



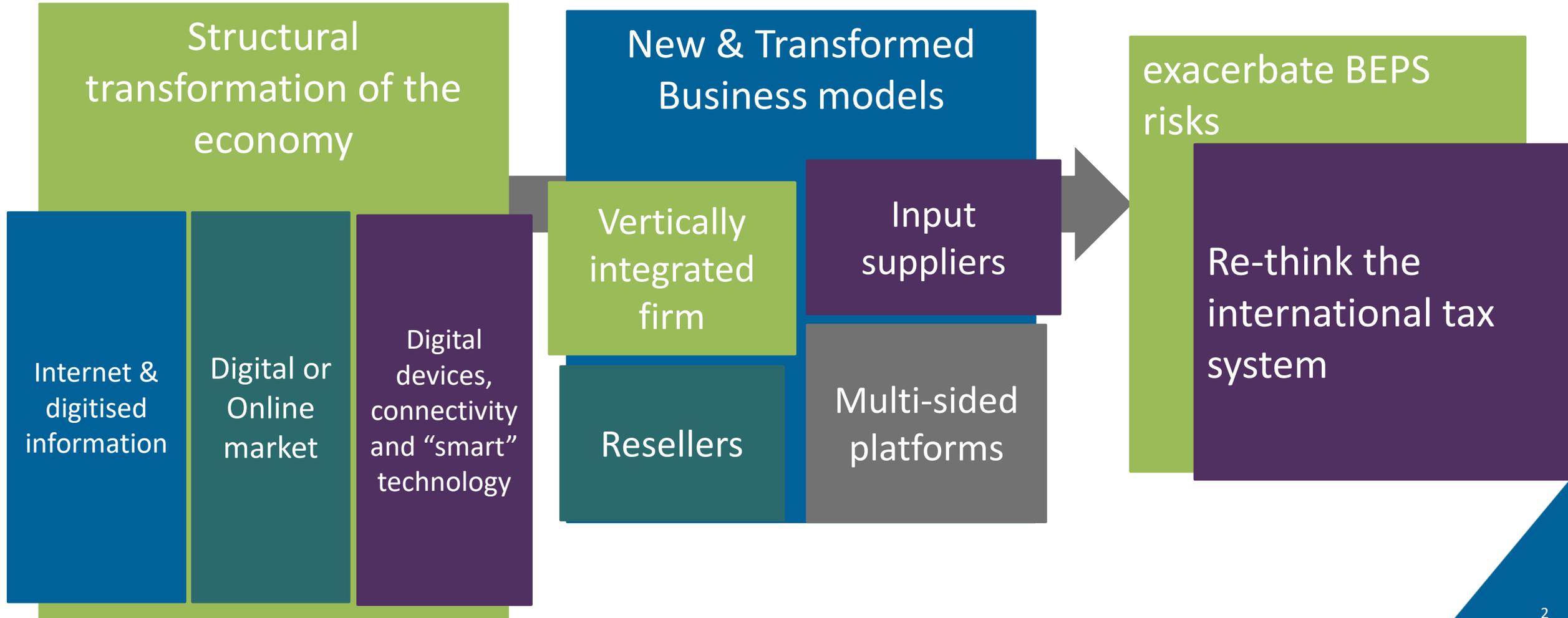
ONGOING WORK ON THE TAX CHALLENGES ARISING FROM DIGITALIZATION

PARLIAMENTARY MEETING

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14 February 2019



Digital transformation and tax implications





Milestones

2015

October – BEPS Action 1 report

2018

March – Tax Challenges arising from Digitalisation: Interim report

2018

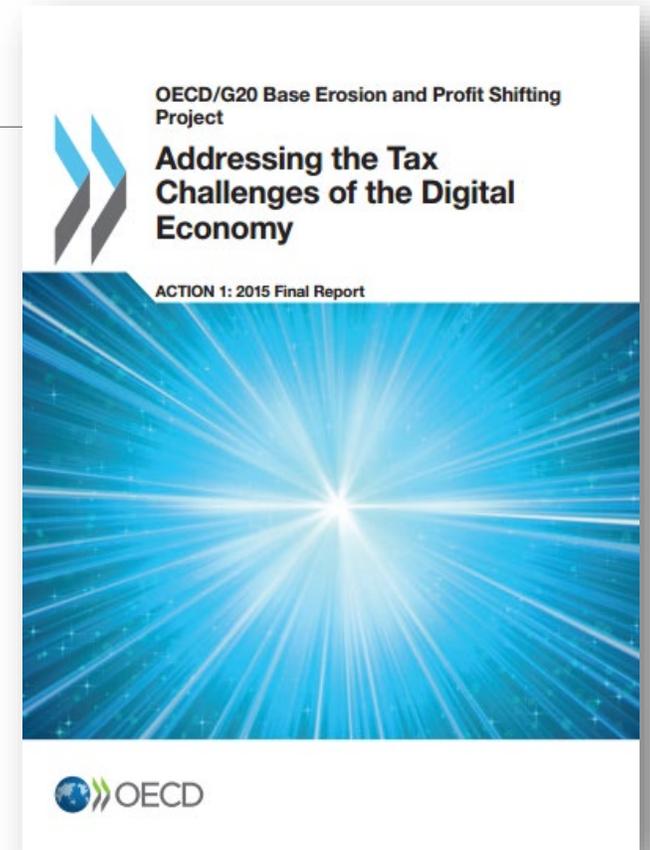
July/December – Task Force on the Digital Economy meetings

2019

January – Policy Note agreed by the Inclusive Framework

BEPS Action 1 Report

- ✓ Delivered to G20 Finance Ministers in October 2015 as **part of the BEPS Package**
- ✓ **Difficult, if not impossible to ‘ring-fence’ the digital economy**
- ✓ **Good progress on VAT** in relation to cross border digital services
- ✓ Lack of consensus on **direct tax** questions





Key features of highly digitalised business models

Cross-jurisdictional scale without mass

Impacting the distribution of taxing rights over time by **reducing the number of jurisdictions where a taxing right can be asserted** over the business profits of an MNE

Reliance on intangible assets

Significant progress under BEPS project, but often **difficult to determine how to allocate income from intangibles** among different parts of an MNE group

Data and user participation

A concept of **value creation by users** is currently not captured by the existing tax framework



The 2018 Interim Report

- ✓ Analysis of business models and value creation
- ✓ Implementation and impact of BEPS
- ✓ Interim measures
- ✓ Impact of digitalisation on other aspects of the tax system
- ✓ Agreement to examine key concepts of nexus and profit allocation and work towards a long-term, consensus based solution





Divergent perspectives

The views of countries can be generally described as falling within three groups:

First Group

Change needed, but target highly digitalised businesses

Second Group

Change needed to address broader challenges

Third Group

BEPS Actions working, no need for major changes

Agreement to work towards a consensus-based, long-term solution



Interim measures: the challenges

No agreement on the need to implement interim measures, given the many downsides

Developing global & multilateral solutions will take time

Pressing calls on some countries to take urgent action

Some benefit in identifying design constraints to limit damage



Interim measures: a framework

Avoid multitude of different unilateral measures

Limit potential adverse side-effects of the measure

Countries that favour the introduction of interim measures have agreed guidance that needs to be taken into account in the design of such a measure:

Compliance with international obligations (e.g. tax treaties, WTO, EU)

Temporary

Targeted

Minimising over-taxation

Minimising impact on start-ups & business creation

Minimising cost and complexity



Key concepts at stake

IF members have agreed to work on:

Nexus

Rules that determine jurisdiction to tax a non-resident enterprise

Profit Allocation

Rules that determine the relevant share of the profits that will be subjected to taxation



Work Since the 2018 Interim report

Task Force on Digital economy (TFDE) held meetings in July and December 2018

Members brought concrete proposals under 2 pillars:

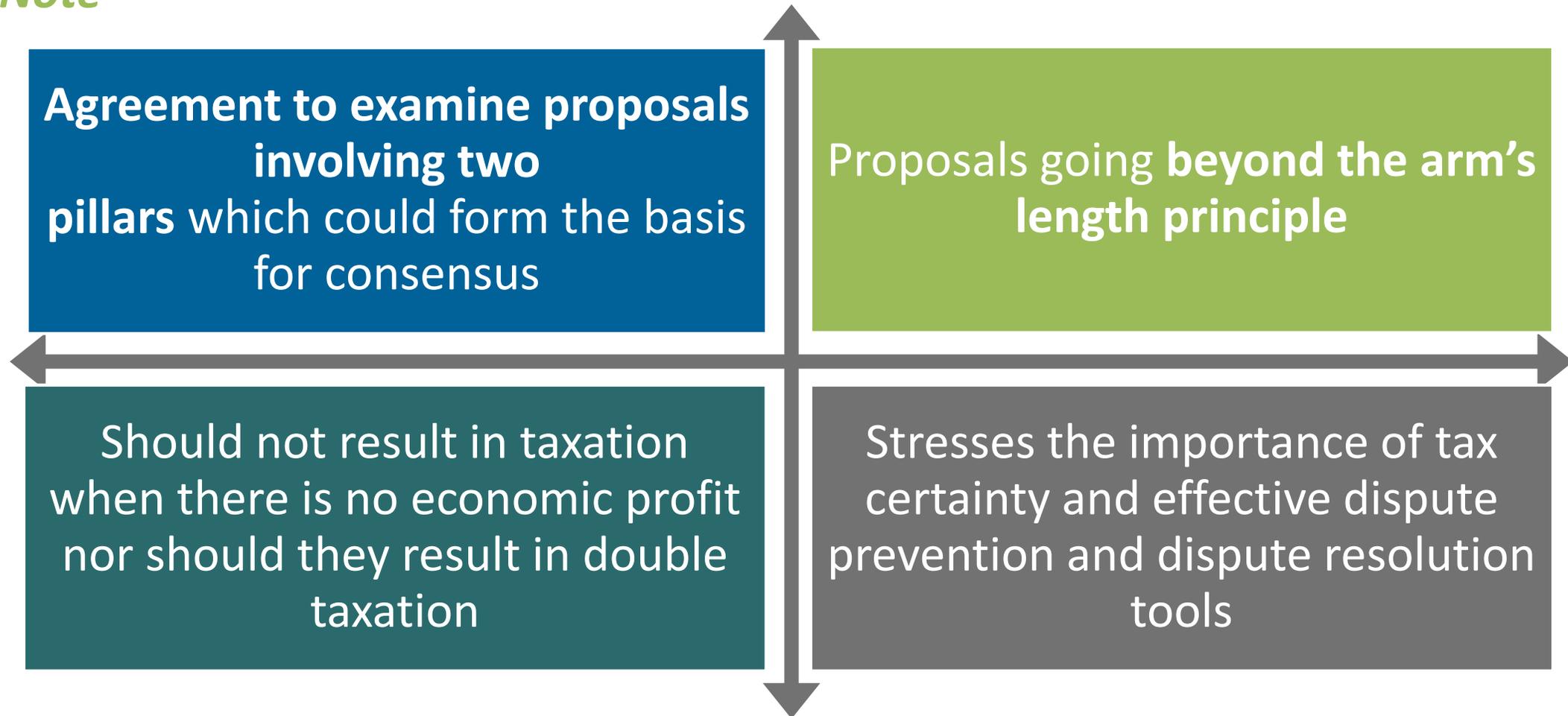
Pillar 1 dealing with nexus and profit allocation rules

Pillar 2 relating to remaining BEPS issues



Policy Note – January 2019

“Addressing the Tax Challenges of the Digitalisation of the Economy – Policy Note”





Pillar 1 – User Contribution

Would
apply to
highly
digitalised
businesses

Revise the existing
rules on
profit allocation and
nexus by **reference to
“ active user
contribution”**

Would
recognise the
value created
by users of
digital services



Pillar 1 – Marketing intangibles

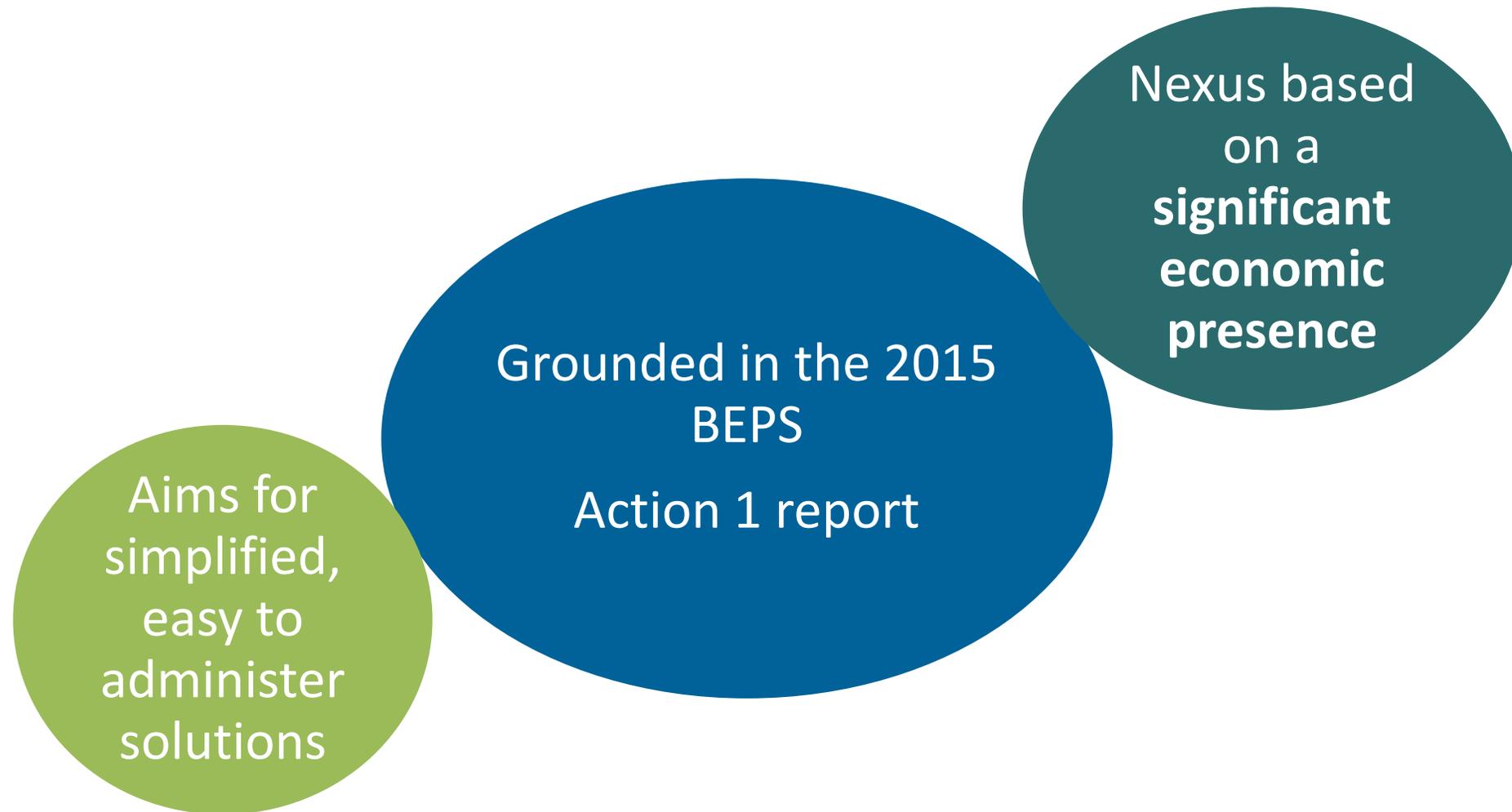
Applies broadly to all types of businesses

Revise the existing rules on profit allocation and nexus by reference to “marketing intangibles”

Would recognise the value created by the market jurisdiction



Pillar 1 – Significant Economic Presence





Pillar 2 Proposal

Address ongoing profit shifting that arise due to significant disparities in tax rates

Provide residence and source countries a right to “tax back” profits subject to no or very low rates of taxation in jurisdictions where those profits are derived



Pillar 2 Proposal

Proposed rules

Income inclusion rule that would include such profits as income in the hands of related party investor.

Tax on base eroding payments that would allow the source country to deny a deduction (or impose withholding tax) on under-taxed payments

Co-ordination rule to mitigate the risk of double taxation



Programme of Work

The Policy Note mandates the **elaboration of a detailed programme of work** which the Inclusive Framework could agree at its May 2019 meeting

- With a view to reporting progress to the G20 Finance Ministers in June 2019 and deliver the solution in 2020



Public Consultation

Consultation document published on February 13th

Comments welcome by 1 March from all interested stakeholders and made available online

Public consultation will be held by the Task Force on 13, 14 March - Live streamed



Next steps in 2019





MORE INFORMATION

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