 7 – Real Property

60. “Real Property” means immovable property and includes land, buildings, improvements to land or buildings, an interest in land or buildings (including a lease, licence or any other right to use), buildings or improvements to land or buildings, property accessory to immovable property, livestock and equipment used in agriculture and forestry, rights to which the provisions of general law respecting landed property apply, usufruct of immovable property and rights to variable or fixed payments as consideration for the exploitation of, or the right to explore for, develop or exploit natural resources; but excludes ships and aircraft.

Part 8 – Government Grants

61. “Government Grant” means transfers in cash or in kind made by Governments or international organisations to a Covered Group and includes payments to finance business expenses, costs of their acquiring fixed assets, subsidies, grants and refundable credits.

Part 9 – Non-customer Revenues

62. “Non-customer Revenues” means Revenues that are not derived from Customers of the Covered Group, including interest earned by the Covered Group other than as a lender, returns on financial assets, foreign currency gains, releases of provisions, asset revaluations, changes in pension liabilities, insurance proceeds and other non-operating income; and returns from and gains on the disposition of assets.