A NEW APPROACH TO ACHIEVING GREATER TAX CERTAINTY

MULTILATERAL COOPERATIVE COMPLIANCE

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JEL Codes: H21, H26, H32, H83, K34, O23
Keywords: project-related multilateral cooperative compliance, tax certainty, tax control framework, ICAP, ETACA, tax administration, trust, transparency

The Institutions for Development Sector was responsible for the production of this publication.

External vendors:
Production Editor: Sarah Schineller (A&S Bespoke Editorial Partners)
Editor: Leslie Hunter
Design: Word Express
Cover image used with courtesy of Shutterstock.com.

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This report has been developed through the involvement of different stakeholders. While all of them played an active role in drafting the report, we wish to recognize the individuals that led the work, as well as the authors, reviewers, and additional contributors. The views expressed herein do not necessarily reflect those of the authors' and contributors' organizations..

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PREFACE

Over the last decade, cooperative compliance (CC) has become an important topic on the agenda of various tax administrations (TAs) and corporations worldwide. While some areas of the concept are well developed, others would benefit from additional guidance, standardization, and best practices. To provide these enhancements and encourage more countries to participate in CC, in 2021, several working groups developed a handbook on cooperative compliance (Owens and Leigh-Pemberton, 2021). These working groups consisted of representatives from international (intergovernmental and supranational) and regional organizations, national TAs, multinational enterprises (MNEs), service providers (tax advisors and consultants) and academia, led by the Global Tax Policy Center at the Institute for Austrian and International Tax Law at Vienna University of Economics and Business (WU GTPC) in cooperation with the International Chamber of Commerce (ICC) and the Commonwealth Association of Tax Administrators (CATA).

The handbook provides practical guidance for the implementation of CC and other areas where further guidance is needed, including: (i) assurance for tax control frameworks (TCF), (ii) multilateral cooperative compliance (MCC), and (iii) measurement of the costs and benefits of cooperative compliance. Three working groups were formed to conduct research in each of these areas.

In 2023, the multilateral cooperative compliance working group (MCC Working Group) developed the MCC Survey (Annex 2) to gain a better understanding of the expectations, experiences, and best practices of TAs and taxpayers in different countries and explore the opportunities for all affected stakeholders (i.e., businesses, ministries of finance, TAs, tax advisors and academics) for MCC. The survey was distributed to recipients around the world. Stakeholders from a variety of geographical regions and countries responded to it, although most responses came from European countries. The results of the MCC Survey have provided valuable insights and helped identify the strengths and weaknesses of national CC programs and existing cross-border risk assessment and assurance programs, as well as understand better the desired features of such MCC programs.

This report builds on the 2021 Handbook (Owens and Leigh-Pemberton, 2021) and is the output of the MCC Working Group. It has led to the development of the concept of project-related multilateral cooperative compliance (PMCC) whose aim is to provide practical guidance for the benefit of TAs, taxpayers, and society. In preparing the report, the members of the MCC Working Group conducted substantive research on national CC programs and existing cross-border risk assessment and assurance programs. It used the outcomes from the MCC Survey, which has been particularly influential for the design features of PMCC, elaborated in Section 3 herein. The MCC Working Group also benefited from the experiences of TAs and MNEs that have participated in other cross-border programs, such as International Compliance Assurance Program (ICAP), the European Trust and Cooperation Approach (ETACA), and Finland's Cross-border Dialogue (FCBD).

Additionally, the MCC Working Group members carried out regular in-person and virtual conferences, workshops, webinars, and meetings to exchange ideas, experiences, and best practices. The rationale behind this approach was to ensure that this report reflects the perspectives of all different stakeholders, thereby leading to the development of a PMCC concept that is realistic, workable, and useful to all countries that wish to enhance tax certainty in large cross-border projects.

This report is divided into six sections. Section 1 highlights the importance of preventing cross-border tax disputes in the current legal, economic, and political context. Section 2 introduces the concepts of MCC and PMCC and explains their potential benefits and challenges. Section 3 presents the good design features of PMCC based on the results of the MCC Survey. Section 4 discusses potential implementation barriers to PMCC and how they may be addressed. Section 5 summarizes the steps toward and within a PMCC program. Section 6 concludes. Finally, Annex 1 includes an MCC implementation package. Interested TAs can refer to these materials when designing and establishing an MCC program.

ABBREVIATIONS AND ACRONYMS

APA	Advance pricing arrangement
CbCR	Country-by-country reporting
CA	Competent authority
CATA	Commonwealth Association of Tax Administrators
CC	Cooperative compliance
CIT	Corporate income tax
DAC	Directive on Administrative Cooperation
DTT	Double tax treaty
EOI	Exchange of information
ETACA	European Trust and Cooperation Approach
GIR	GloBE Information Return
GloBE Rules	Global Anti-Base Erosion Rules
FCBD	Finland's Cross-Border Dialogue
FMCG	Fast-moving consumer goods
GAAR	General Anti-Abuse Rule
GST	Goods and services tax
ICAP	International Compliance Assurance Programme
ICC	International Chamber of Commerce
IMF	International Monetary Fund
MAP	Mutual agreement procedure
MCC	Multilateral cooperative compliance
MCMAA	Multilateral Convention on Mutual Administrative Assistance
MLI	Multilateral instrument
MNE	Multinational enterprise
MoU	Memorandum of understanding
OECD	Organization for Economic Co-operation and Development
OECD IF	OECD Inclusive Framework
PAYE	Pay-as-you-earn
PE	Permanent establishment
PMCC	Project-related multilateral cooperative compliance
SAAR	Special Anti-Abuse Rule
STE	Simultaneous tax examinations

TA	Tax administration
TCF	Tax control framework
TP	Transfer pricing
VAT	Value-added tax
WHT	Withholding tax
WU GTPC	Global Tax Policy Center at the Institute for Austrian and International Tax Law at Vienna University of Economics and Business

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THE NEED FOR EFFICIENT CROSS-BORDER DISPUTE PREVENTION MECHANISMS

1.1. INTRODUCTION

KEY TAKEAWAYS

i. The increase in global economic integration over the past 25 years and the business models that emerged during this period are challenging national tax systems.

ii. Multinational enterprises (MNEs) interact with different tax rules across jurisdictions and face multiple tax risks related to various tax types, such as corporate income tax (CIT), withholding tax (WHT), value-added tax/goods and services tax (VAT/GST), payroll taxes or pay-as-you-earn (PAYE) taxes, customs duties, and environmental taxes.

iii. A recent move toward protectionism has also increased the need of MNEs for tax certainty.

iv. TAs (TAs) must ensure that tax laws remain up to date with evolving business models to ensure effective and fair taxation.

Over the last two and a half decades, economies across the world have become increasingly integrated. With the globalization and digitalization of the economy, new business models exert pressure on national tax systems, because they render the assignment of value creation and tax bases among jurisdictions more difficult (IMF and OECD, 2017).

MNEs must simultaneously interact with the tax rules of different jurisdictions, which exposes them not only to tax risks in each jurisdiction but also to risks and uncertainty that arise from the interaction of the tax systems of different countries. This uncertainty is not only related to transfer pricing (TP) and permanent establishment (PE) risks, but to all kinds of taxes and levies, including but not limited to broader issues of CIT, WHT, various international tax issues, VAT/GST, payroll taxes, customs duties and a plethora of special or other levies, as applicable from country to country (e.g., environmental taxes).

At the same time, the direction of globalization is changing. A move toward deglobalization and protectionism is impacting free trade and multilateralism. These developments increase the need for tax certainty, as MNEs may be even more exposed to different tax rules occurring in the current international tax framework.

In this context, TAs face a continuing need to remain up to date with newly evolving business models to ensure that laws are in place to correctly determine the appropriate taxing rights under their legislation and that tax is levied on a fair and equitable basis. This will enable risk and reward to be shared between the investor and government, supporting long-term investment and job and wealth creation.

Identifying the increased need for early tax certainty, WU GTPC conducted research leading to the development of the concept of project-related multilateral cooperative compliance (PMCC). PMCC can be described as a targeted multilateral tax certainty and dispute prevention mechanism which is inspired by existing cross-border risk assessment and assurance programs, namely the International Compliance Assurance Programme (ICAP) (OECD, 2021a), the European Trust and Cooperation Approach (ETACA) (European Commission, 2021), and Finland's Cross-border Dialogue (FCBD) (Vero Skatt, 2023). The innovative aspect of PMCC is that it seeks to provide early tax certainty in the specific context of large cross-border projects, covers all the taxes mentioned above, and is not limited to (mainly) TP or PE risks. At the same time, it shares many characteristics with national CC programs (Box 1.1).

BOX 1.1: EXAMPLES OF PMCC PROGRAMS

OIL AND GAS COMPANY

Multinational enterprise (MNE) A, active in the oil and gas industry, undertakes the construction and operation of an oil pipeline that crosses four different jurisdictions. It will extract oil in Country A and sell it in Countries B, C, and D through the pipeline. As the construction and operation of the pipeline affects four countries, MNE A must address tax issues in all these countries. Potentially this would involve several issues, such as the following:

i. Tax consequences upon the incorporation of new special purpose vehicles to procure materials, hire personnel, and operate the pipeline (e.g., capital duties, contribution to competition authorities or other public bodies), branch registration requirements, and import duties.
ii. Tax considerations regarding the financing of the investment with a mix of equity and debt (e.g., capital duties or stamp duties) and the relevant income from flows.
iii. Potential acquisition of business premises (e.g., real estate transfer tax).
iv. Tax considerations that concern the entering into transactions with third-party service providers, for instance regarding construction and maintenance (import duties and levies/VAT/GST).
v. Ownership of premises (e.g., municipal duties or levies or other taxes on land or property ownership).
vi. Ongoing taxation of income (corporate income tax) and withholding taxes (interest, dividends) upon income repatriation.
vii. Payroll or PAYE taxation issues.
viii. Special compulsory levies or taxes applying to the specific industry and potentially complicated by production sharing agreements, and others.
ix. Cross-border intragroup supplies of goods and services (transfer pricing).
x. Existence of PEs in Countries B, C, and D (tax filings and allocation of profits).
xi. Exit from the investment (e.g., taxation of capital gains).
xii. Export duties (upon cross-border transport of oil and gas).
xiii. Pillar Two (e.g., Constituent Entities Top-up Tax concerns).

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BOX 1: EXAMPLES OF PMCC PROGRAMS

A combination of the above-mentioned tax issues would arise in the countries concerned and MNE A would need tax certainty in respect of some (or all) of them, as it fears that (1) the envisaged structure will be challenged in some respects by one (or more) of the TAs involved, and (2) it would be unduly subject to double taxation. Therefore, MNE A envisages entering a PMCC program covering all (or the critical) tax aspects of the project. The TAs receiving the request assessed MNE A's eligibility for the PMCC program and decided that MNE A is suitable for a PMCC program. Therefore, all relevant TAs will participate in the PMCC program to understand and risk-assess the transaction and offer tax certainty to the taxpayer.

FAST-MOVING CONSUMER GOODS (FMCG) COMPANY

MNE B is active in the FMCG sector, focusing on personal care items and household goods. The company operates in 20 countries, engaging in a combination of these activities through various local subsidiaries that manage production and distribution facilities in their respective jurisdictions, some of which are low tax jurisdictions or offer unilateral tax incentives. MNE B has decided to set up centralized selling legal entities, one per region (i.e., the first in Europe, the second in Middle East, Africa, and Asia, the third in Latin America, and the fourth in North America) that perform cross-border sales to different targeted customers for each country in the respective region. To facilitate this transaction, MNE B has opted to restructure its operations by setting up new companies (New Co) in the respective regions. This will involve the movement of functions in sales, order shipping and billings, marketing, product supply, finance, and other staff functions from the local countries to the regional entities. This transaction raises various issues related to CIT, VAT/GST, TP, capital gains taxation, property transfer tax, stamp duty, anti-abuse considerations, and mandatory disclosure obligations in many of the involved jurisdictions. MNE B is concerned that several TAs may misinterpret the business rationale behind this transaction structure and inappropriately apply their rules. To mitigate these risks, MNE B has applied for a PMCC program with the TAs in the countries where the New Cos are registered, also seeking participation from the TAs of the countries where the functions were previously taking place and might potentially encounter uncertainties regarding tax treatment. The TAs

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BOX 1: EXAMPLES OF PMCC PROGRAMS

receiving the request will assess MNE B's eligibility for the PMCC program and will communicate their decision on whether they will participate in the program to ensure clarity and compliance throughout the new transaction.

For PMCC to work, a relationship of trust must be developed not only between the taxpayer/MNE and each participating TA, but also among the participating TAs themselves. This trust must be based on more than just promises and needs to be justified so that it can be more easily accepted by all parties.[1] This *justified* trust can be achieved, *inter alia,* through the development of a common reporting and assurance standard for tax control frameworks (TCF). This will enable participating TAs to accept the evaluation of the MNE's tax controls carried out by their peers (i.e., other TAs), which saves time and resources for the taxpayer as well as for the TAs. In this sense, a TCF is an enabler for PMCC, as it would contribute to establishing efficient and effective processes toward achieving tax certainty for limited/targeted cross-border projects and generate greater trust in the tax self-controls undertaken by the MNEs involved. The TCF working group of the GTPC Cooperative Compliance Project elaborated on the development of a common reporting and assurance standard for TCFs. A TCF is only part of the way through which justified trust is achieved. Building trust between the taxpayer and TAs also requires cooperation and understanding between the two sides and willingness to reach a joint outcome, to form a shared opinion that the actual compliance behavior of the MNE in terms of transparency and tax strategy is in line with the reporting standard.

[1] For an explanation of trust in trust-based relationships between taxpayer and TA, see Huiskers-Stoop and Gribnau (2019).

1.2. THE NEED FOR TAX CERTAINTY

KEY TAKEAWAYS

i. Tax certainty allows businesses to plan long-term economic activities without unnecessary tax risks and encourages both domestic and inbound investment. It strengthens the relationship between TAs and taxpayers and increases taxpayers' confidence in the tax system.

ii. Tax uncertainty entails increased tax risks that are linked with both domestic and international tax disputes. It hampers cross-border trade and investment and can slow down growth and development.

iii. For TAs, tax certainty ensures the efficient and timely collection of taxes and contributes to better allocation of resources.

iv. Although tax disputes cannot be fully eliminated, their efficient prevention and resolution benefits both TAs and taxpayers in terms of reduced costs and time spent in confrontation and allows a more efficient allocation of resources.

Countries that seek to encourage both inbound and domestic investment need a tax system that is stable and predictable, where businesses can operate without facing unnecessary tax risks or impediments (OECD, 2019b).[2] A tax system's stability and predictability are constituent elements of a business-friendly environment and indicators of tax certainty, which entails that taxpayers have the chance to organize their economic activities in the long term.

The 2021 Handbook defines tax certainty as "the capacity to make an accurate assessment of the tax and compliance costs associated with an investment or a continuation of investment in a country over the lifecycle of the investment/company" (Owens and Leigh Pemberton, 2021: 8). In a project that involves multiple countries, this definition

[2] See for example the positive impact of advance tax rulings on fighting tax uncertainty and stimulating investment in Chen, Hieber, and Sureth-Sloane (2022).

is still relevant but must consider the additional risk that arises when more than one TA is involved. Tax certainty may influence the planning of taxpayers' business and economic activities. Among other things, it can contribute to foreign direct investment, boost cross-border trade, and promote the creation of jobs and economic growth. On the contrary, when tax certainty is perceived to be low, taxpayers may have low "tax morale" and be less likely to participate in a tax system in an active or positive manner, which may impact a country's economic life (OECD, 2019c; Zangari, Caiumi, and Hemmelgarn, 2017). Tax morale is defined as the "confidence among taxpayers in the tax system to deliver fair and transparent results" (IMF and OECD, 2019). It affects the ease of paying taxes as well as the relationship between TAs and taxpayers (IMF and OECD, 2019). In the case of businesses, the concept of tax morale encompasses not only tax payments, but also the level or type of investment, the decision to exit a market, or reduced withholding and remittance of taxes to governments (OECD, 2019c).

Conversely, the existence of tax uncertainty may hamper cross-border trade and investment. Therefore, it is usually believed to slow down growth and development (OECD, 2021a). Tax uncertainty means an environment with increased tax risks. These increased tax risks may result from exposure of taxpayers to divergent interpretation of tax rules or varied administrative practices of different countries as regards the treatment of cross-border transactions, the inefficiency of dispute prevention and resolution mechanisms or the absence of appropriate such mechanisms, and the behavior of taxpayers. They may also arise due to asymmetry of information between TAs and taxpayers or to a different understanding or interpretation of facts and circumstances by them.[3] In some cases, the appetite of some countries to attract MNEs with very favorable tax incentives may give rise to a more aggressive reaction of other countries' TA, thereby giving rise to uncertainty. Lastly, the poor design of tax legislation or tax policy (e.g., fluctuations in tax legislation or tax policy resulting from unstable political circumstances with frequent changes of governments with different political views) may also have a negative impact on tax certainty (IMF and OECD, 2017). Tax uncertainty results in an increased number of domestic and cross-border disputes. It increases compliance costs

[3] For the definition and content of the term "tax risk," refer indicatively to Eberhartinger and Zieser (2021); Neuman, Omer, and Schmidt (2020); and Neubig and Sangha (2004).

for taxpayers, thus influencing their business decisions and investments.[4] Empirical research has shown that a policy change that was perceived by taxpayers as undermining tax certainty may result in the sidelining of cash by businesses and delays in large capital investments (Jacob, Wentland, and Wentland, 2022).

For TAs, tax certainty could be taken to mean more certain tax revenues, namely the capacity to secure the collection of tax revenues in a timely and undisputed manner.[5] The collection of tax revenues was traditionally achieved through more repressive control activities, namely audits. However, this approach may not always be the most efficient or even desirable, specifically in cases where the taxpayer is in the position to provide assurance to the TA about the quality of its internal controls and the timeliness, accuracy, and completeness of its tax returns and other disclosures, and that it is in control of its tax risks.[6] In such cases, tax certainty for TAs may be achieved more efficiently through more cooperative and trust-based approaches. This could allow TAs to focus their limited resources on taxpayers and tax positions where less tax assurance is available. The use of more repressive and often less efficient measures to achieve tax certainty when the same result could be achieved through the provision of tax assurance[7] to the TA can have a negative impact on the efficiency of TAs by allocating audit resources to low-risk taxpayers and transactions.

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[4] In Devereux (2016), survey respondents ranked uncertainty about the effective tax rate on profit third in a list of factors influencing business investment and location decisions.

[5] Gribnau, van der Hel, and Sigle (2025) distinguish between "tax certainty" and "tax assurance." They state that "like tax certainty, tax assurance is related to a degree of confidence in the tax position of an organization, but tax assurance differs in the party that provides and the party that perceives this confidence. Tax certainty refers to the level of confidence of an organization in its own tax position that can be increased by the quality of its own TCF, the work of third parties, or by the TA [...]. Tax assurance, on the other hand, refers to a certain degree of confidence provided by a large organization, for example through sharing information on tax risk assessments and internal control quality (i.e., the quality of the TCF) to both tax authorities and other stakeholders." In Gribnau, van der Hel, and Sigle (2025), tax assurance is perceived as one of how a TA can secure the collection of tax revenues in a timely and undisputed manner, which, for the purposes of this report, is described as "tax certainty" from the perspective of TAs.

[6] See Gribnau, van der Hel, and Sigle (2025) and González de Frutos (2018).

[7] Some authors have defined tax assurance as "[t]he evidence-based outcome of all processes through which an organization, possibly supported by a third-party, aims to increase the level of confidence of all relevant stakeholders about the quality of the TCF and the accuracy, completeness and timeliness of the organization's tax (related) liabilities, payments and reporting See Gribnau, van der Hel, and Sigle (2025).

At this point, it is useful to distinguish between the concepts of *legally binding* tax certainty and *de facto* tax certainty (or "tax comfort"). Legally binding tax certainty indicates cases where a situation has been clarified in a legally binding manner, as is the case when a court has delivered a judgment on a matter, when a binding advance pricing agreement (APA) or tax ruling has been issued by a TA, or when the statute of limitations has been reached. On the contrary, tax comfort describes *de facto* certainty, that is, situations where no such legally binding certainty exists, but the taxpayer has reason to believe that a TA will accept its tax positions.[8] Nevertheless, the concept of tax certainty is more nuanced. There is a spectrum from no certainty to tax comfort, on one end, to legal certainty on the other. Factors to consider are the object on which tax certainty is given, the explicit ruling of the TA, the information available to the TA, any changes to the facts and circumstances of the transaction, and/or any changes to the legislation, among other things. In any event, absolute tax certainty is unattainable (IMF and OECD, 2017).

Over the years, the tools that have provided the most advance certainty between TAs and taxpayers have been APAs and binding rulings.[9] Taxpayers can also obtain the same or even a higher level of tax certainty through mutual agreement procedures (MAP), or even after a (joint) audit.[10] Achieving certainty for transactions is the most important strength of the existing cross-border programs and instruments, as indicated by the answers in the MCC Survey (questions 14 and 15), with as many as 48 percent positive responses. This answer shows that existing programs and instruments can offer the level of tax certainty that taxpayers need. However, producing APAs and binding rulings takes a disproportionately long time and often requires too many resources for both sides. Moreover, certainty at the stage of MAP or (joint) audits requires taxpayers and TAs to devote substantial resources and is often associated with lengthy procedures and high costs. The respondents' answers indicate

8 See Martini and Russo (2021) and Christodoulopoulos et al. (2025).

9 Advance certainty runs an inherent risk of being "less certain" when a transaction is not implemented as initially planned or the legislation changes.

10 However, joint audits and MAPs will lead to tax certainty but often many years after the transactions and/or events, which means tax certainty ex post after a long period of uncertainty. On the contrary, APAs and tax rulings can lead to certainty ex ante, which should have a higher added value for business and TAs.

the following weaknesses and shortcomings of existing cross-border programs and instruments: low speed of achieving tax certainty (30 percent), too many resources required (26 percent), and high costs (21 percent). These are aspects of existing instruments that must be improved. In this respect, it must be clarified that most of the respondents to the MCC Survey have reported experience only with bilateral or multilateral APAs, ICAP, and MAP.

While it is not possible to fully remove areas of disagreement over the correct taxation treatment, the efficient mitigation and resolution of these tax issues is beneficial to both parties in terms of certainty and cost. Protracted adversarial disputes frequently involve disproportionate amounts of time and cost borne by both parties and distract TAs from concentrating on higher-risk items and taxpayers from concentrating on forward-looking business activities.

1.3. COMPLEXITY OF THE INTERNATIONAL TAX SYSTEM

KEY TAKEAWAYS

i. The alignment of international tax rules alone does not simplify the system, as tax rules are subject to different domestic interpretations and applications. Complexity keeps increasing.

ii. Taxpayers face extensive compliance obligations, and automatic exchange of information generates vast data sets that are challenging for TAs to analyze.

iii. Complexity and different interpretation of tax rules increase cross-border disputes.

iv. Existing tax certainty mechanisms are often inefficient, and new solutions like PMCC can provide tax certainty to large cross-border projects.

In recent years there has been a trend toward multilateralism in the international tax framework. Although this has led to the alignment of international tax rules, it does not necessarily entail a less complex international tax system, unless it leads to greater standardization. While international cooperation has led to the development of norms that jurisdictions can apply in a similar manner, the identical interpretation and application of the rules adopted at the domestic level by each jurisdiction cannot be guaranteed (OECD, 2022). In fact, the legal framework is becoming increasingly sophisticated and complex to take account of the increasing number of multinational operations within businesses.

One factor that accounts for part of the international tax framework's complexity is the origin and the legal nature of tax rules. The relevant legislation is built at two (or three, where appropriate) different levels. They include domestic law (whether originating from the domestic legislature or from international cooperation), bilateral or multilateral conventions, and EU law. Two important initiatives during the last decade have introduced additional complexity: the Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting (MLI) (OECD, 2017a) and the endorsement of the Global Anti-Base Erosion Model Rules (GloBE Rules) (OECD, 2021b). The former is a treaty developed by the Organisation for Economic Co-operation and Development (OECD) under the OECD/G20 Base Erosion and Profit Shifting Project to modify existing bilateral tax treaties quickly and efficiently without requiring individual renegotiations. The latter is a set of norms developed at an intergovernmental level in the context of the OECD Inclusive Framework's (IF) work, without there being any international agreement in the form of a multilateral convention yet. At the time of writing this report, the vast majority of countries forming part of the IF had committed politically to applying (certain of) these rules by means of domestic legislation following the commentaries and administrative guidance agreed on at the level of the OECD IF (OCDE, 2023a). However, the United States and the People's Republic of China, as well as some other major economies, have still not committed to applying the GloBE Rules in the foreseeable future. Given that the GloBE Rules derive their legitimacy outside traditional conventional law, they could be considered a fourth level of tax legislation.

A second factor that increases the complexity of the international tax framework is the existence of many general anti-abuse rules (GAARs) and special anti-abuse rules (SAARs). These rules can be found at the domestic level, at the double taxation treaty (DTT) level, and at the EU law level. A characteristic of GAARs is the inherent uncertainty as to their application.

At the same time, there are many SAARs, each of which aims at tackling a particular form of abuse. For some of these rules, such as the Controlled Foreign Corporation (CFC) rules, the anti-hybrid rules, the interest limitation rules, the limitation on benefits (LoB) clauses, and the TP rules, international organizations such as the OECD and the United Nations have managed to develop common approaches, with greater or lesser success. The truth remains, however, that these rules are often applied differently by TAs and national courts, which renders compliance with multiple rules at the same time more complex. On top of that, many domestic SAARs, such as thin capitalization rules, royalty barriers, and dividend-stripping rules, are designed at the national level, which implies that in large cross-border transactions taxpayers need to consider an array of different rules. In this respect, the wording of the rules itself, as well as the legal culture and/or tradition of each country and each TA affect the application of all these anti-abuse rules.

Third, apart from substantive tax rules and anti-abuse rules, taxpayers nowadays must confront a significant number of compliance requirements.[11] These include multiple tax return forms for each type of tax and the relevant supporting documentation, which may differ by country, TP documentation (country-by-country reports, master file, local file, relevant TP supporting documentation), GloBE Information Returns (GIR), the Foreign Account Tax Compliance Act (FATCA) and the Common Reporting Standard (CRS), mandatory disclosure rules, reporting requirements for platforms as well as for crypto-asset service providers, documentation for CFC income and other specific compliances requirements (e.g., the Extractive Industries Transparency Initiative and the Capital Requirements Directive 4 report). As these compliance requirements lead to documentation that is automatically exchanged, TAs receive tremendous amounts of information from other TAs or via sources such as Bilateral Investment Treaties and through national contact points such as those under the OECD Forum on Responsible Business Conduct (OECD, undated (b)). The utilization of this information is not always an easy task, because, first, TAs are not aware of the business rationale behind certain transactions and second, significant resources are required to analyze and understand the information provided.[12]

[11] See, for example, the European Union, where taxpayers must comply with multiple anti-abuse rules and reporting requirements.

[12] See ECA (2024) for DAC6 and Lamer (2025) for DAC10.

Last, from a more systemic perspective, the absence of an international tax court is an additional factor that renders the international tax system more complex. The reason for this is that there are no common or consistent interpretation and application of (international) tax rules, such as tax treaties, across the world. The result is that the same or similar concepts are interpreted and applied differently. The difficulties in, or even lack of, enforcement at the international level may also induce TAs to adopt a more aggressive position in certain instances. At the same time, these difficulties also leave room for taxpayers to use the international tax framework to their advantage.

These common problems, which may lead to an increase in cross-border tax disputes, require efficient and effective cross-border dispute prevention and/or dispute resolution mechanisms. As will be seen below, the existing mechanisms do not always offer appropriate or satisfactory solutions. Importantly, however, PMCC can cover some of the existing gaps by providing tax certainty in the case of very targeted large cross-border projects.

1.4. DISPUTE PREVENTION

KEY TAKEAWAYS

i. No single dispute prevention or resolution mechanism may be relevant in every single case. Factors influencing choice include taxpayer size, governance, and structure, the complexity and economic importance of transactions, the desired level of tax certainty, and cost and time efficiency.
ii. Unilateral dispute prevention and/or resolution mechanisms need to be reinforced with multilateral approaches.
iii. Dispute prevention and resolution mechanisms are not mutually exclusive and often complement each other.
iv. Most existing dispute prevention mechanisms focus on TP issues.

Mechanisms offering tax certainty can be divided into dispute prevention and dispute resolution mechanisms. This distinction is based on the timepoint upon which taxpayer(s) and/or TA(s) rely. Dispute prevention mechanisms are employed before a dispute occurs. They include CC programs, advance tax rulings, APAs, joint audits, and existing cross-border risk assessment and assurance programs such as ICAP and ETACA. Dispute resolution mechanisms are used after a dispute occurs and include MAP and arbitration. Unilateral dispute prevention and/or resolution mechanisms applied only at the domestic level cannot in many cases address (potential) cross-border tax disputes (Owens et al., 2024). Therefore, countries are considering multilateral approaches to increase the likelihood of coordinated solutions at the cross-border level.

No mechanism is a panacea for every type of transaction or taxpayer, since different factors must be considered each time. These include but are not limited to the size of the taxpayer(s), its governance and structure, the complexity of the transaction(s) for which certainty is sought, the economic importance of the transaction(s) at issue, the level of tax certainty that can be achieved or is needed, the relevant costs, and time efficiency. Therefore, dispute prevention and resolution mechanisms complement each other. The type of tax issue being resolved will also affect the available options for dispute prevention, as most of the available options currently relate to TP. While ICAP in its setup could also include PE issues, there have been very few PE issues included within ICAP to date.

PROJECT-RELATED MULTILATERAL COOPERATIVE COMPLIANCE

2.1. WHAT IS PMCC AND HOW CAN IT HELP?

KEY TAKEAWAYS

i. PMCC aims to provide tax certainty to large cross-border projects in an efficient manner, through building a relationship of trust between the taxpayer and TAs involved.

ii. There is no one-size-fits-all approach and PMCC allows stakeholders to agree on the scope, desired outcomes and the nature of the outcomes.

iii. It facilitates the early identification and resolution of disputes between TAs and taxpayers through real-time discussions between the taxpayer and TAs.

iv. PMCC can efficiently complement other mechanisms like APAs and help reduce APA and MAP workload.

In ensuring a sustainable tax environment, both TAs and taxpayers can play a role. TAs can ensure the availability of tools to make sure that compliant taxpayers are served as efficiently as possible (Owens and Leigh-Pemberton, 2021). Taxpayers can respect the spirit and letter of law and provide accurate, comprehensive, and timely information to TAs (Owens and Leigh-Pemberton, 2021).

Given the need to achieve tax certainty in an efficient manner, TAs have conceived other tools, such as the ICAP, the ETACA, and the FCBD program. These are more time-efficient than traditional mechanisms but offer tax comfort and not legally binding tax certainty. Moreover, some TAs have seen these program as a possibility to speed up their processes and decrease the number of pending APA requests or MAP cases. PMCC will be an additional tool toward this direction and will provide tax comfort in respect of potentially all taxes pertaining to individual cross-border projects.[13] It can be seen as an instrument to ensure certainty at a higher speed than APA, with a level of certainty like that of ICAP or ETACA.

Specifically, PMCC is the term given to using a CC approach in a cross-border situation for a specific project to seek greater trust between stakeholders and greater certainty on international tax matters in an efficient, pragmatic and timely manner between the multiple TAs and the taxpayer involved. There is no one-size-fits-all approach to establishing a PMCC program but best practices and principles of national CC programs could also be helpful to countries that wish to establish a PMCC program. In this regard, the Owens and Leigh-Pemberton (2021) set out key recommendations for CC program in section 1.03. It was then recognized that a best practice CC program agreement should include the following:

i. The aims of the CC program.
ii. An overall commitment to the following:
    - Impartiality, proportionality, and fair treatment in the execution of the CC program.
    - Transparency and mutual trust between the TA and taxpayer.
    - An unambiguous relationship based on collaborative cooperation and mutual understanding that results in greater certainty and a reduced administration burden for both parties.

[13] For more information, see Sections 3.6 and 3.7.

iii. The duration of the agreement.
iv. Acknowledge that the parties may have legitimate interpretation differences of tax law, but it does not contravene the spirit of a CC program (Owens and Leigh-Pemberton, 2021).

Moreover, the results of the MCC Survey covered the aims and commitments of national CC programs, as these were identified by stakeholders that participated in national CC programs. Their answers highlighted the following aims and commitments, which are also relevant for PMCC:

i. That all parties will gain a common understanding of the tax and commercial facts of the matter.
ii. The upfront discussions about the desired outcomes and parameters of success in terms of time, resource investment from both sides and outcome agreements.
iii. Contemporaneous discussions of the tax relevant issues and business fact pattern.
iv. The development of mutual trust grounded in both relationship and technology, including the following:
    - Integrity of the taxpayers' systems for reporting to the TAs.
    - All parties engage transparently about process, facts, and desired outcomes.
    - All parties engage in a trustworthy manner.

Transferring the above principles, aims, and commitments of national CC programs to a cross-border and multilateral context and focusing specifically on a certain project would allow providing tax certainty to large cross-border projects. Moreover, experience from best practices and principles of existing cross-border risk assessment and assurance programs, namely ICAP, ETACA and FCBD, could also prove helpful for countries wishing to proceed in PMCC. However, as will be seen below, existing cross-border risk assessment and assurance programs have some different characteristics, notably a more limited scope, and these differences should be considered as appropriate.

Most existing international tax certainty instruments focus primarily on TP. PMCC can be applied more broadly across a range of taxes and by applying MCC principles to a jointly defined specific project (such as an infrastructure development of pipelines, railroads, or toll bridges across national borders). It enables the TAs and the tax team of the MNE to focus on relevant contemporaneous tax issues facing the business and multiple TAs on that project.

PMCC makes it possible to have real-time discussions between the relevant TAs and the taxpayer. It seeks to lead to a general agreement from multiple TAs that the taxation of transactions is correct from the start of a project and during its execution. In this respect, "real-time discussion" is understood to mean discussion of transactions and their tax implications with the TAs prior to the tax filing date (e.g., several months after the year-end). These discussions can take place either post-transaction or before a transaction is executed (Christodoulopoulos et al., 2025). Carrying out this discussion pre-transaction is considered the most effective approach to provide comfort to the MCC participants. Nevertheless, the participating TAs should agree upon the approach to be followed within a given PMCC program.

Regarding the real-time aspect of the discussions between the participating taxpayer and TAs, it should be clarified that TAs do not give "advice" to the MNE on how to execute the transaction. Rather, the MNE confirms the facts of the transaction and gives the TAs the chance to evaluate the facts in real time and establish an understanding about how each party views the likely tax treatment. The MNE will then use the discussions to choose by itself how it will proceed with the transaction.

If the TAs involved set out their viewpoint on the tax treatment in the early stages of discussions with the taxpayer, any misunderstandings or points of disagreement can also be identified and examined at an early stage and ideally resolved.[14] In some business circumstances, the taxpayer may also have the potential opportunity to revisit the business plans or proposed tax treatment if discussions are held in real time[15] but should not see this process as an opportunity to explore the limits of what is acceptable for TAs. The timing of these discussions can help build trust and certainty between all parties about the tax treatment, but it presupposes the existence of good faith on both sides and a willingness to reach a joint outcome.

[14] Nevertheless, there will always be cases where TAs cannot resolve issues that have arisen or will arise, as this may not always be permitted under the applicable legal framework.
[15] Regarding the meaning of the term "real time," see above.

By participating in a PMCC program, TAs will not always gain full comfort over a transaction, nor will a taxpayer always gain certainty that the tax treatment it considers appropriate is acceptable to the TAs. However, by having real-time discussions on the transaction, risk profiles, and the expected tax treatment, inefficiencies in the relationship between the parties can be minimized, and both sides can make more informed decisions.

PMCC is envisaged as a complementary instrument to other dispute prevention mechanisms, such as APAs. This is because APAs are typically only most efficiently used when transactions are complex or require detailed legal and/or economic analysis, as the costs and resources required for an APA can be high. In less complex transactions or series of transactions, a bilateral or multilateral APA might not be the most suitable option; PMCC could provide the desired tax certainty more quickly and economically. The facts and circumstances of a transaction must be assessed on a case-by-case basis once a tax certainty mechanism is selected. Thus, PMCC can have a positive impact on the workload of APAs and/or MAPs, reducing the number of cases pending with the TAs. However, participation in PMCC programs may not be cost-efficient for small and medium enterprises or resource-constrained TAs (Box 2.1)..

BOX 2.1: EXAMPLES OF ASSISTANCE BASED ON PROJECT-RELATED MULTILATERAL COOPERATIVE COMPLIANCE

OIL AND GAS COMPANY

To finance its investment in the oil pipeline, MNE A envisages incorporating a company (Company X) in Country A and finances that company with a mix of equity and debt from its headquarters (Company Y) in country H. Its first business activities will be to acquire offices for the supervision of construction and enter into a contract with foreign group companies for the delivery of materials and the provision of intragroup services with Company Y as well as with local third-party construction companies and service providers in Countries A (extraction country), and B, C, and D, the three countries through which the pipeline flows. MNE A is not sure about the application of the thin capitalization rules of Country A, although it

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BOX 2.1: EXAMPLES OF ASSISTANCE BASED ON PROJECT-RELATED MULTILATERAL COOPERATIVE COMPLIANCE

has chosen its financing based on genuine business reasons. Moreover, there is uncertainty as to whether countries B and C will accept its pricing for intragroup supply of materials and fears that TAs of countries C and D will deem that Company X has PEs in these two countries and allocate income to them. Last, while Company X is charged a VAT for the services it will receive from Company Y, it is not sure whether these services are considered taxable for VAT purposes in Country A. Companies X and Y can apply to the TAs of Countries A and H for a bilateral APA on the pricing of the intragroup transactions and participate in ICAP to examine whether PEs exist in Countries C and D. However, there is no multilateral cross-border mechanism to provide them with certainty about the application of Country A's thin capitalization rules. Nor is there any such mechanism to offer tax certainty with respect to the VAT treatment of the intragroup services. To obtain tax certainty for all these aspects, it reaches out to the TAs of all countries and applies for participation in a PMCC program. MNE A has taken external professional advice on the abovementioned issues and will make its proposed tax treatment available to the participating TAs in documented form in the context of PMCC. Accordingly, TAs will not "advise" MNE A, but rather will have the opportunity to explain their views if they have a disagreement with MNE A.

FMCG COMPANY

MNE B and the TAs of the relevant countries agree to introduce a PMCC program. Specifically, MNE B agrees to proactively present the relevant parts of its TCF to the participating TAs, which enables them to have the same information and understanding of the facts and circumstances. This allows TAs to verify the robustness (i.e., the accuracy and completeness) of the taxpayer's TCF. This includes providing them with all relevant information about the executed transaction, such as the step plan, the annual accounts of all companies involved, TP documentation, all legal documents (e.g., loan agreements, board of directors' resolutions about new legal entity set-up, etc.), an organizational chart of the group, and previous CIT and VAT/GST returns. As MNE B has disclosed all relevant information to the TAs and is transparent with them, the latter can also

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BOX 2.1: EXAMPLES OF ASSISTANCE BASED ON PROJECT-RELATED MULTILATERAL COOPERATIVE COMPLIANCE

follow a similar approach by assessing the riskiness of the transactions examined in an impartial manner. The TAs will not make any concessions to MNE B, as this is not the purpose of PMCC, They will interpret the relevant rules and seek to reach an outcome in line with the letter and spirit of the law.

A PMCC program differs from existing cross-border risk assessment and assurance programs, such as ICAP, ETACA, and FCBD in the following ways:

- PMCC relates to the tax risks of transactions forming part of a specific project, whereas the other programs may cover tax risks of different transactions unrelated to each other.
- PMCC may cover tax risks arising in connection with a wide range of taxes, while the scope of existing programs covers mainly certain TP risks.
- While both PMCC and existing cross-border risk assessment and assurance programs such as ICAP and ETACA have a forward-looking aspect (i.e., roll-forward periods), PMCC, given its project-related character, is envisaged to be for the current period and cover contemporaneous issues. By contrast, other programs (e.g., ICAP) rely on a review of previous periods (covered periods).

The question arises whether the same results as those achieved by PMCC could be reached merely by extending existing cross-border risk assessment and assurance programs. MCC Working Group members are of the view that the same results could indeed be reached by extending existing programs. In this respect, the analysis conducted for this report can be relied on to extend the scope of ICAP, ETACA, and FCBD beyond TP issues and provide tax certainty to large cross-border projects in relation to tax risks associated with different taxes. Thus, the concept of PMCC was not developed to replace existing programs; rather, it could contribute to their expansion. At the same time, countries can rely on the guidance of this report to establish standalone PMCC programs, regardless of whether they participate or have experience in existing cross-border risk assessment and assurance programs.

2.2. POTENTIAL BENEFITS OF A PMCC PROGRAM

KEY TAKEAWAYS

i. Most respondents to the MCC survey indicated that they would support participation in PMCC.
ii. Based on their answers, the reasons for their positive attitude toward PMCC are that this mechanism can lead to: (a) increased and early tax certainty, (b) promotion of good governance, (c) enhanced transparency and trust, (d) improved efficiency (resources, effort, costs), and (e) faster resolution of tax issues.
iii. PMCC encourages collaboration between TAs and MNEs, helps reduce lengthy disputes and audits for large cross-border projects, and contributes to improving cooperation between TAs.
iv. It is an efficient alternative to unilateral audits, which are often initiated several years after tax returns are submitted and may be counterproductive because they are uncoordinated and can lead to protracted tax disputes.

In the MCC Survey, 70 percent of respondents (subgroups being 74 percent of business representatives, 56 percent of TA representatives, and 100 percent of academics) considered the introduction of or participation in a PMCC program as a positive feature. Only 13 percent responded that they would not consider participating in such a program as they had no need for it or were hesitant about resourcing. The remainder were undecided.

The key reasons why the respondents would view the introduction of or participation in an PMCC program as a positive development relate to the recognized need for increased and/or early tax certainty. They can be grouped into the following themes:

- Promotion of good governance.
- Transparency and trust.
- Efficiency (resources, effort, costs).
- Speed of resolution.

Successful dialogue between TAs and MNEs should be beneficial to both parties because it aids stability of investment and reduces lengthy disputes and audits in relation to cross-border projects. Moreover, it contributes to the improvement of cooperation among different TAs (Box 2.2).

BOX 2.2: EXAMPLE OF POTENTIAL BENEFITS OF A PROJECT-RELATED MULTILATERAL COOPERATIVE COMPLIANCE PROGRAM IN AN OIL AND GAS COMPANY

Having entered a PMCC program, MNE A had the opportunity to obtain tax certainty with respect to nearly all aspects of the envisaged cross-border infrastructure project, except for the existence of a PE in Country C. Therefore, it can proceed in the execution of its business plans, knowing that it will most likely not use resources for audits, as most aspects of the project have been clarified. Moreover, TAs will not devote resources to auditing MNE A as they have already reviewed and risk-assessed the transactions that are part of the project. Any potential issues during project implementation and execution will be addressed and potentially resolved when they arise. Regarding the potential existence of a PE in Country C, which is a matter affecting Countries A and C, the TAs of Countries A and C could not assess it as low risk. Therefore, the taxpayer and the TAs may proceed in MAP. However, the MAP will be much more efficient, as all sides have a common understanding of the facts, and the matters in dispute relate to interpretation of the relevant provisions of the law.

The alternative to coordination and common risk assessment in the context of PMCC would likely be uncoordinated audits carried out at the domestic level or even coordinated joint audits, which present some disadvantages as they can be time consuming. Typically, an audit is raised after submission of the tax return and prior to expiration of the allowable time for raising such an inquiry. The time taken for investigation can stretch across several tax periods (with information supply often frustrated by staff changes or facts being less easily recalled or supported) and mutual distrust protracts the discussions. Once the TA reaches a conclusion, it is up to the taxpayer to challenge the decision. This can lead to further interactions via the legal system and additional costs borne by both sides until a final settlement is reached. While one party is deemed the winner, neither in fact wins. Both parties spend time and resources to reach an outcome that may be marginally preferable but miss the opportunity to work on a basis of trust and achieve early certainty (Box 2.3).

BOX 2.3: EXAMPLE OF POTENTIAL BENEFITS OF A PROJECT-RELATED MULTILATERAL COOPERATIVE COMPLIANCE PROGRAM AN FMCG COMPANY

FMCG COMPANY EXAMPLE

MNE B had applied for a PMCC program to the TA of the countries in the regions where the New Cos have been established. However, the TAs of two of the impacted countries had previously concluded bilateral APAs on TP matters with some of the countries involved in the transactions where the change of functions occurred due to the new business transaction. Those countries were not part of the PMCC program application and upon request of the taxpayer refused to join the PMCC program. The result was that the taxpayer proceeded in the execution of the step plan and at the same time submitted a request for a bilateral APA change in conditions for the affected jurisdiction. After four years, the affected TAs did not conclude on the bilateral APA-revised functional analysis and at the same time initiated an audit of the transaction and requested information from the taxpayer. The TAs of the countries affected by the transaction disagreed about the shift of functions as they compared to the bilateral APA agreements and issued tax assessments. MNE B wanted to reach a tax settlement in the respective jurisdiction in line with the proposals made in the context of the PMCC program. After a long administrative procedure, the case reached

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BOX 2.3: EXAMPLE OF POTENTIAL BENEFITS OF A PROJECT-RELATED MULTILATERAL COOPERATIVE COMPLIANCE PROGRAM AN FMCG COMPANY

the national courts after one year (4.5 years after the transaction), and the parties disagreed on both the facts and the circumstances of the transaction as well as on points of law. Had MNE B and the TAs of the countries that proceeded to litigation been able to narrow down the areas of concern and complete a PMCC program, the delay in timing for resolution of the issues would have been considerably shortened and the cost and time reduced.

In a PMCC program focused on a specific project, it should be possible to keep the scope manageable and to offer those involved more certainty within a reasonable timeframe through early consultation. The following sections expand on the benefits of PMCC in more detail.

2.2.1. *Promotion of Good Governance*

The concept of good governance is broader than CC and PMCC. However, PMCC has significant potential to promote good governance in taxation. Corporate tax governance is the part of corporate governance that relates to taxation (Gribnau, van der Hel, and Sigle, 2025). Tax good governance involves the establishment of robust frameworks, processes and practices within MNEs to ensure tax obligations are met ethically, transparently, and efficiently. Within an MNE, tax good governance is essential to provide confidence at the board level vis-à-vis external stakeholders that tax matters are handled responsibly.[16]

Taxpayers should ensure that they comply with not just the letter of the law, but also the intent and spirit behind the tax legislation, which means discerning and following the intention of the legislature. OECD (2023b) stresses that businesses should treat tax governance and tax compliance as important elements of their oversight and broader risk management systems. Corporate boards should adopt tax risk

[16] For an overview of tax good governance, see Calderon (2020).

management strategies to ensure full identification and evaluation of the financial, regulatory, and reputational risks associated with taxation. Tax good governance and transparency also play an important role from an environmental, social, and governance (ESG) perspective (Gribnau, van der Hel, and Sigle, 2025).

The purpose of tax good governance is to enable stakeholders to gain better insight and understanding of companies' compliance with national and international tax rules (Gribnau, van der Hel, and Sigle, 2025; VNO-NCW, 2022b). Tax good governance builds trust and certainty in processes and outcomes and therefore impacts risk ratings applied by TAs to businesses. Tax transparency is the cornerstone of good governance, and PMCC encourages taxpayers to demonstrate strong tax governance to TA via the development of a tax strategy, a high-quality TCF, good internal control processes, and extensive disclosure and transparency requirements, among other things.[17] Within PMCC, there is a high degree of disclosure to the TA, including internal tax policies and the TCF. Understanding how an MNE's TCF works increases TAs' trust and ensures that the taxpayer complies with local or international tax laws.[18]

Good governance practices of taxpayers participating in a PMCC program can have a positive impact on larger populations of taxpayers. For example, the Dutch national CC program produced a guide of good practices based on the experiences gained from taxpayers participating in that program (Belastingdienst, 2023). The guidance was made available to non-participating taxpayers, giving them the opportunity to benefit from good governance practices developed in the context of program. Tax advisors that work with the Dutch TAs when advising their clients that participate in the Dutch national CC program promote the good practices and principles of CC with other clients that do not participate in the program, thereby further stimulating tax good governance practices.

Dutch researchers examined tax governance initiatives by (i) the Association of Investors for Sustainable Development, which published the report *Good Tax Governance in Transition: Transcending the debate to*

[17] For more details regarding the concept of good governance in taxation, see Gribnau, van der Hel, and M. Sigle. (2025), Gribnau (2024), and van der Enden and Klein.

[18] For an overview of corporate governance for businesses and the role of TCF, see Calderon (2020).

CSR in 2014, (ii) the Australian Tax Office, which published the *Seven principles of effective tax governance* in 2016, (iii) the B-Team, which published seven *Responsible Tax Principles* in 2018, (iv) Holland Quaestor, which in 2019 established a *Tax Integrity guideline* with core principles for the provision of services by trust offices, and (v) the Global Reporting Initiative, which in 2019 published the *GRI 207: Tax Standard*. The analysis resulted in a framework of five general principles that a tax governance framework should include: (i) a description of the organizational structure, (ii) a record of the tax strategy, (iii) a description of the attitude toward tax compliance, (iv) a description of the design of tax control, and (v) a protocol for communication and tax accountability to stakeholders (Huiskers-Stoop, 2021). The follow-up question as to whether the Dutch national CC program, which was further developed in 2020, can be regarded as a standard for tax governance itself can be answered in the affirmative, provided that the companies that are subject to this program (not only MNEs), in addition to being accountable for their tax policy to the Dutch tax authorities, draw up a communication protocol in which they are publicly accountable to stakeholders other than the tax authorities with whom they have entered into the CC relationship. The principles a tax governance framework should contain are therefore already almost fully represented in the Dutch national CC program.

MNEs could give additional comfort to TAs by embracing tax governance codes of conduct or best practice principles. For example, in the Netherlands, MNEs have embraced Tax Governance Codes (VNO-NCW, 2022a). More than 40 large Dutch MNEs have agreed to a series of elements which set a high bar in terms of tax transparency and compliance (VNO-NCW, 2022b). This code was agreed to following discussions with the trade union movement, nongovernmental organizations, tax experts, and academics, as well as the work of The B Team.[19]

At the TA level, PMCC presupposes an improvement in tax good governance and, in turn, stimulates further improvement in tax good governance. Good governance in the context of PMCC would serve two goals. First, it would establish an open working relationship with the taxpayer, based on collaboration and trust. Second, it would guarantee that taxpayers participating in PMCC are not treated more favorably than others because of their participation.

[19] The B Team is one organization to which MNEs look for guidance. See The B Team (2018).

Although PMCC relies on advanced disclosure from the participating taxpayer, this does not give TAs a blank check to arbitrarily request disclosure of any kind of information. A PMCC program should function in a meaningful, transparent, and consistent manner. TAs should also explain the need for the specific information requested from the taxpayer and ensure that it is used efficiently and effectively (Owens and Leigh-Pemberton, 2021).

The employees of the TA should not only have the necessary expertise to understand the tax issues that PMCC participants face. They should also develop a commercial awareness of participants' structure, size, activities, and internal processes as well as the general business environment in which the taxpayer operates. Thus, through PMCC TAs can enhance the business understanding of their employees (Owens and Leigh-Pemberton, 2021).

TAs that want to establish a PMCC program should put in place adequate mechanisms that will allow them to ensure an impartial and transparent implementation of the program, which will safeguard a fair procedure and outcome. Participating in PMCC requires integrity of systems, procedures, and staff practices, as this is necessary to achieve efficiency within the PMCC program and to ensure public trust and confidence in it (Owens and Leigh-Pemberton, 2021).

Good governance within TA requires establishing adequate safeguards (e.g., a "four-eyes" principle and rotation of CC audit teams). This would help ensure that the PMCC program does not result in "sweetheart deals" or situations where CC participants receive more favorable treatment than businesses that do not participate in CC programs.[20] This issue is also closely related to public perception toward PMCC, explained in Section 2.3.6 herein.

2.2.2. *Transparency and Trust*

Transparency is an element of good governance. Taxpayers demonstrate transparency via open and honest information sharing that is considered useful and meaningful to stakeholders and provided on a

[20] See Hofstätter (2020) and Martini, Russo, and Pankov (2021). This issue can be addressed through transparency and accountability. For a relevant analysis, see Owens and Leigh-Pemberton (2021) and van der Enden and Bronżewska (2014).

timely basis. Without adequate context and relevance, more information does not necessarily lead to improved transparency. Having strong tax governance processes and demonstrating the integrity of the taxpayer's tax compliance systems generates more trust in their tax treatment of transactions for stakeholders, including the TA (Gribnau, van der Hel, and Sigle, 2025).

Apart from strong tax governance and robust compliance systems, more elements should be present to develop transparency and trust among PMCC stakeholders. First, a working relationship based on understanding is needed, which will form the basis for developing trust among stakeholders. Moreover, the taxpayer needs to have a tax strategy, which will allow the TA to understand the MNE and decide about the MNE's participation in the PMCC program (Gribnau, van der Hel, and Sigle, 2025). In this respect, a tax strategy is built at the MNE level, so it is relevant to all TAs. Thus, TAs may jointly analyze an MNE's tax strategy to reach consistent outcomes.

Cross-border transactions are complex and can potentially lead to double taxation if both countries seek to tax the same income twice. This is a knock-on impact if the transaction is recategorized, leading to more income in one country at the expense of less income being taxed in another country, or it may potentially lead to a situation where the income is not taxed in either country.

PMCC programs can build trust between TAs as they allow the taxpayer to consistently explain the facts of the case to all interested parties at the same time. This helps TAs understand that the tax treatment applied in all countries is reasonable and not too detrimental one of them. Through open and contemporaneous discussions about their interpretation of the relevant tax laws, TAs can also build trust and transparency vis-à-vis other stakeholders (MNEs and other TAs). Respondents to the MCC Survey from all stakeholder categories indicated that they saw positive potential from having a project-related PMCC program so that the various taxes on a project spanning more than one jurisdiction (e.g., a pipeline) could be discussed among the relevant TAs. This gives increased (early) tax certainty, promotes cross-border activities, and leads to improved cooperation with foreign TAs.

The development of TCFs (and best practice controls) enables TAs to spot-check governance frameworks and have additional confidence in the tax affairs of an MNE. Moreover, a widely accepted tax reporting and assurance standard for TCFs would allow TAs to gain comfort in the tax affairs of an MNE by accepting the evaluation of the MNE's TCF made by their peers (i.e., other TAs).[21]

2.2.3. *Speed of Issue Resolution*

The MCC Survey indicated that one of the perceived drawbacks of current international tax instruments (from the viewpoint of MNEs) is the time required to reach a conclusion with the TA on the tax treatment of a project. Sometimes it takes several years.

The MCC Survey results indicated that participants would value timely discussions (either real-time or in relation to the last financial period) so that the parties can discuss and agree on tax treatment with personnel involved in transactions and the MNE is able to move forward with business planning and cash tax forecasting/project budgeting with a higher level of assurance. At the same time, TAs would also have clarity about the tax consequences of the relevant transactions and more certain revenue inflows.

Some respondents commented on the negative experiences of certain taxpayers with existing international tax instruments for gaining tax certainty (APA process in particular). The most common complaints were that the process is slow and resource intensive and that the cost and effort involved far outweigh the certainty achieved. Although one of the advantages should be a faster response from TAs and thus a faster certainty for the tax position, the answers in the MCC Survey (Questions 14 and 15) demonstrate that one of the weaknesses of the existing programs is the lack of speed and the need to devote substantial resources to accelerate the process. The same conclusion can be deduced from Question 7 on necessary improvements to existing national CC programs. Most respondents replied that complexity, length, and the amount of resources needed to achieve tax certainty were weaknesses of the program.[22]

The MCC Survey revealed the trade-off between time and certainty, with a faster PMCC process being likely to lead to a level of tax comfort that

21 The development of a common reporting and assurance standard is the subject matter of the Multistakeholder working group on TCF of the Project on Cooperative Compliance led by the Global Tax Policy Center at the Institute for Austrian and International Tax Law at Vienna University of Economics and Business. For more information on TCF aspects that are relevant to MCC, see Section 4.6 herein.

22 For an overview of the MCC Survey questions, please refer to Annex 2 herein.

was lower than full tax certainty[23] but had the benefit of being appropriate to the amount of resources committed, and the time taken. Further work is needed with a wider survey population to draw definitive conclusions.

2.2.4. *Efficiency (Resources, Effort, Costs)*

Accurate and timely payment of taxes is key for both the treasury and businesses. PMCC offers a way to generate tax certainty. Certainty is a broad spectrum, and its parameters can be discussed and agreed by the parties involved so that the outcome for both TA and taxpayer is commensurate with the use of time and resources, allowing both parties to focus on potentially higher-risk discussions that merit investment. Results from the MCC Survey implied that most TAs and taxpayers believe that MCC (and specifically PMCC) could maximize the use of team time and costs by providing information on a timely basis. If all parties (including relevant personnel from multiple TAs) can discuss facts and information together, they can generate a common understanding of the fact pattern, which should maximize efficiency.

With respect to the use of existing cross border or tri-partite arrangements, some respondents noted that the agreements, although non-binding, provided "good faith" certainty in the treatment of specific items (TP issues) relatively quickly. These participants did not have to expend significant resources via APAs, nor did they later engage in expensive dispute resolution.[24] Accordingly, if PMCC were used, a similar benefit could be achieved for tax matters beyond the area of TP. Even in the case of PMCC, reaching this outcome would require a certain degree of scrutiny. However, it is expected that this scrutiny would be less intense that in the case of APAs (or MAP), and that participation in a PMCC would provide tax comfort in a more time-efficient manner.[25]

Furthermore, PMCC can provide the natural benefit of upskilling of TA teams involved in it. Employees of TAs can gain an improved understanding of contemporaneous issues relevant to a given business sector, which will provide them with more up-to-date and specialized knowledge for future work streams.

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[23] For more information, see Section 3.7 herein.

[24] In practice, this means that there is far less risk of the need for dispute resolution. However, the lower level of certainty (i.e., not legally binding certainty) implies that a dispute may still arise.

[25] See Timeframes in ICAP versus other routes to tax certainty in OECD (2024).

The costs of resolving tax disputes are often measured in terms of money spent (e.g., settlements, adviser fees, or both from the MNE viewpoint and legal fees of the TA). However, there are also indirect costs in the form of personnel time from both MNE and TA during a tax audit or while attempting to resolve an issue, and an opportunity cost of time that could have been spent on other valuable work in that same period. Moreover, from the perspective of TAs and governments, there may also be indirect opportunity costs due to the negative impact on the investment climate. Preventing such disputes or allowing all stakeholders to come to an earlier understanding of the anticipated tax treatment allows MNEs to consider whether they need to amend the intended transaction. A PMCC program that enables TAs to *justifiably* trust the taxpayer and keep the review at a high level allows both the MNE and TAs to save time by reducing burdensome audits leading to adjustments and litigation.

Finally, early tax certainty realized through PMCC could allow MNEs to record lower amounts of uncertain tax positions in their financial statements. This would enable them to distribute or reinvest the respective amount (Majdańska and Leigh-Pemberton, 2018). TAs could reduce the amount of tax at risk and reduce the tax gap, that is, the difference between the amount of revenue that would have been paid if all taxpayers were fully compliant and the amount collected.

2.3. POTENTIAL CHALLENGES OF A PMCC PROGRAM

KEY TAKEAWAYS

i. PMCC may present challenges that need to be addressed.

ii. Based on the responses of participants in the MCC Survey, the following categories of challenges have been identified: (a) lack of trust, (b) constraints linked to costs and financial resources, (c) human resource constraints, (d) legal and cultural challenges, (e) potential complexity of PMCC, (f) public perception and governance.

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KEY TAKEAWAYS

iii. Transparency between TAs and taxpayers regarding the approach taken in PMCC can reduce speculation about the likelihood of excessive audits.

iv. Standardization, training, and efficient allocation of resources are essential to manage complexity and costs as well as ensuring that both sides see tangible benefits.

v. A strong governance framework, transparency, and clear communication are key to avoiding public mistrust and misconceptions about PMCC being a preferential tax arrangement.

As with any collaborative mechanism, there are potential real and perceived challenges that are best considered early and holistically. Although not every PMCC program will face them all, the following challenges can be anticipated and managed.

2.3.1. *Lack of Trust*

Chapter 6 of Owens and Leigh-Pemberton (2021) discuss the importance of obtaining trust between stakeholders and civil society). In a PMCC program, the same issues of building and retaining trust remain relevant, and the multilateral approach brings an additional one, that is, lack of trust. This issue can arise in three ways (Box 2.4):

- Between taxpayer and TA, where traditionally there has not been a culture of CC.
- Between TAs involved in a multilateral case, potentially where one side has more experience and resources than another TA or where TAs have different interests among themselves.
- Between civil society and the tax community (taxpayer and TA).

BOX 2.4: EXAMPLES OF POTENTIAL CHALLENGES OF A MULTILATERAL COOPERATIVE COMPLIANCE PROGRAM

OIL AND GAS COMPANY EXAMPLE

Before deciding to apply for a PMCC program, senior managers in the tax department of MNE A had several concerns. First, they were worried that some of the participating TAs would see the PMCC process as an opportunity to ask questions in an aggressive uncollaborative spirit without providing greater transparency from their side. Second, they were concerned about whether the disclosure of large amounts of information to the TAs of many different countries would result in in-depth tax audits instead of allowing them to obtain tax certainty.

FMCG COMPANY EXAMPLE

When MNE B applied for a PMCC program, two of the TAs rejected the invitation, as they were concerned that public opinion in their jurisdiction was negatively disposed toward such programs as well as similar dispute prevention mechanisms. The reason was that TAs in other countries were accused in the past of entering “sweetheart deals” with other MNEs. These two TAs highlighted the importance of having a robust governance framework for PMCC which can guarantee the integrity of the risk assessment and assurance processes.

With respect to the points above, respondents to the MCC Survey expressed concern about whether their participation in a PMCC might trigger in-depth tax audits. However, the terms of the PMCC agreed in advance would lead to information (facts and circumstances) being shared with all parties simultaneously, which would now have a chance to discuss their concerns in real time. Although in exceptional cases the facts and circumstances may force TAs to undertake an audit, a PMCC program based on mutual trust should reduce considerably the likelihood of tax audits being undertaken.

Under the current tax system, in cross-border and multilateral situations where double taxation potentially arises, it is often the case that the relevant TAs have discussions with the MNE on an individual basis. This can lead to a situation where the different TAs do not receive the same information. This can lead to a range of outcomes for the MNE—from double or even triple taxation of the same income to zero taxation on that income, or with one-sided tax adjustments with no corresponding adjustment in the other country or countries concerned. By working together using PMCC, TAs can benefit from greater transparency, reducing the potential for double (non-)taxation and promoting the perception among all stakeholders that the results will be fair.

Publicly available information on PMCC programs must clearly state that PMCC is a process that provides a multilateral dialogue with transparency of information being the enabler for tax comfort on an MNE's tax issues that require more clarity. While having an existing national CC program is not necessarily a prerequisite to joining a PMCC program, it is envisaged that most countries would already embrace CC principles because, as Chapter 6 of Owens and Leigh-Pemberton (2021) sets out, early discussions on implementing a CC program will already have established trust in CC as a concept. The development of a common reporting and assurance standard for TCFs will also increase trust between the taxpayer and TAs, as well as among TAs themselves.

2.3.2. *Costs and Financial Resource Constraints*

With pressure on financial and human resources of both TAs and MNEs, the ability to offer and participate in a PMCC program means that consideration must be given to ensuring that the agreed scope and desired outcomes are economically realistic and that all parties benefit from the investment they make in time and resources. This can be achieved through upfront discussion and agreement on the level of desired certainty, realistic deadlines, and the likelihood of obtaining an acceptable level of comfort.

Cost/benefit justification of a PMCC program

For TAs and MNEs to determine the advisability of committing resources to participation in a PMCC program, they must be able to articulate and measure the benefit that may result from it. Having a benchmark set of criteria to measure the counterfactual, that is, the efficiency of the situation that existed before establishing a PMCC program, would be valuable so that the success of any PMCC program can be (pre)evaluated.

For TAs, there is a natural expectation (from governments and taxpayers) that they make the best use of their resources. In the area of tax compliance, their resources are allocated to a variety of activities, such as, indicatively, administering legislation and administrative rules/guidance, providing services to taxpayers, ensuring the accuracy of incoming tax revenue, and enforcing tax laws. Therefore, if more resources are better focused on these activities (e.g., fewer resources targeted to taxpayers that pose less risk and more resources focused on areas of true contention or where there is the highest risk of tax loss to the national treasury), this would be a valuable result for TAs. In this respect, the question is whether a PMCC program could make a positive contribution in this direction, which would have to be established by measuring its costs and benefits of a PMCC program. The metrics to evaluate a PMCC program are important, as its benefits may not be manifested in *additional* tax revenues, but rather in *fewer* resources required to obtain the same tax revenue or an increase in inbound investment because of having a regime which builds trust.

The basic aspects of developing a methodology for measuring costs and benefits of CC programs are outlined in Chapter 5 of Owens and Leigh-Pemberton (2021) and apply *mutatis mutandis* to PMCC. The third working group of the Cooperative Compliance Project is currently developing a detailed methodology and appropriate metrics for measuring costs and benefits of CC and similar programs (Owens et al., 2025).

From a practical standpoint, it is in the interest of both MNEs and TAs to have discussions before applying for a PMCC or any other tax certainty program, to ensure that it is the most appropriate tool for that MNE, especially when the project is seen as low risk.[26] For taxpayers, participating in tax certainty programs, such as PMCC, requires them to give additional information, which entails additional costs. For MNEs it is also an important consideration whether the extra cost eventually brings them the benefit of certainty for their tax position or reputational gains.

One possible challenge of PMCC is the potential scenario where a TA diverts its scarce resources to enhance the tax certainty of those MNEs that are already compliant, which in turn removes those resources from

[26] Today, TAs have different tools to offer tax certainty to MNEs, such as bilateral or multilateral APAs, joint tax audits as well as cross-border risk assessment and assurance programs such as ICAP or ETACA. TAs must consider whether they have available resources to join one or all these programs.

being used to ensure that other taxpayers pay the correct amount of tax (e.g., through adjusting errors or different legal interpretations) or combating tax avoidance schemes. However, even in the case of MNEs that are willing to be compliant, there can be mistakes and differences in the interpretation of tax law, because this category of taxpayers frequently has the largest, most complex, and riskiest cross-border transactions. Furthermore, MNEs usually contribute the largest amount of tax revenues in a country. Thus, the impact of such mistakes would likely be significant. For this reason, devoting resources to assuring revenue collection through a PMCC program in large transactions of MNEs may be meaningful for TAs and allow them to free up time and budget for other cases.

In summary, while entering a PMCC program may entail upfront investment costs both for TAs and MNEs, they should consider the efficiency gains and savings that can result from more efficient use of time, early resolution of tax issues, and reduction of tax risks and risks related to unnecessary audits.[27]

Upfront Investment Costs and Longer-term Costs

In some cases, establishing and participating in a PMCC program may require an initial investment by TAs and MNEs. For TAs, it includes transition costs to establish the organizational structures for administering PMCC programs. This investment is not expected to be significant if TAs already have a national CC program in place and/or participate in cross-border risk assessment and assurance programs, such as ICAP and ETACA. However, it might be larger for less advanced TAs. In this case, regional tax organizations and/or regional development banks could provide support to TAs to establish the necessary internal structures. At the cross-border level, regional tax organizations and/or regional development banks can facilitate the creation of a board or similar body with members from TAs participating in an MCC program. That board would convene regularly to develop and agree on common guidance to the MCC, which will assist TAs participating in an MCC program. Other longer-term costs for TAs involve hiring skilled and experienced professionals and upskilling employees that will participate in PMCC.[28]

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[27] For more information, see Section 2.2.4 herein.

[28] For more information, see Section 2.3.3 herein.

For taxpayers, an initial transition cost might include developing a robust TCF to demonstrate to stakeholders (including TAs) that they have strong internal control systems and processes and can manage their tax risks. This investment is not expected to be high because MNEs usually already have a TCF in place that covers their operations at the global level, which they adapt based on the respective national standards. MNEs participating in one or more national CC programs would incur even fewer transitional costs related to building a robust TCF. MNEs generally maintain a TCF primarily for their own use, to be in control and accountable for different purposes and stakeholders, such as the audit committee, external auditors, stock market analysts, and TAs, among others.

In a PMCC context, a robust TCF is necessary to build justified trust with TAs participating in a PMCC program, because it allows them to rely on the information shared with them. Building a robust TCF may require significant upfront investment and regular reviews and testing of tax controls, which can initially be perceived as challenging or burdensome. However, a robust TCF brings the longer-term benefit of enhanced trustworthiness and reliability of the MNE's systems, which allows TAs to reduce future tax compliance costs because of the enhanced controls over tax risks within the business.

Trade-off between Costs and Benefits

It is reasonable that TAs participating in cross-border risk assessment and assurance programs do so to increase efficiency.[29] They expect this compliance approach to help them bring in significant amounts of tax revenue in an expeditious manner. For this reason, they may not be willing to devote resources to cases where the amount of tax revenues to be gained is small.

For example, if an MNE is not deemed to be a large taxpayer under the tax system of all relevant countries, among which a cross-border tax certainty arrangement is desired, then it could be difficult to reach out to some of these countries' TA and persuade them to participate in a PMCC. Evidence from the MCC Survey illustrates that countries where an MNE is not considered a large taxpayer are frequently not interested in participating in programs like ICAP, ETACA, or PMCC.

[29] Other reasons for participating in cross-border risk assessment and assurance program can be to offer a desired level of services to taxpayers or to meet commitments following from a national CC program.

TAs may have a variety of reasons for following such an approach. Notably, if the economic footprint of an MNE in a country is not important enough, the TA might incur an opportunity cost if it used its resources to participate in PMCC. Moreover, each TA has a different organizational structure and different personnel capacity, and the laws in each country are different. These challenges could be addressed through the development of a common reporting and assurance standard for TCFs. This would allow TAs in countries where the MNE has a limited economic footprint to rely, in the context of their compliance risk management, on the control activities conducted by their peers in another country. Relying on the work of their peers would help TAs save time in understanding the transaction when determining the depth of the work they would need to undertake. The existence of a common reporting and assurance standard for TCFs could ensure that TAs in smaller countries make their decisions without their (tax) sovereignty being impacted by those of larger ones.

The decision by TAs not to participate in a PMCC program may also be based on more practical reasons. For instance, if the large business unit does not control the company of the applying MNE, the staff members in charge of controlling the company may not be fully aware of such cross-border risk assessment and assurance programs.

2.3.3. *Human Resource Constraints*

Working under a CC or a PMCC program is typically a different type of task and requires a different approach than TA employees are used to. This highlights the importance of the human factor for PMCC programs.

Employees participating in a PMCC program should be willing to enter an open dialogue with a program participant about real-time tax issues and select the most relevant issues to be decided within a manageable time horizon. This requires sound professional knowledge and experience, the ability to understand the problem quickly, and relevant knowledge about the industry in which the MNE operates. The TA employee must also inhabit an appropriate non-confrontational culture and be in the position to understand when trusting the participating taxpayer is justified.[30] Another task,

[30] On technical knowledge and business understanding of TA employees working in CC programs, which remains relevant to PMCC, see Owens and Leigh-Pemberton (2021).

for which not all employees in TAs are trained, is the control of business processes and analyzing when controls are sufficient to satisfy TAs' expectations for reasonable assurance of the accuracy of tax submissions. This task typically requires the presence of staff with significant audit experience.

It follows that TAs should equip the teams administering PMCC with experienced personnel having diverse educational backgrounds, such as legal professionals, economists, accountants, and data and computer scientists. This is often challenging, given the competition from the private sector. Moreover, these employees should be trained to conduct themselves appropriately in the context of PMCC programs and obtain specialized knowledge about the industry of the participating MNE. Acquiring and training talent implies financial investment from TAs.[31]

The lack of staff with international experience within the TA and international connections to other TAs prevents some TAs from participating in PMCC. This is an area where it is possible to share knowledge and training (Owens and Leigh-Pemberton, 2021). PMCC between two or more TAs can only be successful when there is mutual trust between TAs. This is more likely when the staff in different TAs know each other well.

Less advanced TAs may need support to develop institutional knowledge, such as through peer learning. In this respect, a regional MCC program could help less advanced TAs develop the required knowledge and understanding of MCC. At the same time, PMCC would require building a network among TAs enhancing communication and coordination among them, by putting in place necessary structures and arrangements in each country (e.g., focal points, emails, and yearly meetings). This could be achieved if a regional MCC program supported a regional tax organization and/or a regional development bank.

The MNEs must also make investments and provide sufficient resources to participate in a PMCC program. For MNEs, participation in a PMCC program means that senior representatives must be assigned to the program to enable real-time discussions to take place about relevant tax matters. The employees participating in PMCC need to be sufficiently senior as to have broad oversight and understanding of all tax-related aspects that will be discussed in the context of the program. They also need to have specialized knowledge of the issues dealt with in the PMCC program, as well as a solid overview of the MNE's business.

[31] For more information, see Section 2.3.2 herein.

Since MNEs have a presence in many countries and operate in many locations, senior employees at the global or regional level may not have all the necessary information or country-specific technical knowledge at their disposal. Thus, in MNEs with decentralized tax functions, employees based in different locations would need to coordinate to ensure efficient participation in a PMCC program. As in the case of TAs, employees of a participating MNE should be prepared to act within the overall spirit of the PMCC program.

In many business and tax compliance activities, it is common for MNEs to engage with service providers, specifically tax advisors and consultants. These advisors should also be prepared to act within the overall spirit of the PMCC program.

2.3.4. *Legal Framework and Legal Culture*

Challenges to participation in a PMCC program for TAs can stem not only from financial, human resource, or organizational constraints, but also from constraints related to a country's legal framework and legal culture. Governments and TAs of some countries have differing levels of willingness to engage in open and transparent discussions with taxpayers. In some cases, for example, it may not be possible for a TA to give advanced guidance to an MNE for legal reasons. Some governments' transparency protocols require the publication of information about engagement between the TA and taxpayers. For MNEs, this could give rise to confidentiality concerns about business operations, to the extent that operational matters are made publicly available and accessible to competitors. This could have a negative impact on their willingness to participate in PMCC programs.

2.3.5. *Complexity*

Due to the participation in a PMCC program of more stakeholders (i.e., more than one TA than in national CC programs), multilateral programs are inherently more complex than national ones. Thus, ensuring that a PMCC program can run smoothly and expeditiously is key for its success.

Findings from the MCC Survey suggest that complexity in existing instruments is aggravated by the systems currently in place in terms of process and the lengthy time it takes to use current international tax instruments to seek greater tax certainty. This complexity has an associated financial cost in terms of resources and time. Therefore, a successful PMCC program could be structured with an agreed scope that limits its complexity and provides an acceptable outcome in a relevant period.

In the case of PMCC, the complexity may be partly due to a lack of standardization. Areas where standardization is required include the procedures for applying to participate in PMCC, the determination of which stakeholders' representatives will participate in discussions, how initial contacts are made, and channels for sharing information. Many of these issues can be addressed through a memorandum of understanding (MoU) entered among all participants (taxpayer and TAs).[32] However, managing potential complexities in PMCC also requires clarity about the entry criteria, which taxes are covered, and the definition of a reasonable timespan, considering the facts and circumstances of each case.

Complexity could be reduced if a common reporting and assurance standard for TCFs were available. The second working group of the Cooperative Compliance Project compares the characteristics of different existing frameworks and the approaches followed by individual countries to develop such a common reporting and assurance standard.

2.3.6. *Public Perception*

Public perception is connected to trust. It is discussed at length in Owens and Leigh-Pemberton (2021). To mitigate the potential that PMCC is misinterpreted by civil society as favorable rules unforeseen in the law or a "sweetheart deal" between TAs and a taxpayer, consideration must be given to clarifying that the purpose of PMCC is to enable TAs to have real-time discussions with the taxpayer to ensure that the taxation of transactions is correct from the start of a project or during its execution.

Key to ensuring the (perceived) integrity of PMCC is good governance, both within TAs and taxpayers. TAs should have a robust governance framework, which can guarantee that taxpayers participating in PMCC do not receive a more favorable tax treatment than non-participating ones. Regional tax organizations and/or regional development banks can support TAs in developing robust governance frameworks with standardized procedures. It is also in the interest of participating taxpayers to

[32] For more information, see Section 3.2.1 and Annexes 1.C and 1.D.

prevent public perception of lobbying for and/or receiving favorable treatment. Having a well-functioning TCF could help identify and mitigate such risks. Furthermore, both parties should ensure transparency through, for example, publication and issuance of circulars, considering CC outcomes and tax transparency in annual reports. This would help non-participating taxpayers adapt their tax positions. This would demonstrate that a PMCC program is not reserved for a handful of large MNEs and would boost the external legitimacy of PMCC in the eyes of the public.

From taxpayers' standpoint, good governance means that MNEs are responsible for ensuring that the public can trust their arrangements (including those that have been assured through a PMCC program), through, for example, transparency in their annual reports. MNEs may also benefit from having their TCF recognized as being of a high standard. This will reduce the likelihood that the public will believe that they conduct their tax affairs in a way that is above the law or favors one company over another.

Most countries have advanced rulings to give guidance. PMCC is a similar type of process in this respect, but the difference is in the ongoing dialogue and simultaneous multilateral perception of the facts and circumstances. Even though tax rulings have in the past sometimes resulted in negative outcomes (e.g., Luxleaks), the way in which PMCC involves multiple TAs hearing the facts of the transaction simultaneously could result in even wider acceptance by the public. This would be because a transaction (or series of transactions) is reviewed by more than one TA, as opposed to national CC programs where a single TA performs the assessment.

GOOD DESIGN FEATURES OF A PMCC PROGRAM

3.1. GENERAL OVERVIEW

KEY TAKEAWAYS

i. The purpose of a PMCC program is to prevent tax disputes in a complex international environment, thereby reducing uncertainty for MNEs in cross-border projects and/or transactions.

ii. The key characteristics of PMCC are: (a) efficiency and speed, (b) improved communication between TAs and taxpayers, (c) tax certainty, (d) coordination among different TAs, (e) defined rights and obligations of the parties involved, and (f) availability of practical guidance.

iii. PMCC shares many features with national CC programs (Owens and Leigh-Pemberton, 2021).

PMCC should be able to address disputes arising in a complex tax environment with rules that have been only partly aligned at the international level, thus relieving both MNEs and TAs from uncertainty about cross-border transactions. To do so, a PMCC program should have certain characteristics that will make it an attractive option for preventing and mitigating tax risks in cross-border transactions.

The free-format responses to the MCC Survey question yielded a set of generally desirable characteristics of PMCC. They relate to the nature of the relationship between TAs and taxpayers, the efficiency and effectiveness of the PMCC program, the quality of tax certainty, and the rights and obligations of the parties involved. Specifically, a PMCC program should have the following characteristics:

- Be a streamlined, simple, and fast process, thereby offering fast tax certainty (13 answers).
- Allow for efficient communication and enable an improved, more open relationship between TAs and taxpayers (11 answers).
- Provide an adequate level of tax certainty to the taxpayer (9 answers).
- Include streamlined working methods for different TAs (6 answers).
- Provide for clear rights and obligations for the parties involved (4 answers).
- Provide practical guidance to the parties involved (3 answers).

PMCC share many characteristics of national CC programs. Chapters 2 and 3 of Owens and Leigh-Pemberton (2021) present the requirements, criteria, and characteristics that national CC programs should have, remain applicable in the case of PMCC considering certain differences between the two.

3.2. LEGAL BASIS FOR A PMCC PROGRAM

KEY TAKEAWAYS

i. Establishing a PMCC program requires a legal framework to govern procedural and practical aspects and an instrument to facilitate the exchange of information (EOI).

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KEY TAKEAWAYS

ii. When choosing a suitable instrument for PMCC, the scope of the program and types of taxes covered must be considered. The OECD/Multilateral Convention on Mutual Administrative Assistance (MCMAA) is the most appropriate instrument for PMCC, as it covers income tax, capital gains, VAT and others, excluding only customs duties.

iii. MCMAA also provides a legal basis for various types of EOI, with Art. 8(1) on simultaneous tax examinations (STE) being particularly relevant. STEs allow TAs from multiple jurisdictions to examine a taxpayer's affairs simultaneously, offering a flexible framework for PMCC programs.

iv. A PMCC program needs a legal basis for EOI comparable to or broader than Art. 26 OECD MC after its 2000 amendment. The material scope of Art. 2 MCMAA is considered broad enough for this purpose.

v. Two scenarios must be distinguished in a PMCC context: (a) taxpayers sharing information voluntarily while "in the same room" with TAs, and (2) TAs exchanging information among themselves without taxpayer involvement.

vi. The taxpayer's voluntary sharing of information can be based on Art. 8 MCMAA, and the practicalities of this EOI could be formalized in an MoU.

vii. TAs may also exchange information already in their possession (e.g., from CbCR, GIR, or national tax filings) without taxpayer involvement, but this must comply with existing legal agreements (such as MCMAA) and the foreseeable relevance standard.

viii. Sharing information obtained in a PMCC program with non-participating TAs raises confidentiality concerns. Although international instruments (e.g., DTTs; MCMAA; Directive on Administrative Cooperation (DAC)) may require such exchanges under strict conditions, they must meet the foreseeable relevance test and avoid fishing expeditions. Taxpayers' trust in the confidentiality of the program is crucial to encourage participation, particularly as PMCC participants are generally low-risk taxpayers.

3.2.1. *Procedural and Practical Aspects*

Establishing a PMCC program requires a legal framework that governs its procedural and practical aspects, and an instrument for EOI. In determining which instrument can accommodate a PMCC program, the scope of such a program needs to be considered, as well as the taxes covered by it. For programs with a more limited scope, such as the FCBD, one could rely on Art. 25(3) OECD Model Tax Convention (OECD MC) (Waal and Lindgren, 2019). This provision lays down the possibility for competent authorities to jointly resolve difficulties of interpretation or application through mutual agreement. However, the wording of the provision is not broad enough to cover indirect taxes (Christodoulopoulos et al., 2025).

The second and most appropriate option is the MCMAA (OECD, 2011). Unlike Art. 2 OECD MC, which covers only taxes on income and on capital, MCMAA has a very broad material scope. Specifically, it covers virtually all taxes that would be relevant for a PMCC program, such as corporate and personal income taxes (including WHT), taxes on capital gains, taxes on immovable property, general consumption taxes (e.g., VAT and sales taxes) and any other taxes (e.g., stamp duties, capital duties, special compulsory levies), whether they are levied at national or the provincial/municipal level. The only taxes explicitly excluded from the scope of MCMAA are customs duties (Christodoulopoulos et al., 2025). Therefore, under MCMAA, TAs can establish a PMCC program that could include those taxes that are most important for a large cross-border project.

The MCMAA also provides a legal basis for different forms of EOI, that is, EOI upon request, spontaneous EOI, automatic EOI, simultaneous tax examinations (STE), and tax examinations abroad Among these provisions, Art. 8(1) MCMAA on STE can offer TAs the room required to establish a PMCC program (Christodoulopoulos et al., 2025). This provision allows contracting states to determine *procedures* for STEs, an STE being defined in Art. 8(2) MCMAA as "an *arrangement* between *two or more Parties* [to MCMAA] to examine simultaneously, each in its own territory, the tax affairs of a person or persons in which they have a common or related interest, with a view to exchanging any relevant information which they so obtain" (emphasis added). The term "arrangement" is broad enough to cover cross-border programs such as PMCC, specifically *multilateral* ("two or more Parties") arrangements between TAs. Art. 8 MCMAA allows TAs to determine whether they will participate in an STE, that is, whether they have the capacity to carry out a risk assessment for a specific project of a specific taxpayer, also taking materiality considerations into account (Christodoulopoulos et al., 2025).

Accordingly, participating TAs could rely on Art. 8 MCMAA to enter into an MoU either on a case level or a program level, which will govern the relevant procedural and practical aspects of PMCC.[33] This MoU could address issues such as the determination of application procedures, identification of the channels through which information exchange takes place, the departments or persons within TAs responsible for initial contacts, and other similar issues. At the same time, a separate MoU needs to be entered into between the taxpayer and the TAs which sets forth the rights and obligations of the parties involved and governs their conduct within the PMCC program.[34] A standardization of procedures would be easier to achieve, especially for countries that do not have a national CC program, through a regional MCC program supported by a regional tax organization and/or a regional development bank.

It follows that Art. 8 MCMAA could be used as a legal basis on two levels: first, for an MoU in a more permanent context among TAs that envisage establishing PMCC programs for multiple large cross-border transactions. This will allow TAs to have a more permanent infrastructure for PMCC programs, which will govern practical issues such as EOI or approaches to longer-term cooperation. In this way, participating TAs need not negotiate an MoU every time a taxpayer applies for a PMCC program. Second, it enables TAs to jointly enter *ad hoc* MoUs with taxpayers that apply for a PMCC program in each case. The approach of two MoUs described here may be considered a best practice. TAs may also opt not to enter such MoUs because of domestic law requirements.

With respect to their domestic law, 37 percent of the respondents to the MCC Survey stated that a PMCC program should have its legal basis in an international convention like MCMAA. Thirty-three percent stated that a multilateral governmental agreement (e.g., an MoU) would be needed. Whether a legal basis in domestic law is required to establish or participate in a PMCC program depends on the law and the legal culture of each

[33] For a template of an MoU among TAs, refer to Annex 1 herein.

[34] For an MoU between the participating TAs and the taxpayer, refer to Annex 1 herein.

country. In some countries, a clear legal basis based on a domestic legal instrument may be required,[35] whereas in other countries, administrative rules (e.g., circulars) or administrative practice may be sufficient. This is confirmed by the MCC Survey, where 47 percent of respondents answered that a domestic legal instrument is needed, 50 percent of the respondents stated that administrative rules would be needed, and 23 percent said that administrative practice would be necessary.

3.2.2. *Exchange of Information*

In terms of EOI, a PMCC program would require a legal basis comparable to or broader than Art. 26 OECD MC after its 2000 amendment, which provides for the EOI on taxes not covered by the DTT. The material scope of Art. 2 MCMAA is broad enough to cover EOI for PMCC purposes.

Several questions arise with respect to EOI within a PMCC program. First, should information exchange within a PMCC program be multilateral or bilateral? Second, if it were multilateral, should the information made available within the program be stored centrally? Third, if the information exchange were multilateral and the information were stored centrally, should the information obtained within the PMCC program be exchanged automatically? Answering these questions is neither easy nor straightforward.

The analysis must begin by differentiating two situations. The first is where the participating taxpayer is "in the same room" with the participating TAs and shares information with them. The second is where (representatives of) TAs discuss among themselves without the taxpayer present. In the former case, the taxpayer may *willingly* (i.e., as part of its obligations stemming from its participation in a voluntary program) provide TAs with information, whereas the latter case may be viewed as a typical case of EOI between TAs.

Regarding the first situation, the taxpayer decides on its own initiative to participate in the PMCC program. Its responsibilities include cooperating transparently with the participating TAs, which includes *willingly*

[35] For instance, Germany has introduced legal provisions that lay down rules as regards its participation in programs such as ICAP, ETACA and FCBD. The provisions also stipulate the powers of its TA at federal and regional level as well as regulate the relationship between the federal tax office and the tax offices of the federal states. See Section 89b of the German Fiscal Code (Federal Ministry of Finances in Germany, 2024).

disclosing relevant information to TAs.[36] To the extent that the taxpayer enters an interaction with the participating TAs and willingly shares packages of information with them for the purposes of participating in the PMCC program,[37] the taxpayer essentially accepts that this aspect of information exchange is relevant to all TAs participating in the PMCC program.[38] Responding to follow-up requests from TAs, the taxpayer may willingly provide, as part of its obligations within the PMCC program, oral information relevant to all TAs in a physical or digital meeting.[39] Information willingly shared by the taxpayer, that is, information contained in documentation packages and written responses to follow-up requests, may be shared with the TA leading the PMCC program, which will in turn share it with all its peers.[40] The information shared with the lead TA meets the foreseeable relevance requirement of Art. 4(1) MCMAA, as it is part of the taxpayer's obligations within the PMCC program. Hence, the lead TA has no legal constraints that prevent it from exchanging it with other participating TAs.

The kind of EOI discussed in the previous paragraph could be carried out pursuant to Art. 8 MCMAA. The nature and practical aspects of EOI at this level could be clarified in the MoU entered between the taxpayer and the TAs involved. Insofar as the information shared *willingly* by the taxpayer is relevant to all TAs, it could be stored centrally, at least in an initial stage.

Beyond the instances that involve the taxpayer *willingly* sharing information with TAs with all parties being "in the same room," TAs already have at their disposal information concerning that taxpayer. Such information may have been made available to the TAs concerned pursuant to international or supranational reporting obligations (e.g., CbCR documentation, GIR, various reporting obligations within the European Union under the Directive on Administrative Cooperation and its amendments) or national reporting obligations (e.g., CIT returns, VAT/GST returns, tax

[36] For the MCC Application Documentation Package, see Annex 1 herein.

[37] See, for example, selection documentation package and main documentation package for ICAP (OECD, undated (a)).

[38] This could be clarified in the MoU between the taxpayer and the TAs.

[39] As the taxpayer shares this information with the participating TAs in its own initiative, the discussion whether this information should be *automatically* exchanged is redundant.

[40] Information shared orally by the taxpayer in the context of a physical or virtual meeting can already be considered as having been exchanged on a multilateral basis.

returns for other domestic taxes, reconciliation from commercial to tax accounts, and other related documentation). In this case, if TAs intend to exchange information that was not shared by the taxpayer as part of the obligations stemming from its participation in the PMCC program, then such exchanges would be subject to the relevant legal restrictions (in this case, MCMAA) as well as other legal instruments or domestic legislation. In these cases, the information exchanged between TAs should comply with the foreseeable relevance requirement enshrined in Art. 4 MCMAA.

In the present case, the foreseeable relevance requirement has two practical manifestations. The first relates to which of the participating TAs are entitled to receive the information at issue. In this respect, in many cases such exchanges should not be multilateral; rather, they should involve only the TAs concerned (i.e., either bilateral or multilateral, including only those of participating TAs to which that information is foreseeably relevant). Information exchanged between TAs in this way should not be stored centrally. The second relates to the information that can be exchanged between participating TAs. This should include only information that pertains to a tax matter affecting the TAs concerned and not information going beyond that. This approach would not only prevent any fishing expeditions from occurring but would also minimize unnecessary and counterproductive flows of information among TAs.

The EOI between TAs with the taxpayer *not* being "in the same room" with them could be based either on Art. 26 OECD MC ("spontaneous exchange of information") or again on Art. 8 MCMAA. Regarding the first alternative, the wording of Art. 7 MCMAA seems to be more restrictive than that of Art. 26 OECD MC on spontaneous EOI and paragraph 9 of the Commentary on Art. 26 OECD MC. Therefore, insofar as spontaneous EOI is needed, this could be based on Art. 26 OECD MC. Art. 8 MCMAA could be used for the exchange of foreseeably relevant information both at the bilateral and the multilateral level between participating TAs. This could be based on the premise that the participation of the taxpayer in a PMCC program entails an acceptance/recognition by the taxpayer that information already held by TAs is foreseeably relevant and may be exchanged between them if (and to the extent that) it relates to transactions and/or risks within the scope of the PMCC program. This acceptance/recognition could be either implicit or made explicit within the MoU entered between the taxpayer and the participating TAs.

Another issue is how the information received by participating TAs is used by the receiving State. States of which the TA participates in a PMCC program, under certain circumstances, information received by means of EOI for purposes other than taxation. Such use should comply with the legal requirements stipulated in the relevant instrument under which the EOI takes place, such as Art. 22(2) MCMAA, and their domestic laws. The use for other than tax purposes should be subject to the principle of reciprocity and to agreement by both States (Huiskers-Stoop, Breuer, and Nieuweboer, 2022). This aspect of the use of the information shared *willingly* by the taxpayer should be clarified in the MoU entered between the TAs and the taxpayer, as it will be essential for building and maintaining trust with taxpayers intending to participate in a PMCC program.

Another important issue is the possibility of the exchange of information obtained by a TA within PMCC with a non-participating TA.[41] Taxpayers participating in PMCC may expect that the information they shared with TAs as part of their obligations stemming from their participation in the PMCC program remain confidential and are not shared with TAs outside the program at issue. If taxpayers fear that the information they disclose within such programs will be shared with TA of jurisdictions not participating in a PMCC program, they might decide not to apply for such a program. Nevertheless, TAs may be under an obligation, pursuant to international or supranational instruments such as DTTs, MCMAA or the DAC to exchange information (e.g., spontaneous EOI) obtained in PMCC with TAs of countries not participating in PMCC insofar as the conditions laid down in these instruments are met. However, it must be clarified that, for it to be exchanged, such information should be foreseeably relevant to the receiving TA, while fishing expeditions are prohibited (OECD, 2017b). Hence, although the exchange of information obtained within PMCC cannot be altogether excluded, TAs of countries participating in PMCC may not randomly exchange such information. Moreover, as the taxpayers participating in PMCC are expected to be low risk taxpayers that do not engage in tax avoidance or evasion, the information that they share with TAs is not expected to meet the requirements for spontaneous EOI provided for under the MCMAA or DAC.[42] Matters pertaining to EOI with third countries

[41] See Calderón and Quintas Seara (2022); Huiskers-Stoop, Breuer, and Nieuweboer (2022); and Martini and Russo (2019).

[42] Art. 8 MCMAA and Art. 9 of the DAC (Council Directive of the EU, 2011).

should be addressed in a procedural framework agreed before establishing and/or entering into PMCC.[43] An approach to address and/or mitigate this issue would be to provide for a requirement to notify the taxpayer and/or the person that provided the information that such information that this information might be further exchanged with a non-participating TA, which would help prevent mistakes.[44] This requirement might be included in the MoU entered into among TAs, but also in the MoU entered into between the taxpayer and the TAs. Ultimately, however, this may be a matter regulated by domestic law.

This section has examined EOI aspects from the perspective of the process of a PMCC program. Legal barriers in relation to EOI aspects are discussed in section 4.3.1. herein.

3.3. SCOPE OF A PMCC PROGRAM

KEY TAKEAWAYS

i. An MCC program could be designed either as PMCC program, which provides tax certainty in connection with a specific cross-border project, or as an MCC program covering many transactions of a taxpayer that are not related to each other for a defined period (full-scale MCC).

ii. PMCC would cover, for instance, the tax treatment of the transactions forming part of a large infrastructure projects, cross-border restructurings and acquisitions across jurisdictions.

iii. PMCC would ideally provide tax certainty both for the execution/setup phase and the ongoing operation face, thereby ensuring predictability throughout the entire lifecycle of a project.

iv. Although full-scale MCC would offer broader tax certainty for all the transactions of a taxpayer over a given period, it might be more resource-intensive and complex to implement. Consequently, PMCC is currently considered the preferred approach, while the possibility of developing full-scale MCC could be explored in the future.

[43] Section 3.2.1 herein.

[44] In this respect, see OECD (2017b).

In designing an MCC program, it is essential to decide whether such a program would cover a specific project only (PMCC) or many transactions of a taxpayer, unrelated to each other, for a defined period (full-scale MCC).

A program taking the form of PMCC would entail that tax certainty is provided exclusively to a single cross-border business project. A PMCC program could cover, for example, the tax treatment of all issues associated with large cross-border infrastructure projects, such as pipelines or railways crossing two or more countries, large cross-border restructuring operations, acquisitions, newly developed products and employment matters around PEs. The term ‘single project’ does not mean a single transaction. PMCC can cover a cluster of related transactions forming part of the same project, which may possibly pose multiple tax issues. Defining the scope of the cluster of transactions forming part of the same project is an important issue, as this will determine the scope of the PMCC program. Thus, the TAs and the taxpayer should agree the scope of the PMCC program beforehand. An example of a cluster of transactions is a cross-border restructuring of an MNE which involved carrying out several mergers, demergers or contributions of branches of activity or assets. Moreover, PMCC could also cover the VAT/GST implications arising upon the development of a new product or service that would give rise to VAT/GST issues in more than one jurisdiction, particularly in cases of multiple reduced VAT/GST rates, exemptions and determination of place of supply, among other things (Owens et al., 2024).

The scope of PMCC could cover the tax risks upon the execution or the setting-up phase of the transaction as well as tax risks during the subsequent operation or the ongoing phase of the transaction. Based on the responses to the MCC Survey, 80 percent of the participants concur that a PMCC program should ideally provide certainty both in relation to the tax consequences upon the execution / setting-up phase of the transaction as well as to those arising during the subsequent operation / the ongoing phase of the transaction. This approach would contribute to making PMCC an instrument attractive to both TAs and taxpayers, as it would allow for the provision of tax certainty to the entire lifecycle of a project insofar as the (majority of) steps thereof are reasonably expected not to be significantly different from what has already been reviewed by the participating TAs.

On the other hand, a full-scale MCC program would involve multiple transactions of a taxpayer that are unrelated to each other, rather than a cluster of transactions that form part of the same project. For example, this would involve a taxpayer that produces three different products in several locations around the world, which then sells to different countries. That taxpayer engages in several intra-group transactions related to raw materials or half-finished parts of products that form part of its ongoing business operations and are not related to a delineated project and seeks to obtain tax certainty in respect of each of these transactions separately for a certain period.

Although the approach of full-scale MCC would have the potential to result in the provision of tax certainty across the whole spectrum of the business activities of a taxpayer, it is currently not considered the optimal option for two reasons. First, it might require significant resources from both TAs and taxpayers, although in some cases TAs could focus only on the transactions that they consider risky. However, TAs of countries where the taxpayer is not considered a large taxpayer might not be interested in participating. Second, establishing a pilot full-scale MCC program would be substantially more burdensome than a pilot PMCC program due to the difficulty of covering a larger number of diverse transactions. For these reasons, PMCC has been currently considered as the most promising mechanism. However, this does not mean that full-scale MCC programs are not feasible or that they could not be developed in the future (Box 3.1).

BOX 3.1: EXAMPLES OF POTENTIAL BENEFITS OF A MULTILATERAL COOPERATIVE COMPLIANCE PROGRAM

OIL AND GAS COMPANY EXAMPLE

MNE A applies for a PMCC program, the purpose of which is to obtain tax certainty for a delineated project. The tax certainty offered will cover the more complex tax issues stemming from the set-up phase of the transaction and will include tax considerations upon the incorporation of companies, financing of the investment and the construction activities, among other things. It will also cover the tax considerations of the operation phase that will last seven years, such as taxation of income from business activities, allocation of profits in the countries involved, payroll taxes,

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BOX 3.1: EXAMPLES OF POTENTIAL BENEFITS OF A MULTILATERAL COOPERATIVE COMPLIANCE PROGRAM

among other things, with a roll forward period of three years. The cluster of transactions could be subject to an annual or biannual high-level review (“check-up”)[a] after the lapse of the roll-forward period to verify that the facts and circumstances of the transactions have not changed and TAs can be confident that everything is in order (Owens and Leigh-Pemberton, 2021).

FMCG COMPANY EXAMPLE

MNE B is currently in the middle of the envisaged transaction. Apart from this transaction, it continues its business activities across all different countries in which it has presence, in the context of which it carries out numerous intragroup transactions. MNE B applies for a full-scale MCC program which would cover all tax aspects of the transactions that it is currently planning to execute in the following years. These transactions cover the whole spectrum of its business activities and are outside the scope of the envisaged transaction.

[a] The roll-forward period of three years as well as the health check every one or two years in this example have been chosen only for illustrative purposes. The stakeholders could agree on any roll-forward or health check period they see fit based on the facts and circumstances of each case.

3.4. REAL-TIME AND FORWARD-LOOKING TAX CERTAINTY

KEY TAKEAWAYS

i. PMCC helps taxpayers clarify their tax positions before filing, ensuring compliance and reducing future disputes.
ii. TAs benefit by avoiding time-consuming post-filing reviews. It streamlines cross-border discussions among different TAs, thereby providing greater certainty.

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KEY TAKEAWAYS

iii. Tax certainty should ideally cover the entire lifecycle of the project concerned. The roll-forward period should be long enough to justify participation and investment of responses, while ongoing high-level reviews would help address legislative changes and ensure compliance with the PMCC outcomes.

iv. Ideally, a PMCC program should offer both a high degree of tax certainty from the beginning, which would cover the entire project upfront, as well as step-by-step tax certainty, progressively at each project phase. This would allow flexibility depending on the nature of the project concerned.

One of the advantages that is always mentioned in individual countries' CC programs is that the taxpayers can have their tax position clarified in the present or before the tax is declared (FPS Finance, 2025). This is connected to the fact that by having its situation clarified before the tax return is declared, the taxpayer obtains de facto certainty that no disputes will subsequently arise, and which can drag on over time. To be able to obtain an answer to the question that has arisen before filing a tax return, it is necessary for the MNE to provide the correct and complete information that is necessary for the TAs to make a statement on a secure basis.

However, CC also brings advantages to the TAs, which, conversely, need not spend substantial time for a subsequent review of the tax return, as there is a lower risk of incorrect and/or incomplete information. This is important, especially in cases where the point that has been reviewed in advance is a significant, complicated and risky tax matter for the MNE. Here, some form of supervision activity regarding the matter in question would still have to be carried out. If this supervision activity was carried out several years later without it having been examined in CC, it would be difficult to obtain the right information, which is then much harder to collect and present.

The above advantages are also present in PMCC. However, in this case the value of these advantages is much higher since PMCC would entail the commitment of the TAs of all countries concerned, and not merely of one TA. Thus, PMCC would entail the commitment of all relevant TAs toward the goal of reaching tax certainty. Discussing the issues at a stage where the taxpayer has all relevant information readily available, the facts are recent and all involved TAs are present results in a much more efficient process. Moreover, taxpayers often adjust transactions, including cross-border ones, before they are executed. Thus, upfront discussions among the taxpayer and all TAs would be more efficient and timesaving than discussions after a transaction has occurred. By disclosing the information about the project and its expected life cycle in advance, the taxpayer can obtain forward-looking certainty for several years ahead in all countries participating in PMCC, which has significant value for the taxpayer's business (Box 3.2).

BOX 3.2: EXAMPLES OF REAL-TIME AND PROSPECTIVE TAX CERTAINTY

OIL AND GAS COMPANY EXAMPLE

In the context of the PMCC program in which it participates, MNE A has provided the TAs with all relevant documentation, and the TAs have completed the risk assessment of the oil pipeline project. The outcome letter of the PMCC program grants a low-risk qualification to most individual transactions carried out during the materialization of the project. For these transactions, the TAs have concluded that they will not dedicate any audit resources for the following three years, as the taxpayer has succeeded in demonstrating that these transactions will be or have been carried out (depending on whether a pre- or post-transaction approach is adopted, as explained in Section 2.1 herein) in the documented way and will not present any differences from what was illustrated in the context of the discussions. A high-level check-up will be carried out after three years and thereafter, on a biannual basis.

FMCG COMPANY EXAMPLE

In the context of the PMCC program in which it participates, MNE B provides the TAs with all required documentation. The external advisors who drafted the documents have all the relevant information at their

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BOX 3.2: EXAMPLES OF REAL-TIME AND PROSPECTIVE TAX CERTAINTY

disposal and can explain all project aspects to the TAs. The value of these ongoing discussions is significant, as all key stakeholders of the project form the same understanding of the project's facts and circumstances, the taxpayer not having to discuss the project on a separate basis with each TA.

Nevertheless, in PMCC, discussions with the MNE about potential tax issues before the implementation of the transaction will depend largely on whether the TAs of the individual countries are willing to have the necessary discussions with openness and transparency as well as whether they can agree on the final treatment of the issue. If that willingness is not forthcoming from the side of TAs, then MNEs are unlikely to feel that participation in PMCC would bring value to their business.

When establishing the framework for a PMCC program, an important matter to consider is the extent to which forward-looking tax certainty can be provided. If the roll-forward period in a PMCC project is too short, then the program would not be attractive to taxpayers, considering also the resources required for participation. The roll-forward period of a PMCC program should extend to the longest extent possible within which the trust between the two sides could be preserved. Nevertheless, this would depend on whether the tax considerations of the entire lifecycle of a business project can be anticipated from the outset. In this case, tax comfort could potentially be granted for the entire period of the project on the condition that the facts and circumstances remain the same, that the legislation is unchanged and the implementation is in line with the upfront presented facts and circumstances. However, this might be difficult in practice and therefore, the agreement could provide for a roll-forward period of certain years (e.g., three years in the above example) and annual or biannual check-ups to confirm that everything is in order as assessed in the context of the PMCC risk assessment. Moreover, the participating TAs and the taxpayer can agree to discuss new issues which arise during the lifecycle of the project, which could not be anticipated in the beginning.

Insofar as the cluster of transactions included in the scope of the PMCC covers the entire lifecycle of a business project, then tax comfort could potentially be granted from the beginning in respect of the entire life of the project, insofar as the individual transactions forming that cluster of transactions are assessed, assured and potentially resolved in the context of the PMCC program. For instance, tax certainty for the entire lifecycle of the project could take the form of an initial roll-forward period of three years, followed by subsequent periodic high-level discussions and reviews (on an ongoing basis) to confirm that the facts and circumstances of the project remain the same as well as to factor in any subsequent changes in the legislation of the jurisdictions involved. However, if the form of some transactions of the cluster is not certain or finally determined by the taxpayer before the commencement of the project, an option to consider would be to grant tax certainty step-by-step in respect of each part of the project (e.g., for those parts of the cluster of transactions that are certain) throughout the project's execution with a roll-forward period of three years for each transaction, followed by subsequent periodic high-level discussions and reviews.

Both options discussed in the previous paragraph were popular in the MCC Survey. The option of *tax certainty from the beginning in respect of the entire life of the project* gathered support by 67 percent of the respondents whereas the option of *tax certainty step by step in respect of each part of the transaction throughout its execution* gathered support by 49 percent of them. Ideally, a PMCC project would offer both options, as different projects (or individual transactions within projects) may require tax certainty in different timing (earlier/later) and with different temporal duration (shorter/longer). The reason is that different projects (or individual transactions within projects) might present different levels of complexity, whereas in some cases the taxpayer may not have all the necessary information available in advance. Another factor to consider would also be how crucial tax certainty is for the project and/or each individual transaction thereof.

The timing upon which tax certainty can be granted (i.e., from the beginning or step-by-step) as well as the duration of the roll-forward period and the periodicity of subsequent discussions and reviews is a matter that could be included in the MoU containing the procedural framework of the PMCC program.

3.5. ENTRY CRITERIA

KEY TAKEAWAYS

i. Four entry criteria for PMCC programs were identified in the MCC Survey: (a) economic footprint of a project, (b) turnover of the taxpayer, (c) risk profile of the taxpayer, (d) participation in a national CC program.

ii. Factors, such as a project's economic importance and the taxpayer's turnover, influenced TAs' willingness to participate in PMCC.

iii. A robust TCF is crucial for allowing TAs to rely on taxpayer's disclosures.

iv. Participation in national CC programs is not an entry requirement, but it may signal the readiness of an MNE to PMCC. National CC programs could create synergies with PMCC, because review of transactions at the national level may ease the process of PMCC.

Setting entry criteria is an essential point to consider when designing a national CC program. The considerations regarding entry criteria for national CC programs have been analyzed in Chapter 2 of Owens and Leigh-Pemberton (2021). Similar to the case of national CC programs, it is important, when establishing a PMCC program, to consider whether a threshold should be set to distinguish between taxpayers who are and those that are not eligible to participate.

Following the same approach as Owens and Leigh-Pemberton (2021), the members of the present working group have made the same considerations. Thus, the MCC Survey contained a question (Question 26) about the possible entry criteria that would be preferrable. Accordingly, the following four entry criteria were considered by the MCC Survey participants:

- Economic footprint of a project in participating jurisdictions.
- Taxpayer's turnover.
- Taxpayer's risk profile.
- Participation of the taxpayer in a national CC program.

All the criteria collected a similar number of positive votes. More specifically, the economic footprint of a project in the participating jurisdictions gathered support by 53 percent of the respondents, turnover gathered support from 47 percent of the respondents, risk profile 43 percent and participation in a national CC program 33 percent. Therefore, all the above criteria may be considered when setting a threshold for eligibility to a PMCC program (Box 3.3).

BOX 3.3: EXAMPLES OF ENTRY CRITERIA

OIL AND GAS COMPANY EXAMPLE

The PMCC program introduced by Countries A, B, C, D, and E has the following entry criteria, which are all fulfilled by MNE A:

- Economic footprint (budget) of a project in the participating jurisdictions: EUR 500m.
- Global consolidated turnover of the MNE Group: EUR 750m
- Risk profile of the taxpayer: Low risk
- Participation in a national CC program: Ideally yes

MNE A is a global player in the oil and gas industry with annual revenue of EUR 10b and the envisaged project has a budget of EUR 600m. The taxpayer has a robust TCF, the completeness and accuracy of which has been reviewed by the participating TAs. Three of MNE A's local entities participate in national CC programs.

FMCG COMPANY EXAMPLE

The PMCC program for which MNE B applied has the following entry criteria:

- Economic footprint (budget) of a project in the participating jurisdictions: EUR 500m.
- Global consolidated turnover of the MNE Group: EUR 750m.
- Risk profile of the taxpayer: Low risk.
- Participation in a national CC program: Ideally yes.

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BOX 3.3: EXAMPLES OF ENTRY CRITERIA

Although MNE B fulfils the other three criteria, two TAs have expressed their concerns regarding the accuracy and completeness of several aspects of MNE B's TCF. These TAs indicate to MNE B the aspects of its TCF that give rise to their concerns, or the aspects that they consider potentially risky, and ask MNE B to take the steps necessary to address the identified issues. For this reason, they remain in contact with the taxpayer and keep receiving relevant information. MNE B is requested to return and show that adequate changes have been made to its TCF, after which MNE B is confident about its TCF's robustness, and which will allow it to participate in a PMCC program with all TAs concerned.

The answers should also be viewed in the light of the capacity of TAs, having also regard to the resources and the effort for supervision activities required from them. Given that large taxpayers require a certain effort as well as that there are certain cases of large taxpayers where some form of supervision activities is constantly required, it follows that entry criteria to PMCC would also need to consider the financial circumstances of the transactions and/or the taxpayers concerned.

Perhaps the most important criterion is the economic footprint of a transaction. Having in mind that the program discussed herein is *project-related* MCC, the economic magnitude of a transaction for the relevant countries is a reasonable factor that must be considered when setting entry criteria. Thus, regardless of the taxpayer's turnover in each jurisdiction, a TA may not be interested in participating in a PMCC program if the envisaged transaction would not have an economic footprint significant enough to justify, from an economic perspective, the participation of that TA therein.

A distinction could be further made between *economic footprint in absolute terms* and *relative economic footprint*. In assessing whether a project has a significant economic footprint in absolute terms in the jurisdictions concerned, different considerations could be considered. One criterion is the importance of the project's budget for the jurisdictions involved, that is, the overall economic value of the cluster of transactions for these jurisdictions. Another criterion could be the expected economic impact of the project at issue on the participating countries over time. This could include, for instance, future tax revenues, high expected growth, creation of many jobs, among other things. The importance of the transaction's economic footprint would be different depending on the relative size of each country. For the assessment of the relative footprint of a transaction, one could consider the ratio of the transaction's economic footprint (e.g., budget or total economic impact) over the overall size of the MNE. In this case, the economic footprint would also be taxpayer-specific, as the size of the taxpayer also influences how the economic footprint of the transaction is assessed.

A second criterion to be considered is the turnover of the taxpayer concerned in the relevant countries. If the MNE does not have a large taxable presence in one or more of these countries, it can be difficult to reach out to the respective TAs and request them to participate in a PMCC project. TAs of countries where MNEs have facilities or subsidiaries that are not considered as large taxpayer for domestic purposes, may not be interested in participating in a PMCC program. This lack of interest could primarily be due to purely economic reasons. This issue could be (partially) mitigated through the development of common reporting and assurance standards for TCFs that would allow TAs of countries where an MNE group company is not considered a large taxpayer to benefit from the TCF review carried out by their peers (i.e., other TAs). Moreover, some TAs could be barred from participating in PMCC programs in such cases, as companies that are not considered large taxpayers for domestic purposes are not controlled by the large business unit, which is usually the office that oversees national CC programs as well as cross-border risk assessment and assurance programs. Even if they are not barred from an organizational perspective, staff members who oversee such taxpayers may not be fully aware of how tools such as national CC programs or cross-border risk assessment and assurance programs work in practice. However, in cases where there are no such barriers, the turnover of the taxpayer may not limit the participation of a taxpayer in a PMCC program insofar as the project at issue has a significant "economic footprint" as discussed in the previous paragraph.

Taxpayers' risk profile is a significant issue when TAs determine the participation of taxpayers in national CC programs. As indicated by the responses to the MCC Survey, the MNE risk profile also appears to be a significant issue when considering the participation of an MNE in PMCC. A factor to consider in the assessment of a taxpayer's risk profile is the existence of a TCF, the importance of which was indicated in the 2021 Handbook with respect to national CC programs.[45] Other factors to consider are the taxpayer's track record of compliance, a documented tax strategy, a positive working relationship and the taxpayer's transparency toward the TA. TAs might not be inclined to invite high-risk MNEs into CC programs, as these programs are fundamentally based on trust. Therefore, the introduction of a well-functioning TCF is the way forward for most MNEs toward national CC programs, a consideration that applies *mutatis mutandis* in the case of PMCC. Thus, for TAs to be willing to participate in a PMCC program, it is highly desirable that taxpayers have a well-functioning TCF which constitutes a strong indication that TAs can rely on the disclosures made by that taxpayer.

Some taxpayers may not have transactions of sufficient size or complexity to merit participation in a PMCC program, while others may not yet feel that their tax governance is of sufficient standard to share. Both factors can change over time. It is therefore considered important to keep entry criteria flexible to allow for discussion over costs, benefits and expected outcomes when entering a PMCC program.

Last, participation in a national CC program is not a *conditio sine qua non* for taxpayers' participation in a PMCC program.[46] However, as indicated in the answers to the questionnaire, it can have a positive effect since it constitutes a strong indication that an MNE has awareness of how such collaboration works and what is expected from them. It can therefore be beneficial both for taxpayers and TAs if a taxpayer that already participates in one or more national CC programs, also joins a PMCC program. Moreover, synergies can be built among national CC programs and PMCC, insofar as one or more transactions that will be considered in PMCC have already been reviewed at national level by one or more TAs in the context of their national CC programs. The result would be that these TAs would already have formed an understanding of these transactions (Christodoulopoulos et al., 2025).

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[45] Owens and Leigh-Pemberton (2021: 27) state that MNEs "must have an appropriate internal tax control framework or be able to demonstrate to the TA that tangible steps are being taken toward designing and implementing one that is appropriate."

[46] This section examines participation in a national CC program as an entry requirement to, or enabler for, PMCC. Section 4.2 herein discusses whether the absence of a national CC program constitutes an implementation barrier to PMCC.

3.6. TAXES COVERED

KEY TAKEAWAYS

i. Based on the responses of the MCC Survey participants, the following taxes should be included in PMCC: (a) CIT, (b) VAT/GST, (c) WHT, and (d) payroll taxes.
ii. Additional taxes are: (a) customs duties, (b) environmental taxes, (c) special levies applicable to certain sectors, (d) capital gains taxes and offshore indirect transfer taxes, and (e) stamp duties, (f) transaction taxes, (g) other case-specific taxes.
iii. The decision of which taxes are to be included in a PMCC program would vary depending on the nature of the project and the relevant facts and circumstances. TAs should consider including all taxes relevant to a given project, as this would enhance tax certainty. However, it should be borne in mind that including all relevant taxes could increase complexity.
iv. A pilot program covering select taxes could help refine coordination before having PMCC programs with a wide scope.

Respondents to the MCC Survey were asked to indicate which tax types they consider desirable to be included in PMCC. CIT (including TP) was the type of tax that most respondents believe should fall within the ambit of PMCC. In most cases, CIT is the type of tax that gives rise to the most important concerns in cross-border projects. This includes the financing of the transaction (with equity or debt), various intra-group transactions, acquisitions, disposals or absorptions of enterprises,

CIT was followed by VAT/GST (or equivalent taxes). Evidence in the MCC Survey indicates that VAT/GST issues frequently arise in the same situations that complex international transactions take place and therefore would naturally be strong candidates to include in a PMCC program. Large taxpayers with complex affairs frequently carry out transactions with significant VAT/GST implications.

Withholding tax (WHT) is the third most important type of tax (or method of tax collection) that respondents to the MCC Survey considered important including in PMCC. This was expectable, as WHT (e.g., on dividends, interest, royalties, and potentially capital gains) usually affect the repatriation of profits to the jurisdiction of the investor, which explains why WHT are important for both MNEs and TAs. This is also connected to the growing interest in developing countries to add WHT to their tax system and to the fact that many countries may want to investigate the identity of the beneficial owner and hence, the real recipient of the income, on which WHT may be imposed.

The fourth type of tax that respondents believed should be covered by a PMCC program are payroll taxes. Payroll taxes have proven to be more difficult to include in the national CC programs of various countries, as payroll frequently belongs to the human resources or payroll function of MNEs and to the income tax/personal tax departments of the TA. However, payroll taxes can be part of taxpayers' TCF and thus be included in PMCC. Moreover, internal coordination within TAs could enable inclusion of payroll taxes in the scope of PMCC, in cases where their inclusion is not feasible due to organizational barriers.

Ideally, all relevant taxes should be eligible to be included in a PMCC program. Therefore, apart from CIT (including TP), VAT/GST or equivalent, WHT and payroll taxes, policymakers should consider including customs duties, environmental taxes, special compulsory levies, capital gains taxes (where applicable), offshore indirect transfer taxes (OITs), stamp duties and transaction taxes in the scope of the PMCC, as well as other taxes potentially applicable to each case. Nevertheless, the more the taxes included within a PMCC program, the less manageable the process. An approach to ensure the efficiency of a PMCC program would be to have a clear scope with the most relevant and material transactions of the project and the related tax consequences. Decision on this matter should be made after consultations with the participating TAs and the taxpayer.

Although some of the taxes mentioned in the previous paragraph may be less relevant in a multilateral context, there can be cases where an understanding by a participating TA of the taxes borne by a taxpayer in another country (of which the TA participates in PMCC) can be relevant or even necessary. For instance, a taxpayer may opt to finance a cross-border transaction with financing instrument A instead of financing instrument B because the latter is subject to stamp duty in the country where the borrowing company resides. If the scope of a PMCC program includes this tax, it would be easier for the TA of the country where the lender resides to understand better whether the financing option chosen constitutes legitimate tax planning.

Including all relevant taxes in a PMCC program has the potential to provide a greater degree of certainty to TAs that all aspects of the MNEs' TCF are working effectively.[47] Moreover, this provides MNEs with more confidence that the TA will rely on its TCF across all areas of tax compliance. Despite this, such a suggestion may be difficult from a legal perspective (especially in countries with federal structures) and/or excessively expensive when a country's TA operates in strict silos. Moreover, the more taxes covered by a PMCC program, the more complex the program is likely to be. As a result, a recommendation that all relevant taxes are included may be unrealistic in some cases (Box 3.4).

BOX 3.4 EXAMPLES OF TAXES COVERED

OIL AND GAS COMPANY EXAMPLE

Considering the facts and circumstances described in Section 3.6, the PMCC program in which MNE A will participate shall cover tax risks in the following areas: CIT (including TP and PE considerations), VAT/GST, WHT, payroll taxes, capital duty, stamp duty, special compulsory levies, and customs duties.

FMCG COMPANY EXAMPLE

Considering the facts and circumstances illustrated above, the PMCC program in which MNE B will participate shall cover tax risks in the following areas: CIT (including TP considerations), VAT/GST, WHT on dividends and interest and stamp duty.

Finally, similar to pilot CC programs, pilot PMCC programs may typically focus on a select number of types of taxes. This would narrow the scope of discussions and reduce the time needed to reach an agreement.

47 This does not mean that TAs would need to assess all the aspects of the taxpayer's TCF that are relevant to a given PMCC program. Instead, some of these aspects could be reviewed and, insofar as they have been found appropriate, the TAs could assume that the rest of the TCF's aspects are appropriate as well.

This would be an acceptable and worthwhile approach in the beginning, as it would make it possible for different TAs to coordinate with each other more effectively before deepening the scope of the PMCC program and including more types of taxes in it.

3 .7. TAX CERTAINTY VERSUS TAX COMFORT

KEY TAKEAWAYS

i. The type of certainty offered by PMCC is *practical* certainty, meaning that a taxpayer reasonably expects its positions to be accepted by the TA. It can be contrasted to *legally binding* tax certainty.

ii. MNEs balance the level of certainty with the effort and resources required. Legally binding certainty usually demands more time and resources, whereas de facto certainty requires less.

iii. About half of the MCC Survey respondents affirmed that existing programs provide appropriate tax certainty but also identified weaknesses in these programs, in particular: (a) low speed, (b) excessive resources, and (c) high costs.

iv. Cross-border risk assessment and assurance programs (e.g., ICAP, ETACA, and FCBD) may streamline APA processes by pre-reviewing the relevant data. PMCC could serve a similar function.

Respondents to the MCC Survey noted that there was a difference between the certainty provided in existing programs and the desired level of tax certainty which should be explored in discussions between TAs and taxpayers. In many respects, the choice of tool for the MNE is a question of how much certainty one gets in proportion to the effort required to achieve it. Thus, the higher the level of tax certainty required, the more resources and effort will typically be required. For example, based on administrative practice in Finland, the taxpayers can discuss the depth of the tax certainty they want to have, because in general the more guidance or certainty an MNE wants, the more time and effort will be required by all sides.

Section 1.2 above also distinguished between *legally binding* tax certainty and *de facto* tax certainty or tax comfort. Tax comfort is the type of certainty offered by ICAP, ETACA, FCBD as well as PMCC (OECD, 2019a; 2021a). Specifically, in the context of these programs, *legally binding* tax certainty is not achieved, which means that the taxpayer has no legal guarantee that it will not be audited by the TA. Instead, the taxpayer obtains tax comfort, which means that the taxpayer has reasons to believe that a TA will accept its tax positions (Martini and Russo, 2021).

However, obtaining tax comfort through programs like ICAP, ETACA, or FCBD does not mean that obtaining legally binding tax certainty is excluded. Such programs can also work as shortcuts to obtaining an APA, in cases where this is desirable or when one or more TAs cannot agree on the risk assessment of a specific transaction with the scope of the respective program. This advantage is connected to the fact that the MNE has already provided a large amount of the basic information needed to obtain an APA and that TAs have already reviewed that information and have developed an understanding of it. Therefore, with this information, the TAs could already skip the initial steps in the process to be able to submit an APA. It is similarly possible to view PMCC as a springboard into an APA process, in cases when the taxpayers desire it or when one or more TAs cannot agree on the risk assessment of a specific transaction within the scope of the PMCC program. Having already formed an understanding through PMCC, TAs can conclude an APA much faster than without this transaction having already been assessed in the PMCC program.

In some cases, PMCC and APAs may be mutually exclusive depending on domestic requirements. This is the case in the United States. The experience of the United States' approach to ICAP shows that if an APA (or similar instrument) is unavailable after an ICAP risk assessment has taken place, additional tax certainty may be given by providing that when a department of a TA intends to audit a taxpayer participating in PMCC, clearance is required from the department that participated in PMCC.

Even in cases where limited certainty is obtained (e.g., in the case of no low-risk assessment by all TAs), being aware of the likely concerns or alternative interpretation of one or more TAs is beneficial for the taxpayer. When TAs cannot agree on a low-risk assessment of the taxpayer within a PMCC process, the result could also be an audit in different countries. In such cases, the facts and circumstances given to the TAs during the PMCC process as well as the understanding that TAs developed through the PMCC risk assessment can increase the efficiency and speed of the audit procedure (Box 3.5).

BOX 3.5 EXAMPLES OF TAX CERTAINTY VERSUS TAX CONVENIENCE

OIL AND GAS COMPANY EXAMPLE

The different steps of the oil pipeline project that MNE A is planning do not present significant complexities that would require legally binding tax certainty. However, timing in this project is crucial and MNE A aims at obtaining tax certainty as fast as possible to proceed in the construction phase. In this respect, PMCC can offer tax certainty quickly. In this respect, PMCC will offer MNE A de facto tax certainty, namely tax comfort.

FMCG COMPANY EXAMPLE

In the context of the restructuring, MNE B will make changes to its functional analysis, which will impact the allocation of profits across jurisdictions. The aspects of the functional analysis that will change were previously covered by bilateral APAs among countries A, D, F, and G. As the relevant functions are a core element of MNE B's business, the head of tax of the group insists on having the pertinent TP aspects covered again by a PMCC program to enable the TAs concerned to reach an understanding of this aspect of the restructuring and use PMCC as a springboard to an APA. To keep effort and costs as manageable as possible, the taxpayer applied for an APA only to TAs in cases where a higher level of certainty is needed and not to all participating TAs. This APA, which in this case was a bilateral APA, will most likely require less time to be issued, as the TA(s) will already have reached an understanding of this step. The bilateral APA will reinforce the tax certainty offered by the PMCC program.

Frequently an opinion granted is given with caveats that the facts and the circumstances have been adequately described and will not change. This can also give comfort to both sides that they have understood/explained the transaction appropriately and can derive some certainty over the acceptance of the facts presented to the other side and that opinions will not change if the facts remain the same. Another caveat often included in opinions relates to changes in the legislation. That is, the tax comfort granted is subject to changes in the legislation that would have an impact on the assessment carried out by TAs.

3.8. PMCC RISK ASSESSMENT OUTCOMES

KEY TAKEAWAYS

i. A completion letter issued by the lead TA marks the conclusion of the PMCC risk assessment and assurance process.

ii. The taxpayer is informed of the results from all participating TAs regarding covered risks and tax periods. This could be achieved either through a common opinion letter or separately signed but coordinated opinion letters.

iii. All participating TAs would sign a common opinion letter, which would explain the commonly agreed facts, provide a common tax treatment, and clarify the risks identified for audit purposes. The letter would also include the areas of disagreement between TAs. A common opinion letter is the preferred option.

iv. The alternative is that the participating TAs would issue and sign separate but coordinated opinion letters. They would explain the commonly agreed facts, tax treatment, audit risk, and assessment process. They would also highlight areas of disagreement with other TAs.

After a PMCC risk assessment has been conducted, the TA leading the process will issue a completion letter to every PMCC participant. The outcome letter should mark the conclusion of the PMCC risk assessment and assurance process.

Additionally, the taxpayer will be informed about the results of the risk assessment and assurance processes carried out by each participating TA with respect to the covered risks and tax periods. This could be done in two ways, depending on the extent to which national legislation allows TAs to commit to a more aligned approach (Box 3.6):

- One outcome letter issued by all TAs together, which includes the signatures of all participating TAs.
- Separately signed but coordinated outcome letters for each jurisdiction that shares commonly agreed facts, issued separately by each TA.

BOX 3.6 EXAMPLES OF RISK ASSESSMENT RESULTS FROM THE MULTILATERAL COOPERATIVE COMPLIANCE PROGRAM

OIL AND GAS COMPANY EXAMPLE

After having reviewed all aspects of the oil pipeline project, the TAs of countries A, B, C, D, and E, have issued a common outcome letter to MNE A, which includes their conclusion on the risk classification of each individual step of the project and states that they do not intend to audit these steps for the following four years. Furthermore, they state that after the initial four-year period (roll-forward period), they will proceed conducting a high-level review (check-up) of the project every two years to confirm that the facts and circumstances as well as the law have not changed and remain relevant.[a] The outcome letter also contains two steps that could not be classified as low risk by two TAs. All TAs that participated in the PMCC program sign the letter.

FMCG COMPANY EXAMPLE

After a careful review and risk assessment of the step plan, MNE B's TCF, and the legal documentation provided by the taxpayer, the TAs that participated in the PMCC project have completed the risk assessment of MNE B's transaction. However, as some of the TAs cannot commit to the issuance of a common outcome letter for domestic legal purposes, it has been agreed that each TA will issue a separate outcome letter, which will, nevertheless, be coordinated with the outcome letters of the other TAs. Each outcome letter is signed by the TA that issued it.

[a] The four-year-long roll-forward period and the high-level review on a biannual basis are mere examples and have been chosen for illustration purposes. The roll-forward period and the frequency of the high-level review thereafter may vary in each case based on the agreement between the stakeholders, subject to domestic legal requirements.

Between the two options, the most desirable is the common opinion letter covering the facts and circumstances of the transaction(s) at issue, where all participating TAs come to a similar conclusion and agree on a common tax treatment of the taxpayer's positions, clarify the risk for audit purposes and elaborate on the process of the assessment. The letter should also identify any areas of disagreement of the participating TAs.

However, when the first approach is not possible, TAs would issue separately signed but coordinated opinion letters. These outcome letters should cover the facts and circumstances of the transaction(s) reviewed, the tax treatment of the taxpayer's positions, explain the risk for audit purposes as viewed by each TA and illustrate the process of the assessment. Each outcome letter should also mention the issues on which TAs disagreed.

In cases where a taxpayer participating in PMCC requires a higher level of tax certainty, that is, legally binding tax certainty. Regarding TP matters, PMCC could function as a gateway to bilateral or multilateral APAs. However, there are no widespread cross-border instruments with the characteristics of APAs that can offer tax certainty in areas other than TP (e.g., in relation to cross-border direct or indirect tax matters). The mechanism of cross-Border VAT rulings within the European Union is an exception to this state of play and thus, PMCC could be seen as a springboard to this instrument. In this respect, the extent to which APA-like mechanisms can be developed to cover tax issues outside the area of TP should be examined.[48]

[48] Regarding APA-like mechanisms within PMCC, see also Section 4.3 herein.

IDENTIFYING AND MINIMIZING POTENTIAL IMPLEMENTATION BARRIERS TO A PMCC PROGRAM

4.1. INTRODUCTORY REMARKS

KEY TAKEAWAYS

i. The key barriers to effective PMCC implementation identified include: (a) a cultural shift in tax compliance within a TA, (b) misalignment of the law with economic and business realities, or (c) resource constraints and inefficient allocation of resources within TAs.

ii. PMCC relies on effective exchange of information between TAs. However, competent authority status is not always clearly established within some TAs, giving rise to coordination challenges.

iii. TAs should explore already existing cross-border risk assessment and assurance programs and to consider feasibility of PMCC having regard to availability of resources.

Previous discussions have identified several practical barriers to effective PMCC. PMCC requires a renewed approach to tax compliance issues, such as transparency between TAs and the taxpayer regarding matters of mutual interest.

Frequently, tax law or tax practice does not align with economic and business reality. This poses challenges to TAs that may lack understanding of business processes. In turn, it may affect the ability of TAs to provide reasonable assurance of meeting expectations. Efficient allocation of and insufficient resources within TAs adds a further practical barrier to effective PMCC implementation.

Another barrier is that PMCC largely depends on cooperation between competent TAs through the effective exchange of information between states. However, the status of competent TAs is not always established as it should in the large business unit within the administration.

As already noted, several mechanisms are available to TAs to provide tax certainty. These include ICAP or ETACA. It therefore becomes crucial for the TA to consider the feasibility of introducing these mechanisms and for PMCC to consider available resources. TAs need to consider whether the legal and other regulatory barriers to PMCC may hinder the effective implementation and application of PMCC at the domestic level.

4.2. EXISTENCE OF A NATIONAL CC PROGRAM

KEY TAKEAWAYS

i. A national CC program is not required for a TA to establish or participate in a PMCC program. Nevertheless, having such a program in place is highly desirable, as it provides a strong foundation for PMCC participation.

ii. TAs with national CC programs already have dedicated departments, personnel, processes, working methods, documentation, defined requirements for taxpayers' TCF, among other things, in place.

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(continued)

KEY TAKEAWAYS

iii. The absence of a national CC program does not prevent a TA from joining a PMCC program. Experience from ICAP shows that TAs can successfully participate in such programs even without previous CC experience. However, the existence of a national CC program facilitates participation in PMCC.

This section examines whether the absence of a national CC programs could be a potential barrier to the implementation of a PMCC program.[49] In this respect, the question arises whether the existence of a national CC program is a pre-requisite for the establishment of, and the participation of a TA in a PMCC program.

Broadly, the existence of a national CC program would be a highly desirable pre-step in cases where a TA envisages establishing and/or participating in a PMCC program. The reason is that the introduction of national CC programs marks a paradigm shift in TAs' approach to tax compliance in several respects.

First, the shift from the traditional, adversarial approach to tax compliance to the more collaborative approach introduced by CC leads to a cultural change within a TA. In this respect, a more equal relationship between the two sides is developed, in which the taxpayer is not viewed in advance as a potential fraudster.

Second, a TA that introduced a national CC program before participating in PMCC already has an established internal structure of dedicated departments as well as officials and personnel assigned with specific roles. Moreover, such a TA would have already developed systems and processes to administer its national CC program. Thus, it would be better placed to handle other risk assessment programs, such as PMCC.

Third, it would already have set in motion a set of working methods in the context of its national CC program. This could indicatively include the documentation and evidence to be requested from taxpayers, defined requirements for taxpayers' TCF, controls and checks to be undertaken and relevant timelines. In addition, synergies could exist between national

[49] For an overview of national CC programs and the synergies between national CC programs and PMCC, see Christodoulopoulos et al. (2025).

CC programs and PMCC programs to the extent that transactions that will be reviewed within a PMCC program have already been reviewed in the context of a national CC program.

The fourth reason is the availability of officials and personnel who have been trained and are experienced in these systems, processes, and working methods. They are already familiar with the culture of collaborative risk assessment and assurance programs.

Nevertheless, the absence of a national CC program alone would unlikely be a barrier to the establishment of, or participation in, a TA in a PMCC program. Experience from ICAP has shown that TAs may participate in cross-border risk assessment and assurance programs even if no CC program is available at the national level.[50] Thus, the absence itself of a national CC program cannot be considered a barrier to PMCC.

The crucial element is whether a country's TA of the country concerned has the intention and the ability to work in a manner that is aligned with the principles of CC. In this respect, some countries do not have a CC program (yet) but are taking steps to improve the relationship of transparency, disclosure, trust, and communication between taxpayers and tax authorities (Quiñones, Mosquera Valderrama, and Huiskers-Stoop, 2022).

Finally, there may be a cross-fertilization effect between PMCC and national CC programs. Many Latin American and Caribbean countries do not have national CC programs. In this case, the existence of a regional (P) MCC program could facilitate the spread of national CC programs. There could be many synergies for countries in the region that are currently working to implement a national CC program.

4.3. INTERNATIONAL LAW ISSUES

KEY TAKEAWAYS

i. The feasibility of EOI between TAs in a PMCC program largely depends on the existence of major EOI clauses (covering all relevant taxes) in the international agreements among the States of the participating TAs.

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[50] Examples include Argentina, Canada, Japan, Luxembourg, Portugal, and Spain (OCDE, 2021a).

(continued)

KEY TAKEAWAYS

ii. National laws on confidentiality, privacy, and data protection may pose barriers to EOI among TAs in a PMCC program. These issues should be clarified in an MoU entered between participating TAs.

iii. In the PMCC context, MoUs and outcome letters are crucial tools for setting expectations and fostering cooperation between TAs and taxpayers. Despite their benefits (adaptability and clarity), MoUs and outcome letters are not legally enforceable. Standardized templates can help maintain transparency and consistency.

iv. An APA-like process should be embedded into the PMCC program, which would enable the issuance of binding instruments such as cross-border rulings. Introducing binding instruments within PMCC would streamline cooperation and increase certainty without adding excessive administrative burdens, since the transaction would already have been assessed during the PMCC program.

4.3.1. *Exchange of Information*

With respect to the relationship between TAs within PMCC *inter se*, the EOI among them will be feasible in most cases, as there may be EOI clauses in bilateral or multilateral agreements (e.g., MCMAA). However, in some cases, there may be minor EOI clauses that cover only the taxes included in the DTT entered into between them, as opposed to major EOI clauses which cover all taxes of contracting States (Oberson, 2018). For PMCC, it is crucial that participating TAs can exchange information as regards all taxes covered by the PMCC program, which means that a major EOI clause would be required. Moreover, in some other cases the EOI between TAs may not be feasible, as some countries may not have a DTT providing for the EOI for all tax matters or a tax information exchange agreement. Moreover, they may not participate in a multilateral agreement such as the MCAA.

In these cases, the legal culture of some countries may allow EOI through a third country participating in PMCC with which both countries have an international agreement allowing for the EOI regarding all taxes covered by PMCC. However, this may not always be the case, as many TAs are unable to exchange information with TAs of countries with which their jurisdiction has no international agreement enabling them to do so. The legal basis for EOI and the channels for this purpose should be determined in an MoU signed in advance by the participating TAs.[51]

Legal barriers in connection with EOI could also arise from national laws regarding confidentiality, privacy, and data protection. For example, TAs of the requested State may not exchange information with their peers if they know that it will be used in a manner that is at variance with the national laws of the requested State, or that the requesting State will share with States not participating in the PMCC program.[52] These issues should be clarified in the MoU on EOI signed by the participating TAs.

4.3.2. *Legal Nature of Memorandum of Understanding and Outcome Letters*

Generally, MoU and outcome letters are the result of good faith and recommended practice among agencies. In the case of PMCC, MoUs play a pivotal role in building trust and promoting good practice between TAs and the taxpayer or among TAs themselves. Given the absence of a relevant legal or regulatory framework, they set the expectations among the participating TAs and the taxpayer. Outcome letters contain the conclusions of the risk assessment processes and illustrate the expectations of the parties participating in PMCC.

The benefit of MoUs is that they are less restrictive than legal acts and provide substantial flexibility when stipulating the rights and responsibilities of the parties. Thus, they can be a useful tool in adjusting some PMCC characteristics to individual cases. This does not mean that the various fundamental aspects and characteristics of an MoU would be negotiated in each case. For reasons of transparency and clarity, TAs could work with standard international MoUs containing the principles of cooperation among the stakeholders. Like MoUs, outcome letters can offer substantial flexibility in documenting the results of the risk assessment process without being restricted by the cumbersome requirements and formalities of binding instruments such as APAs.

Notwithstanding their benefits, both MoUs and outcome letters lack an enforceability mechanism. This means that TAs may not be able to legally

[51] For more information, see Annex 1 herein.

[52] For more information, see Section 3.2.2 herein and Huiskers-Stoop, Breuer, and Nieuweboer (2022).

claim a certain action or conduct from their peers relying on an MoU. Nor can a taxpayer enforce an outcome letter or rely on it in judicial proceedings. Despite this shortcoming, MoUs and outcome letters may be very useful in setting rules for cooperation and documenting the results, respectively, of a PMCC program. Having standardized MoUs and indicative templates of (common or separate) outcome letters, subject to national requirements, would be a good point of departure for participating TAs and taxpayers.

An important issue is whether MoUs and outcome letters have the potential to be binding (i.e., give legally binding certainty) for PMCC participants. This is relevant especially because taxpayers may require tax certainty beyond that guaranteed by an outcome letter based on good faith. To overcome this issue, an APA-like process could be embedded within PMCC. In this way, taxpayers may be able to obtain a binding instrument (e.g., a cross-border ruling) regarding a specific tax matter that would be legally binding for the TAs involved.[53] At the same time, TAs can rely on an instrument of a binding nature vis-a-vis their peers. However, this would require a bilateral (or multilateral) agreement among the participating countries.

Moreover, TAs would be able to conclude an instrument like this much faster than without this transaction having already been assessed in the PMCC program. Nevertheless, to keep effort and costs as manageable as possible, the taxpayer should not apply for such an instrument to all TAs, but only to TAs in cases where a higher level of certainty is needed (e.g., in cases when one or more TAs cannot agree on the risk assessment of a specific transaction within the scope of the PMCC program.

4.4. CONSTITUTIONAL ISSUES

KEY TAKEAWAYS

i. Several principles of constitutional nature might pose legal barriers to PMCC, depending on the legal tradition of each country. These include (a) the principle of taxation without representation,

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[53] Nevertheless, such an approach may not be feasible for all TAs. In some TAs departments that grant APAs and/or tax rulings are different from those that manage programs such as CC, ICAP, ETACA, and PMCC.

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KEY TAKEAWAYS

(b) the principle of equality, and (c) the principle of legitimate expectations.

ii. Under national constitutions, international tax obligations are typically introduced through legislation, in deference to the separation of powers. The constitution usually requires that tax obligations are implemented via parliamentary approval. PMCC may not require an act of parliament if it only enhances TA procedures and does not affect substantive tax rules.

iii. PMCC by nature aims to provide tax certainty for large cross-border projects, primarily benefiting large MNEs. This could give rise to concerns about fairness. However, this is constitutionally justifiable under the principle of substantive equality, which allows different treatment of taxpayers based on their circumstances, if it is reasonable and legally sound.

iv. In assessing compliance of PMCC with the principle of equality, elements to consider are the economic footprint of the project in the countries involved, the complexity of PMCC participants' transactions, the availability of a robust TCF, and the existence of extensive disclosure and transparency requirements.

v. Participation in PMCC should depend not only on the size or nature of the taxpayer but also on the magnitude and economic impact of the project itself. As long as PMCC remains open to all large taxpayers meeting the necessary requirements, it does not violate equality principles.

vi. PMCC can be justified as it improves tax law enforcement and facilitates efficient tax revenue collection in cases involving complex, large-scale, cross-border transactions.

vii. PMCC provides de facto tax certainty. However, TAs may still audit transactions reviewed under PMCC, which could create potential uncertainty for taxpayers. A clearance requirement within TAs could prevent uncoordinated audits.

4.4.1. *Principle of No Taxation without Representation*

Generally, the introduction of international tax obligations, be they bilateral or multilateral agreements, occurs through the legislative process. Several jurisdictions recognize the principle of separation of powers, meaning that certain duties by law reside with a given branch of government (executive, judicial, or legislative). In both common law and civil law jurisdictions, the constitution is the primary source of domestic law. In this respect, it empowers the legislature to operationalize tax obligations (whether bilateral or multilateral) through parliamentary procedure (principle of no taxation without representation).

Accordingly, the question that arises from the standpoint of domestic law is whether the introduction of or participation in PMCC would require an act of parliament, pursuant to the principle of no taxation without representation, which in many countries is a constitutional principle. Since PMCC would not create or abolish new international tax obligations or substantially alter domestic law, it may not require an act of parliament (Majdańska, 2021). Put differently, PMCC would only expand TA rights that already exist under the current TA regulatory framework, under the so-called delegated functions, and would not create any substantive tax law obligations. The aim of this measure is to increase the effectiveness and efficiency of tax compliance. Therefore, it falls under the TA's internal control mechanism that enhances desirable economic and administration efficiency and would not clash with the principle of no taxation without representation.

Nevertheless, regardless of considerations about the principle of no taxation without representation, the method of introduction of PMCC may also depend on the legal tradition of the jurisdiction at issue (Owens and Leigh-Pemberton, 2021). It follows that certain countries could introduce PMCC through a delegated act, or even through administrative guidelines or practice, whereas other countries would require entering into an international agreement and enforcing domestic law (Owens and Leigh-Pemberton, 2021).

4.4.2. *Principle of Equality*

The TA, as one of the government's administrative agencies, implements or makes decisions that may or may not be challenged based on constitutional imperatives. PMCC is intended to cover large cross-border projects generally conducted by large MNEs. By design, the program is transaction-selective in nature and, indirectly, taxpayer-selective as large cross-border projects are more likely to be carried out by this category of taxpayers. The justification for PMCC projects with this scope is the significant complexities that such projects pose to TAs. Accordingly, the question is whether the PMCC is constitutionally justifiable as is the case in many democratic States.

Legal systems generally recognize the so-called formal and substantive equality principle. Formal equality requires that everyone be viewed as equal before the law irrespective of their circumstances. Substantive equality on the other hand applies the standard of reasonableness in that people may be treated differently if their circumstances are different. Such treatment must be legally sound and justifiable under the constitutional imperatives (Chemerinsky, 1983). The majority of tax systems globally ascribe to the principle of substantive equality. Whether the granting of benefits is in line with the principle of equality may vary depending on each jurisdiction's legal tradition and on which conception of the principle of equality it adopts. The measure against which compliance with the principle of equality should be tested is whether the benefits in question are necessary to enhance compliance by taxpayers (Majdańska and Leigh-Pemberton, 2019).

When examining the compliance of PMCC with the principle of equality, one should distinguish between *substantive* and *procedural* benefits (Christodoulopoulos et al., 2025). Substantive benefits are those that have a positive impact on the tax due (including penalties and interest), whereas procedural benefits are advantages that have no influence on the tax due, nor do they grant the taxpayer a cash flow advantage.[54]

In many cases, it may be difficult to justify a differentiation of the application of substantive tax rules based on whether the taxpayer concerned participates in a PMCC program, as these rules provide for specific legal consequences (i.e., a certain tax burden) depending on whether certain legal requirements are met. In this case, taxpayers are in the same situation whether they comply with or violate the same rule and are in a different situation if only one of them complies with that rule regardless of whether they participate in a PMCC program.[55] Substantive tax benefits

[54] Whether a certain treatment constitutes a substantive or a procedural benefit is not always clear-cut and may differ from country to country.

[55] Similarly, according to the OECD (2013), PMCC programs should not result in a different or more favorable outcome for the taxpayer.

are not necessary to enhance taxpayer compliance and should not be granted to taxpayers participating in a PMCC program (Christodoulopoulos et al., 2025).

The granting of certain procedural benefits (only) to PMCC participants may be justified if it is established that these taxpayers (and the transactions concerned) are not in a similar position to non-eligible taxpayers (e.g., small and medium enterprises) (Christodoulopoulos et al., 2025). Considerations that can be taken to justify this are the complexity of the (cluster of) transactions inherent in the project and of the economic affairs of participating taxpayers, considering the economic footprint of the project and the amount of taxes at issue in the project concerned. Another element that should be considered is whether participating taxpayers have robust TCFs in place and are thus subject to more extensive disclosure and transparency requirements that non-participating taxpayers. This allows TAs to have a detailed understanding of the cluster of transactions and the relevant tax-related facts, circumstances, and events (Christodoulopoulos et al., 2025).

In general, participation in PMCC programs should not be determined by reference to the characteristics of the taxpayer alone. Rather, the magnitude and the economic footprint of a transaction on the countries involved plays a vital role in the determination (Christodoulopoulos et al., 2025). Insofar as PMCC is an available option for (large) taxpayers that meet all PMCC requirements (notably robust TCF as well as extensive disclosure and transparency to the TA) when they engage in a large cross-border project, no concerns regarding compliance with the principle of equality should arise.

Establishing a PMCC program can be justified from the perspective of the equal treatment principle, as it makes enforcement of the tax laws of different countries more efficient in the case of complex and large cross-border transactions. It also facilitates the collection of the tax revenues at stake in such cases (Christodoulopoulos et al., 2025).

4.4.3. *Principle of Legitimate Expectations*

Although it is generally not intended that a TA, after having reviewed and risk assessed a (cluster of) cross-border transaction(s) in the context of a PMCC program, would eventually reach different conclusions, this cannot be altogether excluded. Participation of a taxpayer in a PMCC program by itself does not create a legitimate expectation that all TAs will reach the same conclusion regarding their risk assessment.

Another question arising in this context is whether the issuance of a common opinion letter or of separate but coordinated opinion letters by TAs could create legitimate expectations to a taxpayer, which could be violated if a TA reached a different result at a later stage. Although this is unlikely, it cannot be altogether excluded.[56] Insofar as this would occur due to non-coordination between the different departments of a TA, this could be solved or even prevented by putting in place a clearance requirement, as discussed in Section 3.7, or by means of other measures taken by each TA internally. For example, the department that participates in PMCC should have the responsibility to first ask every relevant department in the TA before it gives an opinion. Moreover, this opinion should be taken into consideration before an audit is started, to determine whether an audit is needed. In any event, the intentional initiation by another department of a TA of a (high-level) review of a transaction that was the subject-matter of a PMCC program should generally be avoided, as is currently the practice in ICAP.

Section 3.7 stressed that PMCC offers tax comfort but not legally binding tax certainty. This means that taxpayers participating in PMCC do not have a legally enforceable claim for a certain type of conduct from a TA. Moreover, since PMCC consists of a risk assessment of a taxpayer's (cluster of) transaction(s), it follows that the outcomes of all risk assessment processes performed within a PMCC program are relevant to a TA's internal processes on audit selection, that is, the stage where a TA distinguishes between risky and non-risky taxpayers and/or transactions and identifies which taxpayer should be audited for which transactions. Therefore, from a practical standpoint, PMCC outcomes belong within the sphere of a TA's internal processes, before a decision to audit is communicated to the taxpayer, let alone produces any legal effects.

At the same time, PMCC is a good faith procedure, and the issuance of a low-risk outcome letter indicates the understanding of a TA that a taxpayer or a transaction is low risk. Although TAs may indicate that a taxpayer is low risk and they will not allocate any resources to audit that taxpayer, this does not constitute an assumption of any legal obligation in this respect.

[56] See, for example, a case from the first ICAP pilot in Stanley-Smith (2019).

4.5. TAs – MANDATE AND INTERNAL STRUCTURE

KEY TAKEAWAYS

i. The diverse organizational structures seen in different TAs may constitute a barrier to effective implementation of PMCC. A PMCC program may cover multiple taxes, but these may be handled by different units or even separate authorities within the same country.

ii. Coordination is needed within a country's TA, especially in federal countries, where the competences may be split between federal and state-level authorities.

iii. Tax officials involved in PMCC discussions must have a competent authority (CA) status to exchange information with foreign TAs. Challenges may be present, such as the availability of a sufficient number of officials with CA status or differences in CA roles across countries.

iv. Some TAs may be limited to providing only binding decisions under domestic law, while other may be unwilling to provide informal answers, which makes it difficult to participate in PMCC. This could also have an impact on the nature and format of outcome letters.

v. To overcome such barriers, PMCC could incorporate APAs or tax rulings as part of the process.

Legal and regulatory barriers to PMCC can also arise from limitations or restrictions to the mandate, competence, or internal structures of TAs.

First, a PMCC program could conceivably cover a range of different taxes in relation to a cross-border project (e.g., CIT and VAT/GST). However, it is not certain that these different tax types will be processed by the same unit within the TA or even by the same authority. This depends on the mandate and the organizational structure of the TA. TAs of many countries are organized based on taxpayer segment, whereas in some other countries one authority is competent for CIT (e.g., TA) and another one for VAT (e.g., customs authority). In such cases, if a taxpayer with a complex project that presents multiple tax issues asks to participate in a PMCC program, the different authorities (within the same country) would need to coordinate their actions when participating in that program.

This consideration is *mutatis mutandis* relevant in the case of federal countries, insofar as their individual states have their own TAs.[57] Moreover, this fragmentation could lead to some units within the TA not having the same willingness to deal with the transaction with the same urgency (e.g., when the amount at stake is not significant). It may also be the case that in dual structures one authority does not participate in a PMCC program and thus, will not be involved in the risk assessment or respond to queries of other TAs on this matter. As PMCC may cover a broad range of taxes and taxpayers of different sectors, effective coordination within TAs would be necessary. In some cases, this could be addressed through MoUs between different departments within a TA or between different administrations within the same country, which set the requirements, principles or procedures that must be met and followed at the domestic level.

Regarding the internal structure of, and coordination within, TAs, many countries have established large business units, that is, departments that manage all issues of large taxpayers. In any event, the allocation of resources within TAs varies by country, and where CC and cross-border risk assessment and assurance programs, such as PMCC, are administered by the large business unit, the level of resources within the large business unit becomes the decisive factor for the scope of the program that can be initiated or the number of the MNEs that can participate therein. Large business units should be equipped with experienced personnel with a wide range of educational backgrounds, such as legal professionals, economists, accountants, and more internally trained people.[58] However, other departments of TA should not be deprived of experienced and skilled employees.

An important aspect of PMCC for TAs is the capacity to work with other TAs and exchange information with them. For a representative of a TA to be able to participate in a meeting taking place in the context of a PMCC program and make a statement or disclose information

[57] Section 89b of the German Fiscal Code titled International Risk Assessment Procedures, introduced by the Federal Government. See German Federal Ministry of Finance (2024).

[58] Refer to thoughts regarding capacity building for CC programs, which are also relevant in the case at hand in Owens and Leigh-Pemberton (2021).

about the taxpayer to another country's TA, that person must have been granted the status of a CA. In this respect, it is a requirement for TAs intending to participate in PMCC programs to have an adequate number of employees with CA status, including within the large business unit or the department administering PMCC. In some cases, TAs may not have an adequate number of employees with CA status in the large business unit or the department administering PMCC. To avoid timing problems for discussions, or time and resource constraints in case a small number of employees with CA status are required on multiple discussions within a limited timeframe, TAs can take practical measures internally to ensure that experienced individuals with CA status are available.[59]

Across TAs, there may also be differences between CA functions. In some countries the TA might use the EOI CA for PMCC rather than the MAP CA resources, for instance due to capacity constraints. In other countries, the approach taken may be that for TP cases the only appropriate CA would be the MAP CA. This might hinder dialogue between countries, as different CA cannot exchange information between themselves. To ensure efficiency, issues pertaining to the participation of individuals with CA status in PMCC could be addressed through an MoU entered among the participating TAs.[60]

A third issue is the unwillingness or the inability, from a legal standpoint, of a TA to provide answers that are not formally binding on various transactions. Several TAs may only give binding answers, insofar as a legal instrument (e.g., tax ruling) is available to them pursuant to domestic law. Therefore, it may be difficult for them to participate in a program such as PMCC, the result of which is not formally binding for them. This may also pose problems with respect to the issuance of outcome letters, as they might not constitute a formal decision that the TA can issue based on its domestic law. Conversely, certain TAs may be willing to give mainly informal answers. These could give rise to interpretation questions; hence, it may be difficult for a taxpayer to be able to rely on them.

All these issues could be addressed by embedding in PMCC an instrument that has the characteristics of APAs or tax rulings. On the one hand, this would allow taxpayers to request a binding instrument to achieve the required level of tax certainty. On the other, it would enable TAs that

59 For example, in the Dutch TA, the Central Liaison Office can give temporary mandates to act as CA to employees of the Large Business Directorate.

60 For more information, see Section 3.2 herein.

are constrained by a rigid domestic legal framework to issue a tax ruling swiftly, after having carried out discussions with taxpayers and their peers.

4.6. OBTAINING EXTERNAL LEGITIMACY VIA AN ACCEPTABLE COMMON REPORTING AND ASSURANCE STANDARD

KEY TAKEAWAYS

i. Transparency and a robust TCF are essential for building justified trust between taxpayers and TAs in a PMCC program. A common understanding of what makes a satisfactory TCF would make the PMCC process more efficient by avoiding duplicate assurance efforts across TAs.

ii. To be effective, a PMCC program should have a streamlined process that prevents multiple TAs from redoing the same checks. A coordinated assurance approach would also encourage more taxpayers to participate voluntarily and would ease implementation on the taxpayer side.

iii. Currently, there is no global consensus on what constitutes a robust TCF, which is a barrier to PMCC. Different countries have varying standards: some require a robust TCF without defining it, while others do not mandate one at all. This makes a common approach crucial for smooth multilateral cooperation.

iv. Several operational questions must be addressed: whether the TCF should exist at the group or entity level; whether a TCF must be comprehensive or can cover specific risks or projects; whether a TCF must be fully in place at entry or can be developed afterwards; and whether external certification of a TCF should be mandatory. All of these would benefit from a common approach among participating TAs.

v. TCF reviews should not be one-off checks, as cross-border projects evolve over time. Regular high-level reviews (e.g., every three years) or special reviews following major events (like reorganizations or joint ventures) are needed to keep TAs informed about ongoing and emerging tax risks in the PMCC program.

Transparency, an open attitude, and willingness to resolve issues in a cooperative manner are underpinned by the taxpayer's TCF. The TCF is the foundation of a relationship of justified trust between the taxpayer and the TAs involved in a PMCC program. It is the means whereby the taxpayer demonstrates the required transparency and control of its tax risks, which means that its tax declarations and related disclosures can be relied upon. If TAs involved in a PMCC program have a common understanding of what constitutes a satisfactory TCF and how its application in practice should be assured, the overall PMCC process could be much more efficient. Specifically, a common approach to the definition and assurance of TCFs has the potential to enable TAs to accept one another's evaluation of the TCF, avoiding the need to duplicate assurance activity.

Based on the responses to the MCC Survey, an effective PMCC program should consist of a streamlined, simple, and swift process that can lead to early tax comfort for all sides. To achieve this, duplicate controls on the same issues from multiple TAs should be avoided. Specifically, a TA should not need to assure the robustness of the TCF if this has already been undertaken by one of its peers.[61] This requires a common understanding of what constitutes a satisfactory TCF and a willingness to follow a common approach to the assurance of TCFs so that the assessment by one TA can be relied upon by others. A common understanding, at the supranational, regional, or international level, of what constitutes a satisfactory TCF would facilitate acceptance by TAs of the evaluation of a taxpayer's TCF made by another TA. This would also make it easier for taxpayers to implement a TCF that would enjoy increased acceptance, which would facilitate participation in the voluntary PMCC program. The TCF Working Group of WU GTPC is conducting research on this issue.

It follows that TAs will need to be transparent with one another about the assurance processes they have carried out and their conclusions about the robustness of the taxpayer's TCF. Having a common approach enables TAs collectively to achieve the desired level of assurance in an efficient and effective manner, saving time and resources both for themselves and taxpayers. In this respect, developing a coordinated approach to TCFs based on a common understanding or reporting standard, and a

[61] There is currently no common understanding of what constitutes a robust TCF. The TCF Working Group of WU GTPC is currently conducting research on this matter. For more information on TCF, see OECD (2016).

common assurance standard for TCFs would be a highly desirable enabler of an effective PMCC program.

Currently, however, TAs are not necessarily fully aligned in their approach to the definition and assurance of TCFs. The OECD 2016 publication is still the primary guidance to the essential features of a TCF, and it will take time for the more detailed description and definition that we have developed to be adopted. It is also the case that TAs are at different stages in the development of their audit practices and the shift toward a systems approach. The audit assurance standard that has been outlined by the TCF Working Group represents a foundation for good practice in the audit of TCFs by TAs and, consequently, a basis for them to trust the work of their peers. Nonetheless, given the divergence of current audit practice in TAs, it will take time for this to be true of large numbers of them. MCC can play a significant role in accelerating this process and in building trust between TAs. This will help to avoid the waste of time and resources that is entailed in duplicative assurance activities by multiple assurance providers and TAs (Box 4.1).

BOX 4.1 EXAMPLE OF OBTAINING EXTERNAL LEGITIMACY THROUGH A COMMON REPORTING AND GUARANTEE STANDARD BETWEEN AN OIL AND GAS COMPANY AND A CONSUMER GOODS COMPANY

The different steps of the oil pipeline project that MNE A is planning do not present significant complexities that would require legally binding tax certainty. However, timing in this project is crucial and MNE A aims at obtaining tax certainty as fast as possible to proceed in the construction phase. In this respect, PMCC can offer tax certainty quickly. In this respect, PMCC will offer MNE A de facto tax certainty, namely tax comfort. Assume that in both the example of MNE A as well as that of MNE B the countries involved had previously agreed on a common understanding of what constitutes a robust TCF. This would allow all participating countries to have the same understanding of the taxpayer's TCF. Assume, further, that a common assurance standard has also been agreed, TAs could carry out assurance activities in respect of the aspects of tax control that they are

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BOX 4.1 EXAMPLE OF OBTAINING EXTERNAL LEGITIMACY THROUGH A COMMON REPORTING AND GUARANTEE STANDARD BETWEEN AN OIL AND GAS COMPANY AND A CONSUMER GOODS COMPANY

interested in. In the context of a PMCC program, these activities would be coordinated, and TAs could rely on the work that their peers have performed to achieve an overall assurance that satisfies the needs of all, without duplication of effort. A common assurance standard would be the foundation for this acceptance of one another's conclusions.

Given the importance of common TCF standards for PMCC, it is problematic, to say the least, that currently there is no common understanding of what a TCF comprises. Although most countries make the existence of a robust TCF with specified features a requirement for participation in their national CC programs, other countries require it without defining what constitutes a satisfactory TCF, and some countries have no such a requirement at all. Thus, insofar as a common TCF reporting standard is required for PMCC purposes, countries not adhering to that standard would face a practical barrier to participation in a PMCC program.

Second, it is also necessary to ask at what organizational level a TCF must exist (i.e., either at the individual entity or the group level) and further, whether the review of the TCF should be conducted at the level of the parent entity or all affiliated entities. In practice, the TCF of an MNE is usually designed to operate across the entire group of companies. It is therefore unlikely in practice that this question will arise. It is more realistic to say that in each jurisdiction it is reasonable to test whether the TCF has been fully and effectively implemented. By addressing this question, the assurance activity of each TA can be additive and not duplicative.

A third issue touches on whether a TCF must be "applied comprehensively"[62] or it is possible to have in place a TCF for a narrower scope (e.g., a TCF covering only certain types of taxes or, in the case of PMCC, on only one or more specific projects). Again, this is problematic, because a TCF

[62] This is one of the OECD's six building blocks of TCFs.

worthy of the name should be comprehensive. However, it may be appropriate to ask if the project or transaction poses any specific tax risks that should be addressed by the TCF as it applies to the project's operations.

Fourth, it should be examined whether a robust TCF exists upon entering a PMCC program. This is a requirement for participation in many countries' national CC programs. However, other countries allow taxpayers to enter a national CC program even if their TCF is not fully sufficient. In such cases, the taxpayer is allowed to enter the program and in cooperation with the TA identify what aspects of the TCF must be improved, which leads to the determination of a list of issues that must be addressed within a certain period. While this approach could be sufficient for national CC programs, this might not be the case for PMCC programs due to their inherent complexity and the greater number of stakeholders. Thus, an alternative approach can be followed where the taxpayer sends a request to the TA seeking to clarify whether its TCF is adequate ('tell me') and effective ('show me'). To the extent that this is not the case, the taxpayer will have to adapt it and align it with the requirements set. However, there may be cases where, after entering in a PMCC program, the taxpayer might need to make adaptations to its TCF as the project evolves, depending on the nature of the project.

If the existence of a reliable TCF is a requirement for participation in a PMCC program, participating TAs will need to agree to the basis on which they, collectively, decide whether the requirement has been met. A common understanding of the TCF as a reporting standard and of the approach to assurance makes this possible. There is some similarity here to current practice in the ETACA program, where one of the criteria used to assess the suitability of a taxpayer to enter the program is whether the MNE participates in a local CC program.

A fifth issue is whether the certification of a taxpayer's TCF by an external auditor should be a requirement for participation. This third-party provision of assurance as regards the adequacy and the effectiveness of the TCF would help TAs assess the suitability of the taxpayer to enter a PMCC program. While most countries do not foresee such an external audit as requirement for taxpayer participation in their national CC program, this is a legal requirement in some others. Some TAs may require an external audit of the taxpayer's TCF as a condition of participation in PMCC, whereas those that do not wish to do so can merely consult the outcome thereof. Whether or not a TCF external audit should be a legal requirement for a taxpayer to participate in a PMCC program should be agreed on in an MoU. This approach would enhance alignment among countries and optimize the use of resources from both sides.

Finally, a point that must be determined is the frequency with which a TCF would have to be reviewed by TAs, for instance after the completion of the PMCC risk assessment. Because a project (or parts thereof) may change over time, a review of the taxpayer's TCF only at the outset of the project would, in many cases, not enable the participating TAs to understand potential future risks. In these cases, the TAs would have no overview of the tax risks the cross-border project poses, unless high-level reviews ("check-ups") are carried out periodically (e.g., every three years) or on special occasions (e.g., upon/after a reorganization or a joint venture with another taxpayer).[63]

4.7. RECONCILING DIFFERENT TIMING PERIODS

KEY TAKEAWAYS

i. The existence of different tax periods and legal deadlines across participating jurisdictions could give rise to a practical barrier to PMCC, as these differences could lead to discrepancies in the taxpayer's legal obligations and render the risk assessment process more challenging.

ii. These different tax periods might relate to CIT (e.g., use of calendar year vs a different fiscal year as tax year, different deadlines for filing tax returns), VAT/GST (e.g., non-uniform VAT/GST periods and VAT/GST return submission deadlines), and other taxes.

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[63] In Austria, special circumstances that may be relevant for the assessment of tax-related risks or that may constitute special occasions include: significant tax changes, significant changes in other legal areas, significant changes in the economic environment, significant changes in the number of employees, significant changes in accounting systems, changes in the structure of shareholders, restructurings, above-average company growth or shrinkage, the introduction of new technologies in the company, new or atypical business areas or products or the discontinuation of business areas or products, expansion of business activities to new markets or withdrawal from existing markets, and fraudulent acts.

(continued)

KEY TAKEAWAYS

iii. These timing differences may not pose a major problem unless the taxpayer cannot meet a legal obligation in one country without violating a deadline in another, or the taxpayer is unable to produce timely and accurate information for the PMCC risk assessment.

iv. To address timing differences efficiently, TAs could create a "deadline map" or address issues on an ad hoc basis (e.g., proposals to amend the law).

A practical barrier to PMCC could be the existence of different timing periods among jurisdictions wishing to establish a PMCC program. This could lead to discrepancies and inconsistencies in legal deadlines within which specific legal obligations (e.g., filing of returns) need to be met or legal actions need to be carried out by the taxpayer concerned.

In the case of CIT, for instance, although many countries use the calendar year as the reference tax period for filing a tax return, others have set different tax periods. Different deadlines may also apply for the preparation of the (audited) financial statements of companies as well as the submission of tax returns in different countries. Substantial differences may also exist in the case of VAT/GST, as different countries may provide for different tax periods or have different deadlines for the submission of VAT/GST returns.[64] Similar concerns may be relevant to any other tax or levy covered by a PMCC program.

These discrepancies should not give rise to significant concerns, unless either (i) the taxpayer cannot meet a legal obligation/carry out a legal action in one country without violating a deadline in another country or (ii) the timing differences may not allow for the timely production of information that is crucial for the risk assessment carried out by a participating TA.[65]

64 See for example art. 252(1) EU VAT Directive (Council of the European Union, 2006), which provides for that EU Member States can determine the deadline within which a VAT return is to be filled, without, however, this deadline being more than two months after the end of the relevant tax period. Moreover, Art. 252(2) EU VAT Directive stipulates that EU Member States have the leeway to set the tax period at one, two, or three months. Nevertheless, EU Member States may also set different tax periods on the condition that these periods do not exceed one year.

65 In the latter case, many cases of unavailability of formal information may be temporarily addressed on an informal basis and reviewed and confirmed later.

For example, if, notwithstanding the existence of different tax periods and legal deadlines for a given legal action in the participating countries concerned, the taxpayer can complete the said legal action in all relevant countries (i.e., there is an overlap of the tax periods and legal deadlines), timing differences may not present a problem, insofar as the taxpayer can realistically meet its legal obligations in compliance with the statutory deadlines of all countries. Moreover, if, despite timing differences, a taxpayer can present to all TAs concerned valid and reliable information in relation to the legal actions and legal events in question (e.g., this may be the case, if the taxpayer has a robust TCF that can provide ad hoc trust to all TAs), the timing differences are unlikely to pose significant problems.

In the opposite case, timing differences could constitute a regulatory barrier capable of impeding, unless sufficiently addressed, the establishment of a PMCC. Certain steps can be taken to address such timing differences.

First, the TAs of countries that envisage establishing a PMCC could each prepare a list of the statutory deadlines in relation to all the taxes that are covered by the PMCC program as well as to all tax-related events. This will give them the opportunity to create a consolidated "deadline map," which will allow them to identify from the outset any inconsistences coming from timing differences and take appropriate actions in advance. Its creation will confer the characteristics of a unified process on the PMCC program, which will thus, not be viewed exclusively as a process serving the completion of different obligations in different jurisdictions. The deadline map should be regularly updated to enable participating TAs to respond in timely manner to taxpayer questions and requests. It will be of general relevance and not only applicable to a specific taxpayer, which means that it can apply to all taxpayers who wish to enter a PMCC.

Over time, the preparation of a deadline map has the potential to enhance the cooperation of participating TAs, which will know what to expect from their colleagues and when to expect it. This will ideally lead to an alignment (to the extent feasible) of the relevant deadlines applicable in participating countries, such as through potential amendments to legislation (if possible).

Second, ad hoc solutions could be given to cases where there are mismatches caused by differences and inconsistencies in timing periods. In some cases, this could be done on an informal basis, particularly when the deadlines set are not legal deadlines, but working deadlines set between the TAs and the taxpayer or among TAs themselves. However, ad hoc solutions will likely not be feasible in the case of legal deadlines. In such cases, an adaptation of deadlines through legal amendment could help overcome timing differences. Such an amendment could apply either to only the taxpayers participating in PMCC or, in the case that this would violate the principle of equality, to all taxpayers.

5

OVERVIEW OF A PMCC PROGRAM

KEY TAKEAWAYS

i. A PMCC program has three main phases—selection, risk assessment, and outcomes—similar to ICAP but without a formal issue resolution mechanism.

ii. TAs may first consider entering an MoU, potentially with the support of regional organizations. Taxpayers with cross-border operations express interest through their ultimate parent entity's tax authority, which coordinates with other relevant administrations.

iii. Once interested parties align, the taxpayer applies to initiate the selection phase. Administrations may start with pilot PMCCs to gain experience and can proactively invite suitable taxpayers, especially those familiar with national CC programs.

iv. TAs assess the application package to determine eligibility and scope of transactions or issues for the PMCC. If approved, they sign an MoU with the taxpayer and request a main documentation

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KEY TAKEAWAYS

package. Rejections of taxpayer applications may include recommendations for future participation.

V. Upon submission of the main documentation, all parties engage in a collaborative risk assessment process. Final outcomes are documented in a joint or coordinated outcome letter, classifying issues as low or non-low risk and suggesting alternate resolution mechanisms if needed.

A PMCC program may be divided into three main phases: selection, risk assessment, and outcomes. These phases correspond to those of ICAP, with the exception that PMCC, as outlined herein, does not include an issue resolution mechanism for simplification purposes. They discussed in detail in the ICAP Handbook (OECD, 2021a). The purpose of this section is merely to show the sequence of steps that need to be taken by TAs that envisage establishing and participating in a PMCC program as well as those of taxpayers that intend to participate therein.[66]

i. A preliminary step for TAs that seek to establish a PMCC program is to enter an MoU among themselves. In this respect, TAs can rely on the MoU included in Annex 1.C herein. Regional tax organization and/or regional development banks could support TAs wishing to enter an MoU and set up the necessary structures and arrangements for PMCC.
ii. A taxpayer that carries on cross-border business activities involving more than one of the participating countries is interested in applying for a PMCC program. It communicates with the TA where its ultimate parent entity is based to express its interest and confirm whether the TA is interested in having a PMCC program with this taxpayer. That TA will also contact the other relevant TAs to understand whether they are also

[66] The timeframes within which TAs and/or taxpayers must proceed, as indicated in this section, in an action have been left open. The PMCC participants will determine this on an ad-hoc basis.

interested in having such a PMCC program. If the PMCC program has reached a more "institutional" form, this step would not be necessary and instead, the taxpayer could apply directly for PMCC in line with step 3 below.

iii. The taxpayer applies for a PMCC program. In doing this, the taxpayer needs to prepare and submit, along with an application request, the application documentation package, an example of which is illustrated in Annex 1.A herein. The submission of the application by the taxpayer marks the beginning of the selection phase. At an initial stage, TAs may opt for establishing a pilot PMCC to understand how it would apply in practice, gain relevant experience, and make adaptations based on lessons learned. In such a case, TAs may identify the taxpayers that they consider suitable for a PMCC program and invite them to participate. In this regard, it is worth considering inviting taxpayers that already have experience with one (or more) national CC program(s). Beyond pilot PMCC programs, TAs may also indicate to taxpayers that a PMCC would be a suitable option for their cross-border transactions.

iv. The TAs examine the application documentation package submitted by a taxpayer and determine whether that taxpayer is fit for participating in PMCC. In this context, the TAs also determine which (clusters of) transactions and/or issues should be within the scope of PMCC.[67] The TAs should respond to the taxpayer within a period of four to six weeks, or another reasonable period agreed upon.

v. If the TAs approve the participation of the taxpayer in a PMCC program, they enter an MoU with the taxpayer, an example of which is illustrated in Annex 1.D herein. The taxpayer prepares and submits the main documentation package, an example of which is illustrated in Annex 1.B herein. This should be done within a period of 16-20 weeks, or another reasonable period agreed upon. Upon acceptance of the taxpayer in a PMCC program, the TAs need to prepare a risk assessment plan.[68] Insofar as the TAs reject the taxpayer's application, they could accompany the rejection document with recommendations about the steps that the taxpayer needs to take in order to be eligible for and/or accepted in a PMCC program at a later stage.

[67] For more information, see Annex 1.C, Section 3.1 herein.

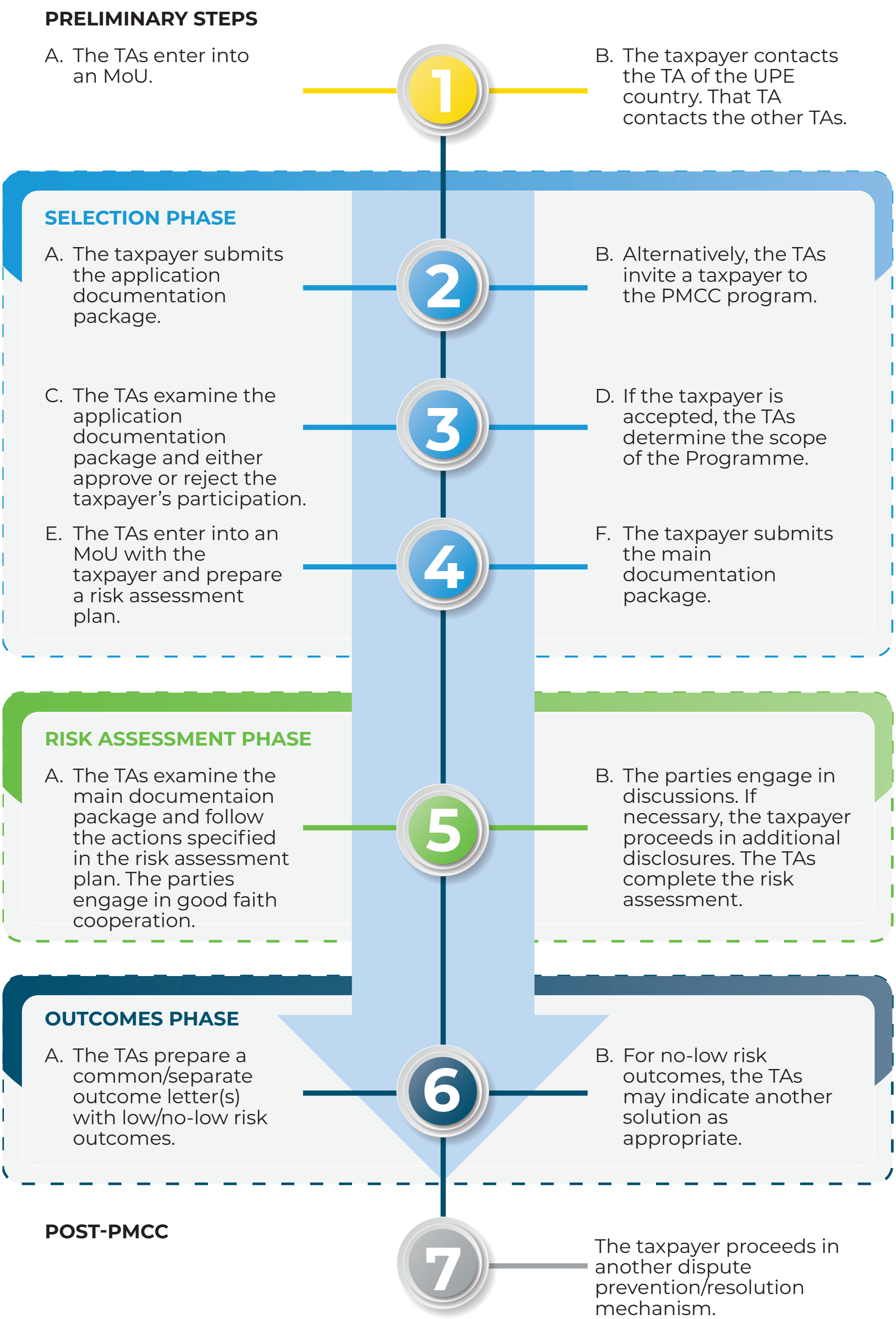
[68] Regarding risk assessment plan, see OECD (2019a).

vi. After the taxpayer submits the main documentation package, the parties to PMCC (both the taxpayer and the TAs) enter the risk assessment phase. In this phase, the TAs follow all the actions included in the risk assessment plan. The parties need to engage with each other in good faith and cooperate in an open and transparent manner to complete the PMCC risk assessment. If necessary, the taxpayer makes additional disclosures, and the TAs complete the risk assessment.

vii. After the completion of the risk assessment phase, the PMCC program reaches the outcomes phase. Here, the TAs prepare a common outcome letter signed by all of them (or, alternatively, separately issued but coordinated outcome letters signed by each TA). The outcome letter(s) indicate which (clusters of) transactions and/or issues have been assessed as low risk and which as no-low risk. Regarding no-low risk (clusters of) transactions and/or issues, the participating TAs may indicate another solution to the taxpayer (for example, resorting to another dispute prevention or resolution mechanism, such as a bilateral or multilateral APA, a cross-border tax ruling, or a MAP).

viii. The taxpayer may proceed in another dispute prevention or resolution mechanism, if this is considered necessary, subject also to efficiency considerations. The understanding formed by TAs and the outcomes reached in a PMCC program can contribute to expediting the completion of the processes of that other mechanism.

FIGURE 5.1: OVERVIEW OF A PMCC PROGRAM



6

TAKING THIS WORK FORWARD

Over the last decade, CC programs have spread worldwide as governments and businesses have recognized their value in providing greater tax certainty for TAs and MNEs. To encourage more countries to participate in these programs, in 2019 WU GTPC set up multi-stakeholder working groups consisting of representatives from international and regional organizations, TAs, MNEs, practitioners, and academia, led by WU GTPC in cooperation with ICC and CATA.

The major output from this work was the 2021 Hanbook (Owens and Leigh-Pemberton, 2021), which provides practical guidance for the implementation of CC and identified three areas where further guidance is needed: assurance for TCF, MCC, and measurement of costs and benefits of CC. Three multi-stakeholder working groups were formed, each of them conducting research in these areas. This report focuses on MCC, building on Owens and Leigh-Pemberton (2021) and including recommendations from the MCC Working Group.

The context in which this work has been undertaken is increasing globalization and integration of economies across the world, which have resulted in a large increase in cross-border transactions. However, a move toward deglobalization and protectionism has been also noted, which increases the need of MNEs for tax certainty. In this environment, MNEs are increasingly exposed to the tax rules of different jurisdictions, which gives rise to tax risks both at the level of each jurisdiction, and arising from the interaction of different tax systems.

At the same time, technologies such as artificial intelligence are opening new opportunities and challenges for both government and business. Business models are also constantly evolving. The challenge for government is to avoid increasing uncertainty in what is already a very politically and economically uncertain environment by preventing taxation of businesses from undermining longer-term investment, job and wealth creation, and economic growth. Governments should work toward encouraging cross-border business operations, which has shown to increase the welfare of citizens over the last 60 years.

Eliminating uncertainty in tax matters is key to building a business-friendly environment. Yet this report has shown that existing cross-border dispute prevention mechanisms do not always lead to high levels of tax certainty for large cross-border projects. This points to the need for a multilateral approach to cross-border dispute prevention mechanisms.

This report provides guidance to TAs and MNEs that wish to move beyond the traditional national approach to CC programs by exploring how to design what are referred to as PMCC programs. Such programs offer greater tax certainty to both TAs and MNEs in cross-border situations since they provide a platform to develop a common understanding of the tax issues that arise when setting up and managing operations, especially those in physical and digital infrastructure.

The report builds on the experience of countries in developing multi-country programs—such as that led by the OECD (ICAP), the EU (ETACA), and Finland (FCBD)—but with the difference that all relevant taxes and contributions are covered since the focus is on a specific project. The empirical basis is the outcomes from the MCC Survey, which was carried out in 2024. The MCC Survey showed that there were limitations on national CC programs, especially in dealing with cross-border activities.

The overall aim of PMCC is to provide a platform for TAs and businesses in cross-border situations to have open and constructive dialogue, solving issues as they arise. This in turn will support the growth of trade in goods and services and foreign direct investment, which have been the engines of growth over the last six decades. Nevertheless, the MCC Working Group recognized that PMCC may not be feasible in all countries.

Discussions within the MCC Working Group suggested that there may be scope for regional tax organizations, such as the Inter-American Development Bank, the African Tax Administration Forum, and the European Union to launch pilot projects between willing member countries. If such pilot programs are successful, they will be taken out to a broader audience of potential participants. This could in turn lead to clarifications in the guidance provided herein.

To assist in this process, this report identifies issues that countries wishing to introduce PMCC need to address. Annexes 1.A–E contain draft MoUs that can be used as the basis for cooperation between TAs and MNEs, and suggested formats for outcome letters. The international and regional organizations that have been engaged in this work are commited to helping countries, especially emerging and developing economies, implement these programs. In the immediate future, the aim is to have at least one pilot program in the European Union, one in the Latin American and Caribbean region, and one in Asia. The results of these pilots will inform further guidance from the MCC Working Group.

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ANNEX 1. PMCC IMPLEMENTATION PACKAGE

The templates contained in Annex 1 have been prepared as guidance for TAs interested in establishing a PMCC program. However, these templates can also be used, with certain adaptations, as guidance for the purposes of full-scale MCC programs.

A. PMCC APPLICATION DOCUMENTATION PACKAGE

The list below contains the documents that taxpayers should submit with their application for PMCC to the participating TAs. It builds on the ICAP Selection Documentation Package, but is not intended to be a pre-determined list of documentation required for PMCC. TAs that establish an MCC program could adapt it to the facts and circumstances of the underlying project and/or (clusters of) transactions and the taxpayer concerned.

PMCC Application Documentation Package[a]
MNE group information form
MNE covered risk overview
Master file for most recent period
CbC report for most recent period
Selected Summary Of MNE group's structure (depending on the scope of the project)
List of APAs/tax rulings relevant to the scope of the project

[a] Additional template for some of these documents can be found at: https://www.oecd.org/en/about/programmes/icap.html.

B. PMCC MAIN DOCUMENTATION PACKAGE

The list below contains the documents that taxpayers should submit after their application for PMCC to the TAs involved has been approved. This list builds on the ICAP Main Documentation Package, but it is not intended to be a pre-determined list of documentation required for PMCC. It could be adapted by TAs that establish a PMCC program depending on the facts and circumstances of the underlying project and/or (clusters of) transactions and the taxpayer concerned.

PMCC Main Documentation Package[a]
Updates to documentation provided in the PMCC application documentation package
List of covered (clusters of) transactions
Local files (or equivalent) for most recent period
Audited consolidated financial statements for most recent period
Tax strategy of the MNE group, including details of TCF covering (at a minimum) all aspects of the relevant project and/or covered (clusters of) transactions
Overview of the envisaged project and/or (clusters of) transactions, including information on new entities (companies, partnerships, PEs) potentially established, the envisaged intra-group transactions and revenue flows
Value chain analysis for the MNE Group covering (at a minimum) all aspects of the relevant project and/or covered clusters of transactions

[a] Additional template for some of these documents can be found at: https://www.oecd.org/en/about/programmes/icap.html.

C. MOU AMONG TAX ADMINISTRATIONS

This Annex presents a template of a Memorandum of Understanding (MoU) that is entered into between the TAs that seek to establish a PMCC program. The purpose of the MoU is to promote standardization in an MCC context in areas such as overall objectives of a PMCC program, definitions, applicable international legal instruments, criteria and procedures for case selection, and communicating methods among the participating TAs. This MoU draws from the MoU that is part of the OECD Joint Audits Implementation Package. The elements of the Joint Audits MoU have been adapted accordingly to accommodate the approach considered most desirable in an MCC context.

The MoU provided for in this Annex has been designed to serve as a "permanent infrastructure" that can be used by participating TAs on a long-term basis. If this approach is followed, TAs will not need to negotiate an MoU every time a taxpayer applies for a PMCC program. Instead, they will be able to use this MoU as a basis to collectively enter, if desired, into an MoU only with the taxpayer (see Annex 1.D herein).

TAs establishing a PMCC do not need to use the MoU template presented here. Its format and contents may be adapted, depending on their needs, work methods, and relevant facts and circumstances. However, most of the elements included in this MoU are expected to be relevant to TAs seeking to establish a PMCC program and would therefore be useful in discussions and negotiations held between them.

In some cases, participating TAs may opt not to enter an MoU due to domestic law requirements. In this case, this MoU could be regarded as guidance for TAs seeking to establish a PMCC program, as it contains considerations that would remain relevant even if no MoU were entered into among themselves.

[date]

Memorandum of Understanding

Memorandum of Understanding (MoU)
between

[Tax Administration of Country A]

[Tax Administration of Country B]

[Tax Administration of Country C]

(hereinafter collectively referred to as the "Parties")

regarding Multilateral Cooperative Compliance (MCC)

1. PREAMBLE

The Parties desire

a. to increase compliance in international tax matters
b. to improve effectiveness of and cooperation in risk assessment and assurance of cross-border tax matters
c. to reduce costs for taxpayers and TAs alike
d. to reduce the number of mutual agreement procedures and disputes on cross-border tax matters
e. to promote cross-border trade and investment by providing tax comfort to taxpayers in respect of their business transactions

Therefore, the Parties have agreed this MoU that sets forth the understanding of the Parties with respect to establishing an MCC program (hereinafter referred to as the "Program"). It addresses the principal operational aspects when establishing a Program and outlines the main provisions to be respected by the Parties. It is understood by the Parties that this document is intended to govern the conduct of the Program but is not a legally enforceable agreement.

2. GENERAL PROVISIONS

2.1. *Scope*

The Parties agree that the subject of the Program may be all taxes levied by or on behalf of the Parties and covered by the applicable international legal instrument.

2.2. *Definitions*

"Multilateral Cooperative Compliance" is understood in the context of this MoU as a program under which:

- two or more TAs joining together to
- examine and risk assess (an) issue(s) / transaction(s) of one or more related taxable persons with cross-border business activities, including

cross-border transactions involving related affiliated companies that are based, incorporated or have their place of effective management in the participating countries, and in which the countries have a common or complementary interest,

- proceeding in a pre-agreed and coordinated manner and including the presence of officials from the other TA(s),
- in which TAs jointly engage with the taxpayer, enabling the taxpayer to share information with them jointly on a contemporaneous or real-time basis,
- and the teams include competent authority representatives from each TA for the exchange of information

"Passive Presence": officials may be present at the administrative offices of the other State(s) and may be present during administrative enquiries carried out in the other territory by the officials of the host jurisdiction(s).

"Active Presence": officials may be present at the administrative offices and/or premises of the taxpayer in the other State(s), may be present during administrative enquiries carried out in the other territory (territories) by the officials of the host jurisdiction(s), and may, where they are present during such an administrative enquiry, interview individuals and examine books and records.

2.3. *Applicable International Legal Instrument(s)*

Exchange of information during the conduct of the Program will be based on *[indicate the appropriate]*:

☐ Convention on Mutual Administrative Assistance in Tax Matters (Mutual Assistance Convention) – Articles 5, 7, 8, and 9 of the Mutual Assistance Convention

☐ Bilateral treaty for the avoidance of double taxation between *[Party A]* and *[Party B]*, Articles 6-21 as applicable, 25 and 26 of the double tax convention between *[Party A]* and *[Party B]*

☐ Domestic implementation of the EU Council Directive 2011/16/EU on administrative cooperation in the field of taxation between the Parties *[indicated the applicable provisions that implement the EU Directive into domestic law]*

☐ Other *[e.g., regional arrangements such as the Nordic Convention, EU regulations on different types of taxes etc.]*

Information exchanged during a Program will be covered by the applicable legal instrument and enjoy the protection extended to similar information under the national law of the Parties.

To the extent that a Party is under an obligation, pursuant to an international or supranational instruments *[name potential instruments]*, to exchange information obtained in the context of this Program with a TA not participating in this Program, that Party, before exchanging this information, will notify the Party that provided this information, that this information might be exchanged with a TA not participating in the Program. Information will only be exchanged to the extent that it fulfils the foreseeable relevance requirement under the relevant international or supranational legal instrument.

2.4. *Applicable Risk Assessment Provisions*

Where Parties agree to allow Active Presence of tax officials of the other Party in their territory, they acknowledge that risk assessment approaches followed by tax officials in the context of a Program are governed by their respective domestic legal framework, administrative practices and internal practices and procedures *[*the following sentence can be included to the extent the Parties consider this necessary*: (to the extent that such legal framework, administrative practices and internal practices and procedures do not go further than the provisions of the domestic legal framework of the host State)]*.

The above paragraph shall not be construed as meaning that a Party is prevented from reaching a specific conclusion as regards the (non-)riskiness of an issue or transaction assessed in the context of a Program. Each Party retains the right to assess an issue or transaction as low risk or no-low risk having regard to its domestic legal framework and administrative practices. Regardless of the applicable provisions of the domestic legal framework, the Parties agree to the following:

- To arrange (physical or virtual) meetings.
- To take minutes of every meeting between the members of the participating MCC teams.

- To take notes of every meeting or discussion with the taxpayer.
- Other *[please add]*.

3. SPECIFIC PROVISIONS

3.1. *Criteria for Case Selection*

In general, the Parties will consider establishing a Program where a taxpayer has applied for a Program, the information contained in the Application Documentation Package indicates that a Program would be an appropriate action and the requested Party has a common or complementary interest in participating in a Program. This includes the following cases:

- There are reasons to believe that another domestic or cross-border measure alone, even if supplemented by information exchange or other forms of international tax co-operation, would be less efficient or less successful, given also the taxpayer's willingness to engage with the TAs in a collaborative relationship based on transparency and trust in developing a full understanding and appreciation of the facts.
- Issues, a transaction or series of transactions lead a TA to the view that a unilateral action (e.g., risk assessment or tax examination on a unilateral basis) may lead to double taxation, for example in case of a cross-border business restructuring.
- The case under consideration can be compared to cases that are already part of the existing mutual agreement procedure (MAP) pipeline.
- Two or more treaty partners experience an expansion in cross-border trade and investment, and a Program would help to build relationships and facilitate a better understanding of each other's risk assessment rules, practices and procedures
- A case has made no or little progress in MAP and there is reason to believe that a Program has the potential to unlock the situation.
- APA negotiations have taken a long time, and a Program would allow to create tax certainty for future years and/or otherwise assist in resolving the issues for future years.

- Where a unilateral risk assessment has led a Party to the view that a particular issue, transaction or series of transactions presents a material international tax risk.
- Other *[add any other case selection criteria]*.

In determining whether a Program should be established and/or whether a taxpayer is suitable to participate in a Program, the Parties shall consider the following four entry criteria:

- Economic footprint of a project / the cluster(s) of transactions in the participating jurisdictions.
- Taxpayer's turnover.
- Taxpayer's risk profile.
- Participation of the taxpayer in a national CC program.

An additional element to consider when assessing the suitability of a taxpayer to participate in a Program is whether the taxpayer has a robust tax control framework. A well-functioning tax control framework constitutes a strong indication that the Parties can rely on the disclosures made by the taxpayer.

3.2. *Procedures for case selection*

After an application by a taxpayer or with own initiative, either Party, in accordance with its respective internal practices and procedures, may independently propose cases for a Program.

Furthermore, the Parties agree to set up regular *[can be further determined]* case selection meetings (face-to-face or via telephone and/or videoconferencing), during which each Party presents the cases that meet the case selection criteria to perform joint risk assessment and select cases that will be risk assessed in a Program.

The Party to which the taxpayer made an application (hereinafter referred to as the "Proposing Party) will provide the other Parties (hereinafter referred to as the "Requested Party / Parties) *[X weeks / to be determined]* prior to the case selection meeting with the information contained in the Application Documentation Package to allow the other Parties to evaluate the benefits of participating in a Program. The other Parties may request a preliminary meeting as needed to determine their participation.

If a Requested Party accepts the Program proposal, the Party will confirm the acceptance of the proposed program in writing as soon as possible and no later than *[X weeks/months – to be determined]* after the receipt of the Program proposal and will designate one or more representative(s) responsible for the coordination of the Program (Program coordinator). The Requested Party will notify the Proposing Party within the *[X weeks/months – to be determined]* timeframe whether it requires more time to respond to a Program proposal.

The establishment of a Program(s) under this MoU will not preclude tax and law enforcement officials of either country from seeking other forms of assistance that may be authorized under other international agreements and/or under the laws or practices of the respective countries.

3.3. *Taxpayer*

This MoU does not confer any rights or benefits to any taxpayer or other third party. The Parties will perform their duties in a manner that recognizes taxpayer rights of privacy and will ensure that each Party's activities are consistent with that Party's laws regulations, and administrative practices.

3.4. *Risk assessment specific arrangements*

The Parties will agree on a specific Risk Assessment Plan for each selected project / clusters of transactions assessed in the context of a Program.[69] Each Party may appoint a representative that is responsible to coordinate the Program as mentioned under 3.2.

Where more than two Parties participate in a Program, the *[Proposing Party / the Party where the headquarters of the taxpayer are based (hereinafter referred to as the "Lead Party)]* will take the lead in organizing the procedure, unless the involved Parties agree otherwise. This indicatively includes coordinating the communication with the taxpayer, sharing the information provided by the Taxpayer among the Parties and organizing meetings and calls between the Parties and/or the taxpayer.

[69] In this respect, guidance can be drawn from OECD (2019). Joint Audit Exam Plan Template, Support Materials—Joint Audit 2019 – Enhancing Tax Co-operation and Improving Tax Certainty: Forum on Tax Administration. Available at https://doi.org/10.1787/17bfa30d-en.

Every Program is limited to the taxpayers and the objectives as set out in the respective Risk Assessment Plan as agreed by the Parties. Parties can agree to extend the respective Program.

When completing the Program, the Parties will summarize the risk assessment results, draw conclusions and reach a final agreement on the outcomes of the Program where possible. The Parties agree to record the outcome of the joint risk assessment either in a common outcome letter signed by all Parties or in separately signed but coordinated outcome letters, as agreed by the Parties.

Consideration is to be given to fast-track MAP in those cases where Parties could not achieve a common conclusion on the outcome of a joint risk assessment, leaving the taxpayer exposed to double taxation. The relevant information collected, and the understanding formed during the risk assessment will be made available to the respective Competent Authorities.

Having regard to efficiency considerations, the Parties may also consider the conclusion of an Advance Pricing Agreement (APA) *[or a cross-border ruling]* after the completion of a risk assessment to ensure increased tax certainty for future periods.

3.5. *Communication*

The Parties may agree on specific communication and disclosure arrangements and establish a communication protocol to cover technical aspects.

4. FINAL PROVISIONS

4.1. *Costs*

1. The ordinary costs associated with the conduct of a Risk Assessment will be borne by each participating Party.
2. The Parties will endeavor to allocate by agreement any extraordinary costs associated with the risk assessment that would otherwise be borne disproportionately by one Party.

4.2. *Evaluation*

Parties agree to evaluate the effectiveness of the Program after its completion. The evaluation may also include reaching out to the taxpayer to request formal feedback on its experience to enable continued development of the Program.

4.3. *Amendment*

This MoU can be amended at any time by written agreement.

Parties may consult each other at any time to facilitate the operation of this MoU.

An amendment may also include the signing of this MoU by a new Party.

4.4. *Termination*

This MoU may be terminated by giving a *[X-month]* written notice by either Party or by agreement.

If the MoU was only signed by two Parties, the validity of the MoU ends *[X months]* after receipt of the notice.

If the MoU was signed by more than two Parties, the MoU stays in force between the remaining Parties and only the Party giving the notice will withdraw from the MoU *[X months]* after receipt of the notice.

Where termination takes effect before the completion of a particular Program, the Parties will discuss actions prior to a termination to minimize loss of time and expense resulting from an incomplete Program. Each Party is entitled to pursue whatever course of action is available under the applicable domestic laws.

After termination of a Program, information obtained by either Party during that Program may continue to be used consistent with the applicable legal instrument under 2.4. and the law of the Party intending to use such information.

4.5. *Date of effect*

This MoU enters effect on the latter of the dates on which it has been signed by the last Party to this arrangement. The MoU will continue until terminated pursuant to 4.4.

For Tax Administration A:

[Name]

[Title]

[Date]

[Signature]

For Tax Administration B:

[Name]

[Title]

[Date]

[Signature]

For Tax Administration C:

[Name]

[Title]

[Date]

[Signature]

Appendix A – Contact Details of Parties

Tax Administration A: Contact details

Tax Administration B: Contact details

Tax Administration C: Contact details

D. MOU BETWEEN TAX ADMINISTRATIONS AND TAXPAYER

This Annex presents a template of a Memorandum of Understanding (MoU) that is entered into between the taxpayer and TAs collectively. The purpose of this MoU is to promote standardization in an MCC context, in areas such as the determination of procedures for applications to participate in MCC, the determination of stakeholders' representatives that will participate in discussions, making initial contacts, determining the rights and obligations of the parties and setting channels for information sharing and disclosure.

This MoU template builds on the Compliance Assurance Process (CAP) MoU that is entered into between the Internal Revenue Service (IRS) and taxpayers participating in that program.[70] However, CAP is a national program applying at the domestic level in the United States and as a corollary, the CAP MoU reflects the requirements and the context of that program. For this reason, only the elements of CAP MoU that are relevant in a PMCC context have been included, with necessary and appropriate adaptations, in this MoU.

It is not necessary that the MoU template presented here is used as such by TAs establishing an MCC program. Its format and contents may be adapted, depending on the facts and circumstances of the underlying project and/or transactions and/or the taxpayer concerned. However, most of the elements included in this MoU are expected to be relevant to the TAs–taxpayer relationship within an MCC program.

In certain cases, participating TAs may opt not to enter an MoU with a taxpayer that has been accepted in an MCC program, for instance due to domestic law requirements or to keep the TAs–taxpayer relationship more informal (and yet more flexible). In this case, this MoU should be regarded as guidance for TAs seeking to establish (an) MCC program(s), as it contains considerations that would remain relevant even if no MoU is entered into between them and the taxpayer. The MoU template is provided below.

[date]

MCC Memorandum of Understanding

Memorandum of Understanding (MoU)

between

[70] See Internal Revenue Service (2025). Compliance Assurance Process. CAP Memorandum of Understanding (MOU). Internal Revenue Service. Available at: https://www.irs.gov/businesses/corporations/compliance-assurance-process.

[Tax Administration of Country A] (hereinafter referred to as “the Lead Tax Administration”)

[Tax Administration of Country B]

[Tax Administration of Country C]

(hereinafter collectively referred to as the “Tax Administrations”)

and

[Taxpayer Name]

(hereinafter referred to as “the Taxpayer”)

The Taxpayer and the Tax Administrations (collectively referred to as the “Parties”) desire to enter this MoU for A Multilateral Cooperative Compliance (MCC) Program (hereinafter referred to as “the Program”). By executing this MoU, the Parties agree to work diligently and in good faith toward the successful completion of the Program.

In the context of the Program, the Parties commit to cooperate based on a relationship of mutual trust, transparency and proportionality. The Parties further commit to developing an unambiguous and collaborative relationship based on mutual understanding that results in greater certainty and a reduced administration burden for the Taxpayer and the Tax Administrations.

1. Objectives

MCC employs real-time common risk assessment and assurance to improve tax compliance and utilize resources more efficiently. In MCC, the Parties work contemporaneously to achieve tax compliance by resolving tax positions and providing assurance prior to the filing of tax returns in the jurisdictions involved. Successful conclusion of the Program: (1) allows the Tax Administrations to achieve an acceptable level of assurance regarding the accuracy of the Taxpayer’s disclosed tax positions and to substantially shorten the time for a post-filing examination, (2) allows the Taxpayer to obtain *[comfort/certainty]* in respect of tax positions disclosed to the Tax Administrations. The participation of Tax Administrations in the

Program does not constitute an *[examination / inspection / audit]* within the meaning of the following provisions:

- [Country A (Country of the Lead Tax Administration)]
  Title of domestic legislation and/or domestic guidance, including relevant legal provisions
- [Country B (Country of Participating Tax Administration B)]
  Title of domestic legislation and/or domestic guidance, including relevant legal provisions

2. Points of Contact

At the outset of the MCC, the Lead Tax Administration will assign a Coordination Manager to the Taxpayer, who serves as the primary point of contact from the side of TAs. The Coordination Manager has an oversight of the Program, monitors compliance with the milestones and deadlines set within the Program, facilitates the flowing of information from the Taxpayer to the Tax Administrations and vice versa and ensures the fulfillment of the Program's objectives. If the Coordination Manager is unable to continue to act in this role or the Lead Tax Administration determines the need to replace the Coordination Manager, the Lead Tax Administration will notify the Taxpayer and promptly assign a replacement.

The Taxpayer shall designate an employee (hereinafter referred to as "the Taxpayer Representative") who will be the primary point of contact from the side of the Taxpayer, following legal requirements applicable to the jurisdiction of the Lead Tax Administration. The Taxpayer Representative shall act as point of contact for gathering information from the Group entities covered by the MoU, for receiving requests from the Coordination Manager and for resolving questions or issues, as appropriate.

3. Duration of the MoU

This MoU is applicable *[to the following years: Year X, Year X+1, ..., Year X+3] / [to the tax year ending [date] / [for the expected duration of the project]]* and becomes effective immediately upon its execution by both Parties. Once selected into the Program, the Taxpayer must continue to meet the

Program's eligibility and suitability criteria and fulfill all the expectations of the Program. The Parties must adhere to this MoU until the common risk assessment and assurance of all disclosed positions undertaken in the Program is concluded, the Taxpayer is terminated from the Program, or the Taxpayer elects to discontinue participation in the Program.

[The participating TAs may decide to enter an MoU for several years insofar as the Program seeks to risk assess, and provide assurance to, a large cross-border project. In this case, they may decide either to enter an MoU covering all years during which the project is expected to last or to enter in an MoU that will be renewed on an annual basis. Moreover, the Program might not be intended to risk assess, and provide assurance to, a large cross-border project, but rather, to cover different unrelated transactions of a taxpayer for a certain year or years. In this case, the following wording may be added to this section:

The Present MoU must be renewed annually.]

4. Scope of the Program

The Program shall cover tax risks in relation to the following taxes:

- [Country A (Country of the Lead Tax Administration)].
  List of taxes: *[to be determined by Tax Administration of Country A].*
- [Country B (Country of Participating Tax Administration B)].
  List of taxes: *[to be determined by Tax Administration of Country B].*

The Parties will work together on a cooperative, transparent and real-time basis toward the goal of achieving an acceptable level of tax assurance prior to the filing of tax returns for the covered taxes in the jurisdictions involved. Wholly owned entities of the Taxpayer are included in the Program and deemed covered by this MoU pursuant to Appendix B. The (Clusters of) Transactions covered by this MoU are included in Annex C.

5. Taxpayer Transparency and Disclosure Obligations

The Program is intended for Taxpayers with material and complex transactions. The Taxpayer must make open, comprehensive, and contemporaneous disclosures of its material business transactions and agrees to work collaboratively and transparently with the Tax Administrations team.

The Taxpayer will make open, comprehensive, and contemporaneous disclosures of its material issues. A material issue is defined as any new, recurring or repeating issue that exceeds the materiality thresholds. An issue is defined as a *[completed and/or prospective]* business transaction or any other item that gives rise to a tax risk or has an impact on the tax liability in relation to the taxes covered pursuant to Section 4.

Each issue disclosure must be in writing and must include a full description of each step in the process, including: the historical facts, surrounding circumstances, Taxpayer's proposed reporting position, the tax law(s) of the relevant jurisdictions upon which it relied to determine this position, and the supporting documentation.

To be considered contemporaneous, a material issue must be disclosed *[either prior to the execution of the transaction or within thirty (30) days of the transaction being completed]*. The Taxpayer may not have all the information needed to make a full disclosure within the above timeframe but will meet this requirement by providing as much information as available within that period and full disclosure as soon as that information becomes available.

To allow sufficient time for risk assessment and assurance, the latest date for the Taxpayer to submit disclosures is *[date]*. To support the Taxpayer in proceeding in disclosure within an appropriate timeframe, Tax Administrations should provide a map of deadlines to the Taxpayer. This will include all relevant deadlines and milestones in all participating jurisdiction, which will facilitate the timely disclosure of information by the Taxpayer.

The Taxpayer will provide information proactively and as requested by the Coordination Manager. In addition to the MCC Application Package and the Main Documentation Package, the Taxpayer will provide the Coordination Manager with other information (e.g., industry overviews, current legal, accounting and tax organizational charts reflecting all relevant Group entities, and other information relevant to the covered tax risks), as appropriate based on the transactions and/or tax risks within the scope of the Program. The Parties will agree on the format that this information will be provided. If for any reason the Taxpayer is unable to comply with the due date of an information request, the Taxpayer will notify the Coordination Manager as soon as possible and explain the circumstances for the delay. The relevant Parties will agree to a revised due date.

The Taxpayer shall inform the Tax Administrations on significant changes to its Tax Control Framework (TCF). These include items such as major reorganizations, acquisitions, mergers, new tax leadership and/ or outsourcing of the tax function, among other things.

6. Materiality Thresholds

The Parties will jointly determine the scope of the MCC risk assessment and assurance, including materiality thresholds. Specifically, materiality thresholds for each jurisdiction will be determined by the Tax Administration of that jurisdiction and the Taxpayer. Materiality thresholds are used as a guide by the Parties in determining issues to review. The Parties will openly discuss situations where exceptions to the materiality threshold may be warranted. However, the ultimate decision of identifying issues for the risk assessment remains within the discretion of the Tax Administrations. Furthermore, materiality thresholds may be reconsidered during the Program.

Notwithstanding the materiality thresholds and determination by the Tax Administrations of transactions and/or tax risks to be included in the scope of the Program, the Tax Administrations may consider for risk assessment and assurance the following items, regardless of when or how they are identified:

[List of tax-relevant events, business transactions and/or tax risks]

Materiality thresholds are used in the Program so that the Taxpayer knows which issues should be disclosed. Materiality thresholds relate to the total amount of the issue and are not relevant to the tax effect or possible adjustments that may be made because of such issues.

7. Communication between the Parties

Honest and open communication is critical to the success of the Program. In addition, collaborative interaction combined with a sense of urgency is necessary to meet the objective of reaching assurance of the taxpayer's tax positions. There should be no communication barrier or filter between the Parties, including between the Coordination Manager and the Taxpayer Representative. A list of Tax Administration employees participating in the Program is included in Appendix A.

To aid communications and the flow of information, the Parties will agree to participate in electronic communication exchange by using *[name of communication and/or information exchange channel(s)]*, and/or any other approved electronic information exchange method.

The Parties will interact on a regular basis. Regular interaction is critical to the success of the Program and can take many forms including telephone, email, and in-person meetings. Meetings should be held as needed to discuss and provide relevant information and documentation, to hold interviews, and to discuss the status of the Program and resolve any concerns that arise. At the meetings, each Party will have in attendance representatives with authority to resolve any problems, issues or concerns being addressed. Meetings should be held at least every *[number of months]* months.

Cooperation in good faith and transparency from the Parties is a critical element in the success of the Program. When there is an issue with cooperation and/or transparency or when the terms of this MoU are not being adhered to by either the Taxpayer or one or more Tax Administration(s), the Parties will meet to discuss how to resolve such issues. These meetings should be held contemporaneously and documented.

8. Cooperation between the Parties

The Parties will work together during the Program to identify and resolve potential issues. The Parties will regularly engage in discussions to resolve factual and/or technical differences. When Parties have completely addressed an issue, this shall be documented by the Tax Administrations concerned and the Coordination Manager shall grant a copy to the Taxpayer.

It is acknowledged that the Parties may have legitimate interpretation differences of tax law on a good faith basis, and this does not contravene the spirit of the Program. If the Taxpayer disagrees with the position taken by the Tax Administrations concerned on a given issue, the Taxpayer will indicate its disagreement with that position, stating all relevant facts and legal arguments justifying its disagreement.

[Insofar as the Parties intend to do so, they may introduce an issue resolution procedure, similar to ICAP]

9. Obligations of Tax Administrations

In the context of the Program, the Tax Administrations should demonstrate understanding based on commercial awareness and seek to establish a relationship of openness and trust with the Taxpayer. Tax Administrations should adopt a professional approach that is helpful to the Taxpayer and informing the Taxpayer of significant events that may be relevant to the business transactions and/or tax risks within the scope of the Program. Tax Administrations should demonstrate responsiveness in their interactions with the Taxpayer to ensure that the objectives of the Program are effectively met.

Tax Administrations should demonstrate impartiality, in particular approach the task of issue resolution with a high level of consistency and objectivity. They should aim at the resolution of issues without resorting to litigation and seek to reach an acceptable solution complying with all domestic rules and requirements.

Tax Administrations should display proportionality when determining which tax issues will be prioritized and when deciding on the allocation of resources to the different business transactions and/or tax risks within the scope of the Program. They should aim at achieving an efficient allocation of resources for all Parties.

To the extent that a Tax Administration is under an obligation, pursuant to the relevant international or supranational instruments *[name potential instruments]*, to exchange information obtained from the Taxpayer in the context of this Program with a TA not participating in this Program, that Tax Administration, before exchanging this information, will notify the Taxpayer that this information might be exchanged with a TA not participating in the Program. Information will only be exchanged to the extent that it fulfils the foreseeable relevance requirement under the relevant international or supranational legal instrument.

10. Outcome Letter

After the common risk assessment is concluded, the Taxpayer shall receive a completion letter issued by the Lead Tax Administration, which marks the conclusion of the Program.

The Taxpayer will be informed about the results of the risk assessment carried out by the Tax Administrations by a common document (outcome letter) signed by all Tax Administrations. The outcome letter shall contain the following information: (1) an overview of the MCC risk assessment details, (2) the MCC risk assessment outcomes, (3) Recommendations on measures that can be taken by the taxpayer to address any risks identified, (4) Relevant conditions (caveats) to which the outcomes mentioned in the outcome letter are subject to, (5) Information about, and relevant conditions, regarding the roll-forward periods.

11. Termination or Withdrawal from the Program

If the Taxpayer or one or more Tax Administration(s) is unable or has failed to comply with the responsibilities and obligations contained in this MoU, the Parties will attempt to resolve their concerns through a meeting. If the concerns cannot be resolved and the Tax Administrations determine that the Taxpayer continues to fail to adhere to the terms of this MoU, the Coordination Manager will issue a written Termination Letter to the Taxpayer and the Taxpayer's participation in the Program will cease. Before issuing the Termination Letter, the Coordination Manager shall inform the other Tax Administrations.

Examples of significant or consistent failures to adhere to the terms set forth in this MoU that will result in a Termination Letter include: (1) not providing necessary information or providing incomplete information to Tax Administrations, (2) not engaging in meaningful or good faith discussions with the Tax Administrations, (3) failing to thoroughly disclose business transactions and material steps within the transactions required to be disclosed pursuant to this MOU; (4) *[list any other significant failure]* (5) not adhering to any other commitment included in this MOU

If the Taxpayer determines that it cannot or will not comply with the expectations of this MoU, the Taxpayer may provide a written request to withdraw from the Program. Upon receipt of such a request, the Coordination Manager will issue a Termination Letter to the Taxpayer and the Taxpayer's participation in the Program will cease. Before issuing the Termination Letter, the Coordination Manager shall inform the other Tax Administrations.

Agreement of MoU

The undersigned representatives of the Parties hereby indicate their agreement to these objectives, responsibilities, and procedural guidelines. It is understood by the Parties that this document is intended to govern the conduct of the Program but is not a legally enforceable agreement.

The Tax Administrations may reach out to request formal feedback on the Taxpayer's experience in due course to enable continued development of the Program. Providing feedback is entirely optional and remains at the Taxpayer's discretion.

Signatures and dates

For the Taxpayer:

[Name]

[Title]

[Date]

[Signature]

For Tax Administration A:

[Name]

[Title]

[Date]

[Signature]

For Tax Administration B:

[Name]

[Title]

[Date]

[Signature]

For Tax Administration C:

[Name]

[Title]

[Date]

[Signature]

Appendix A – List of Covered Tax Administrations and Contact Details

Tax Administration	***Country***	***Role***	***Contact Details***
Tax Administration Name	*Country A*	*Lead Tax Administration*	*Name, E-mail, Telephone No.*
Tax Administration Name	*Country B*	*Participating Tax Administration*	*Name, E-mail, Telephone No.*
Tax Administration Name	*Country C*	*Participating Tax Administration*	*Name, E-mail, Telephone No.*
Tax Administration Name	*Country D*	*Participating Tax Administration*	*Name, E-mail, Telephone No.*

Appendix B – Details of Group Companies of [MNE name] Tax Resident in Each Relevant Jurisdiction

Country A

1. *[Group Company name]*
   [Group Company address]
   [Other relevant details, e.g., contact details, TIN]

2. *[Group Company name]*
   [Group Company address]
   [Other relevant details, e.g., contact details, TIN]

Country B

1. *[Group Company name]*
   [Group Company address]
   [Other relevant details, e.g., contact details, TIN]

2. *[Group Company name]*
[Group Company address]
[Other relevant details, e.g., contact details, Tin]

Appendix C – Detailed List of Covered (Clusters of) Transactions and Risks

[This Appendix includes a list of the covered (clusters of) transactions and risks. Relevant details per (cluster of) transaction and risk should also be included. Numbers may also be assigned to each transaction to make this letter easier to read.]

E. PMCC OUTCOME LETTER

This Annex presents a template of an outcome letter for MCC (MCC outcome letter). The approach that was considered most desirable by the MCC Working Group members was that the MCC outcome letter should be a common document signed by all participating TAs. In this regard the MCC outcome letter differs from the outcome letter of ICAP, which is meant to be a document signed separately by each covered TA alone that should, nevertheless, be coordinated with those of other covered TAs. Thus, in MCC the taxpayer receives a common outcome letter containing the risk assessment outcomes of all participating TAs, rather than several outcome letters, each of which contains the risk assessment outcomes as viewed by one TA only.

Having regard to the considerations above, the MCC outcome letter has drawn from the outcome letter template of ICAP. Nonetheless, the latter's elements have been adapted accordingly to accommodate the approach considered most desirable in an MCC context.

It is not necessary that the MCC outcome letter template presented here is used as such by TAs participating in a PMCC program. Its format and contents may be adapted by participating TAs, depending on the facts and circumstances of the underlying project and/or transactions and the taxpayer concerned. Furthermore, some TAs may opt not to be part of a common outcome letter but may decide to issue their own outcome letter instead. Insofar as (one or more) participating TAs opt to issue separate but coordinated outcome letters, they can refer to the outcome letter template of the ICAP. The MCC outcome letter template is provided below.

[Taxpayer Name]
[Taxpayer Address]
[Date]

Document Title: Multilateral Cooperative Compliance (MCC) – Common Outcome Letter
Dear [Representative name] of [MNE name]

Section 1: Introduction

This document constitutes the common outcome letter of the MCC program which commenced on [date] pursuant to the Memorandum of Understanding signed by the participating TAs (see Appendix A) and you on [date] (the "MoU").
The MCC program is a voluntary program for the multilateral cooperative risk assessment and assurance of projects and/or transactions that are included in its scope. Further details in relation to MCC can be found in the MoU, as well in the following sources:

[Each participating TA will refer to any domestic legislation/domestic guidance in their jurisdiction, if applicable. In addition, reference may be made to the confidentiality of the data and the specific legal provisions under which information relating to the risk assessment is exchanged.]

[Country A (Country of the Lead Tax Administration)]

Title of domestic legislation and/or domestic guidance, including relevant legal provisions

Relevant source (e.g., TA website or other source)

[Country B (Country of Participating Tax Administration B)]

Title of domestic legislation and/or domestic guidance, including relevant legal provisions

Relevant source (e.g., TA website or other source)

[Country C (Country of Participating Tax Administration C)]

Title of domestic legislation and/or domestic guidance, including relevant legal provisions

Relevant source (e.g., TA website or other source)

Section 2: Overview of MCC Risk Assessment Details

[Section 2 includes an overview of the risk assessment that was carried out in the MCC program by the participating TAs, listed in Appendix A, in relation to the group companies in the respective jurisdiction of the participating TAs issuing this letter, listed in Appendix B. This will include the following information:

- *the month and year in which the risk assessment commenced and in which the risk assessment was concluded.*
- *overview of the (clusters of) transactions that formed part of the Project, which was covered by the scope of the MCC program, or the transactions that were covered by the scope of the MCC program. Further reference to each (cluster of) transaction(s) should be included in Appendix C.*
- *the applicable roll-forward period, subject to conditions in Section 7.]*

Section 3: MCC Risk Assessment Outcomes

[Section 3 includes an outline of the (clusters of) transactions/risk areas which were assessed as low risk by the participating TAs. It should also include a statement as to the effect of the low-risk finding in the relevant jurisdiction(s) of the participating TAs signing this letter (e.g., that no further enquiries with respect to the covered risks in question are expected to be necessary for the applicable roll forward period set out in Section 2, subject to any conditions set out in Section 7.)

This section also includes a short summary of the (clusters of) transactions/risk areas which were found to be not low risk by the participating TAs as well as a statement as to the effect of this finding in the relevant jurisdiction(s) of the participating TAs signing this letter.

The precise wording of this section will vary depending on the domestic requirements of each jurisdiction. However, this section may be organized on a per-transaction basis. In this respect, the findings of all TA in relation to the same (cluster of) transaction(s) may be inserted below that specific (cluster of) transaction(s). For example:

A. Low-risk findings

Transaction [number/description of transaction]:
[Finding by Tax administration A]: [Description of the finding]
[Finding by Tax administration B]: [Description of the finding]

B. No low-risk findings

Transaction [number/description of transaction]:
[Finding by Tax administration C]: [Description of the finding]]

Section 4: Recommendations

[Section 4 includes either:

- *a brief description of the steps that may be taken by the taxpayer in future to address any risks identified because of the risk assessment; or*
- *a statement that this section is not applicable, as no recommendations are necessary (e.g., no (clusters of) transactions were found to be no-low risk).*

The precise wording of this section will vary depending on the domestic requirements of each jurisdiction. However, this section may be organized on a per-transaction basis, as with the approach described in Section 3 above.]

Section 5: Conclusion

[In Section 5, each participating TA may include any relevant concluding remarks required having regard to the facts and circumstances of the case and domestic legislation and/or domestic guidance.]

Section 6: Caveats

[Section 6 includes any of the conditions to which the outcomes of this letter are subject. Each TA shall include the relevant caveats based on its domestic legislation and/or domestic guidance. The precise wording of this Section will vary depending upon the domestic requirements of each jurisdiction.

Insofar as more than one TAs have caveats relating to the same matter or the same specific (cluster of) transaction(s), the caveats of all TAs concerned may be inserted, if this is possible, below that matter or (cluster of) transaction(s). For example:

Matter [number/description of matter]:

[Caveat by Tax administration A]: [Description of the caveat]

[Caveat by Tax administration B]: [Description of the caveat]

Transaction [number/description of transaction]:

[Caveat by Tax administration A]: [Description of the caveat]

[Caveat by Tax administration C]: [Description of the caveat]

Transaction [number/description of transaction]:

[Caveat by Tax administration B]: [Description of the caveat]

[Caveat by Tax administration C]: [Description of the caveat]]

Section 7: Roll-forward Periods

[Section 7 includes either:

- *the requirements for the risk assessment conclusions to apply to the roll-forward periods in each relevant jurisdiction; or*
- *a statement that this section is not applicable.*

If no roll-forward periods are applicable to a specific jurisdiction, that jurisdiction may not be included in this section.]

[A letter may include closing language as applicable, such as that the participating TAs signing the letter may reach out to request formal feedback on the MNE's experience in due course to enable continued development of MCC. Providing feedback is entirely optional and remains at the MNE's discretion.]

If you have any questions about this matter, or require additional information, please contact:

[Lead Tax Administration (Country A) – Contact name, phone number, email address].

[Participating Tax Administration (Country B) – Contact name, phone number, email address].

[Participating Tax Administration (Country C) – Contact name, phone number, email address].

Yours sincerely,

[Lead Tax Administration (Country A)]

[Participating Tax Administration (Country B)]

[Participating Tax Administration (Country C)]

Appendix A – List of Covered Tax Administrations

Tax Administration	***Country***	***Role***
Tax Administration Name	*Country A*	*Lead Tax Administration*
Tax Administration Name	*Country B*	*Participating Tax Administration*
Tax Administration Name	*Country C*	*Participating Tax Administration*
Tax Administration Name	*Country D*	*Participating Tax Administration*

Appendix B – Details of Group Companies of [MNE name] Tax Resident in Each Relevant Jurisdiction

Country A

1. *[Group Company name]*
   [Group Company address]
   [Other relevant details, e.g., contact details, TIN]

2. *[Group Company name]*
   [Group Company address]
   [Other relevant details, e.g., contact details, TIN]

Country B

1. *[Group Company name]*
   [Group Company address]
   [Other relevant details, e.g., contact details, TIN]

2. *[Group Company name]*
   [Group Company address]
   [Other relevant details, e.g., contact details, TIN]

Appendix C – Detailed List of Covered (Clusters of) Transactions and Risks

[This Appendix includes a list of the covered (clusters of) transactions and risks. Relevant details per (cluster of) transaction and risk should also be included. Numbers may also be assigned to each transaction to make this letter easier to read.]

ANNEX 2. MCC SURVEY

SURVEY ON MULTILATERAL COOPERATIVE COMPLIANCE

Introduction

Over the last decade, cooperative compliance has become an important topic on the agenda of various TAs and corporations worldwide. While certain areas of the concept are well developed, other areas would benefit from additional guidance, standardization, and best practices. To provide these and to encourage more countries to participate in cooperative compliance, working groups consisting of representatives from TAs, multinational enterprises (MNEs) and academia at the WU Global Tax Policy Center (GTPC) at Vienna University of Economics and Business in cooperation with the International Chamber of Commerce (ICC) and the Commonwealth Association of Tax Administrators (CATA), has developed a handbook on cooperative compliance (Owens and Leigh-Pemberton, 2021). The handbook provides practical guidance on cooperative compliance and additionally identified areas where further guidance is needed. The identified areas are: (i) assurance for tax control frameworks, (ii) multilateral cooperative compliance, and (iii) costs and benefits of cooperative compliance.

These working groups continue the research in these areas. This survey was developed to provide a better understanding of the expectations, experiences, and best practices of TAs and taxpayers in different countries. The results, supplemented with additional research, will be the basis to provide practical guidance on these areas for the benefit of TAs, taxpayers and society.

This survey covers the first two of the abovementioned points, namely assurance for tax control frameworks and to multilateral cooperative compliance (MCC). It consists of two parts: one part containing questions about the assurance for tax control frameworks and one containing question about MCC.

Instructions and Participant Information

Considering the different maturities and experience with the approaches, it may not be possible to answer all questions raised in the survey. If it is not possible to answer a question, please indicate this by the option "question cannot be answered" and continue to the next question. A short description of why the question cannot be answered, such as "no data/ no experience available," would be highly appreciated.

Questions with one asterisk (*) are addressed to governments, whereas questions with two asterisks (**) are addressed to businesses. Questions with no asterisks are addressed to both governments and businesses.

When completing this survey, please provide any information which you consider relevant to our research or which you think should be covered by our research. Please do elaborate as much as possible in the comment fields below each question. As your answers will form the basis of the second survey and the final report, please try to include any relevant aspects that may be of interest.

The survey can either be completed via the attached document or be accessed and completed through this **LINK**

If you have any questions or need any clarifications regarding the survey itself or specific questions, please feel free to contact us at the following email address: globaltaxpolicycenter@wu.ac.at

Completing the survey should take you about [30] minutes. We would be grateful if the survey could be completed by [01.06.2023].

Privacy notice: Please note that it is not mandatory to fill in the information requested in this section. The information is requested solely for the purpose of seeking clarifications or posing questions in case needed. The answers to the questionnaire shall not be attributed to any person or organization under any circumstances.

Full name: Please insert your first and last name

E-mail: Please insert your e-mail address

Type of Organization: Please select the applicable option

*Country of Organization: Please insert the country where you are based

**Ultimate Parent Entity Country: Please insert the country where you are based

**Size of the Organization[71]: Please select the applicable option

**Business sector (e.g., banking, pharmaceuticals, extractives, etc.) Please insert the appropriate answer

Organization name (optional): Please insert the name of your organisation

[71] The size of the organization for the purposes of this survey is determined based on the scope of country-by-country report threshold set forth in Annex III, Section I, Para. 4 of Council Directive (EU) 2011/16. For more information, see https://eur-lex.europa.eu/eli/dir/2011/16/oj/eng.

PART 1: MULTILATERAL COOPERATIVE COMPLIANCE

The classic idea of national cooperative compliance (CC) programs entails reaching the maximum extent of tax certainty in real time within one specific jurisdiction – between one taxpayer and one TA. It constitutes a special concept of relationship between a taxpayer and a TA based on increased transparency, real-time tax certainty, and trust, which leads to the payment of the right amount of tax at the right time.

There are other programs or instruments to reach tax certainty that differ by participating parties, length of the procedure, criteria to access, and the extent of tax certainty: those are mutual agreement procedures (MAPs), advance tax rulings (ATRs), advance pricing agreements (APAs), Finnish cross-border dialogue, International Compliance Assurance Program (ICAP) and European Trust and Cooperation Approach (ETACA). Indicatively, these programs and instruments have some shortcomings due to limited jurisdictional scope (national CC programs, Finnish cross-border dialogue, ATRs), lengthy procedures (MAPs, APAs), and limited tax certainty (ICAP, ETACA).

The previous stage of the WU Global Tax Policy Center project was devoted to national Cooperative Compliance programs, their principles, structural elements, implementation issues and the perception by society. Current working group aims at continuing the research and analysis on Cooperative Compliance, however, changing the context from national to the international level – multilateral Cooperative Compliance programs.

Multilateral cooperative compliance is a cross-border tax certainty program of dispute prevention. It includes the real-time cooperation and pre-emptive discussions between TAs and a multinational enterprise (MNE) regarding cross-border taxation issues relevant for the participating states. Differently from APAs, the objective scope is expected to be broader than transfer pricing issues. And differently from MAP or ICAP/ETACA, the discussion will cover potential transactions and their tax treatment from all participating TAs. MCC is completely different from APAs, MAP, ICAP/ETACA and the joint audits introduced by Council Directive (EU) 2021/514 on administrative cooperation in the field of taxation (DAC7).

Participating countries and MNEs can be particularly interested in the establishment of such cooperation to achieve real time certainty on the compliance with tax laws. Tax administrations tend to not always have sufficient real time information to understand the business rationale for certain corporate legal structures and ways in which projects operate. Multilateral cooperative compliance (MCC) programs can help to reach the desirable level of trust and transparency between taxpayers and TA.

We understand that MNEs operate in many jurisdictions and hence more than one of their subsidiaries might be based in different countries that have national CC programs and potentially be participating in national CC programs at those countries. We would therefore be grateful if you forwarded this survey to your colleagues based in those countries, as their input from a local perspective would be equally valuable for us.

I. *Experience with National Cooperation*

1. *Does your country have a formal (i.e., based on law or administrative act) national cooperative compliance (CC)[72] or similar program?
   **Does your company (i.e., the corporate entity that employs you) participate in a formal (i.e., based on law or administrative act) national CC or similar program?

   ☐ Yes
   ☐ No

If yes, please specify whether it is enshrined in law or in administrative acts:

2. Please specify whether your national CC (or similar) program is enshrined in law or in administrative acts and share with us the relevant legal source:

   ☐ Law
   ☐ Administrative act
   ☐ Other

[72] Cooperative compliance represents a special concept of relationships between a taxpayer and a TA based on increased transparency, real-time tax certainty, and trust, which leads to payment of the right amount of tax at the right time (Owens and Leigh-Pemberton, 2021).

3. *When was the national CC program in your country established? / **When did you have your first experience with the national CC program?

- ☐ During the last 0-2 years
- ☐ More than 2 years ago but less than 5 years ago
- ☐ More than 5 years ago
- ☐ *No CC program in our state / **No experience with a CC program

(Box only for MNEs) Please explain:

3.1 What is the legal nature of opinions of TAs within your national CC program? Is it binding for the taxpayer and the TA?

- ☐ Binding only for the TA
- ☐ Binding only for the taxpayer
- ☐ Binding both for the TA and the taxpayer
- ☐ Non-binding for either party (e.g., mere recommendations, i.e., good faith)

Please add any comments you may consider necessary:

3.2 Do the parties have a possibility to "agree to disagree" (i.e., not to reach the same conclusion regarding a tax position)?

- ☐ Yes
- ☐ No

(pop-up box, depending on answer in 3.2) What are the practical implications of this (e.g., possibility of filing an appeal with the court)?

4. What is your understanding as to the role and purpose of a CC program? What would make you participate in / introduce a CC program? Please select all that apply.

- ☐ Enhancing relationship between tax authorities and taxpayers
- ☐ Reducing the risk / number of audits / number of disputes
- ☐ Simplifying audit procedures and improving their timeliness
- ☐ Early tax certainty
- ☐ Higher degree of compliance
- ☐ Improving the understanding of the taxpayers' business by tax authorities
- ☐ Other (please specify in the box below)

5. *What would prevent you from introducing a CC program?
**What would prevent you from participating in a CC program?
Please select all that apply.

- ☐ Constitutional reasons
- ☐ Public Perception
- ☐ Costs
- ☐ Complexity of the program
- ☐ Lack of legal certainty
- ☐ Other

Please explain:

6. *What improvements would you make to your existing CC program?
**What improvements would you make to the CC program you participate in?

- ☐ Complexity, length and resources needed to achieve tax certainty
- ☐ Level of tax certainty (i.e., increase tax certainty)

☐ Relationship and communication with the TA
☐ Prioritized access to APAs / ATRs
☐ Faster, less complex tax refunds
☐ Low risk classification for audit purposes
☐ Less frequent tax audits
☐ Other (please specify in the box below)

7.1 Is there a possibility to obtain ATRs or bilateral advance pricing arrangements (APAs) in your jurisdiction(s)?

☐ Yes
☐ No

7.2 If yes, please specify their characteristics and mechanics:

They apply: ☐ Prospectively ☐ Retrospectively

They: ☐ Are not binding for the tax authorities
☐ Are enforceable by the courts
☐ Create a good faith obligation on the part of the tax authorities

They remain in force even if there is a posterior change of / amendment to the legislation: ☐ Yes ☐ No

Is it possible to obtain a tax ruling / APA on transfer pricing matters only or on any tax issues?

☐ Only on transfer pricing matters
☐ On all tax matters
☐ Other (please explain)

Their cost is (approx.): Please insert amount in EUR

Please specify in the box below any other characteristic you deem relevant:

8. *What government departments are involved in your country's cooperative compliance program(s) (e.g., Direct Tax Department, Indirect Tax Department, Customs Department, etc.)?
** What government departments are involved in the cooperative compliance program of the country where your company (i.e., the entity by which you are employed) is based (e.g., Direct Tax Department, Indirect Tax Department, Customs Department, etc.)?

☐ Direct Tax Department
☐ Indirect Tax Department
☐ Customs Department
☐ Other (please specify in the box below)
☐ No answer

II. *Cross-border Cooperation Experience*

9. Have you had any experience with cross-border programs involving two or more countries?[73]

☐ Yes
☐ No

[73] Some of the programs mentioned in this question provide future tax certainty such as APAs and Finnish cross-border dialogue; On the contrary, joint audits ensure a past tax certainty result, while ICAP and ETACA guarantee a hybrid result, i.e., a past tax certainty combined with roll-forward periods.

(Dropdown list if yes) Please select all areas that apply:

- ☐ Joint audit
- ☐ Bilateral APA or multilateral APA
- ☐ ICAP
- ☐ ETACA
- ☐ Cross-border dialogue (e.g., Finland)
- ☐ Other kinds of relevant cross-border cooperation (please specify in the box below)

10. **Can you describe the following characteristics of each of the programs you had experience with?

Name of Program: Please fill in the name of the programme

Countries: Please fill in as appropriate

Covered taxes and issues: Please fill in as appropriate

Length of the procedure: Please fill in as appropriate

How long was the roll-forward period (if applicable)? Please fill in as appropriate

Was it a binding decision (agreement) and if so on one or all parties? Please fill in as appropriate

How long on average did it take to negotiate an agreement? Please fill in as appropriate

Place for additional information:

11. What were your experiences with the implementation of the outcome of the program or instrument you have been involved in (e.g., decision, agreement, ruling, etc.)?

(Dropdown list) Please explain for each program referred to above, as applicable:

Answer 1:
Answer 2:
Answer 3:

12. What were the strengths and benefits of the program?

- ☐ Achieved tax certainty
- ☐ Speed of achieving tax certainty
- ☐ Costs
- ☐ Resources required
- ☐ Other (please specify in the box below)
- ☐ No answer

13. What were the weaknesses and shortcomings of the program? What would you like to improve or change in the procedure?

☐ Achieved tax certainty
☐ Speed of achieving tax certainty
☐ Costs
☐ Resources required
☐ Other (please specify in the box below)
☐ No answer

14. Have you ever intended to apply for a type of cross-border cooperation program but decided not to pursue it?

☐ Yes
☐ No

(Dropdown list if yes) Please explain the factors that led you to that decision:

☐ Too resource-intensive
☐ Uncertainty as to the result of the process (e.g., negative answers to APAs or advance rulings)
☐ Inability to obtain the desired tax certainty (e.g., due to number of jurisdictions involved)
☐ Other (please specify in the box below)

III. *Multilateral Cooperative Compliance*

15. *Would you consider the introduction of a project-related (e.g., oil company having a pipeline across three countries or a cross-border merger) multilateral cooperative compliance (MCC) program in your country beneficial for your interaction with taxpayers?
**Would you consider engaging in a project-related (e.g., oil company having a pipeline across three countries or a cross-border merger) MCC program?[74]

[74] Same as previous footnote.

☐ Yes
☐ No

Please explain the reason:

16. Please explain the reason(s) for your answer in the previous question:

17. What features of a project-based MCC program would you consider to be desirable?

18. Which of the following phases would you consider necessary to be covered by a project-based MCC that has the aim of providing tax certainty for future transactions?

☐ Tax consequences upon the execution/implementation phase of the transaction
☐ Tax consequences during the subsequent operation/ongoing phase of the transaction
☐ Both of the above

19.1 (Pop-up question subject to answers to Q18) Which of these taxes and levies would you consider relevant to the execution / implementation phase of a project-based MCC program that has the aim of providing tax certainty on future transactions?

☐ Corporate income tax (including transfer pricing issues)
☐ VAT/GST or equivalent
☐ Payroll taxes

- ☐ Customs duties
- ☐ Withholding taxes
- ☐ Special compulsory levies
- ☐ Other

If, among other options, you selected "Other," please specify:

19.2 (Pop-up question subject to answers to Q18) Which of these taxes and levies would you consider relevant to the subsequent operation/ongoing phase of a project-based MCC program that has the aim of providing tax certainty on future transactions?

- ☐ Corporate income tax (including transfer pricing issues)
- ☐ VAT/GST or equivalent
- ☐ Payroll taxes
- ☐ Customs duties
- ☐ Withholding taxes
- ☐ Special compulsory levies
- ☐ Other

If, among other options, you selected "Other," please specify:

20. At what point in the process would you be looking for greater tax certainty?

- ☐ Tax certainty from the beginning with respect to the entire life of the project
- ☐ Tax certainty step by step with respect to each part of the transaction throughout its execution (e.g., depending on the outcome of previous steps)
- ☐ No answer
- ☐ Other

21. Regarding the trade-off between, on the one hand, tax certainty and on the other hand, complexity and speed, which of the following options would you consider preferable in the context of a project-based MCC program?

☐ Full tax certainty (e.g., one opinion/decision/outcome that would be at least partly binding for all tax authorities and the taxpayer involved) to the extent possible, even if this would entail a longer and more resource-demanding and more complicated procedure.

☐ Less than full tax certainty (e.g., two or more different binding opinions/decisions/outcomes produced and implemented separately by each tax authority, or mere interpretation of domestic laws by the respective tax authorities) with a faster, less time-consuming and less complicated procedure.

Please add any comments you may consider necessary:

22. *From the perspective of your domestic rules, what would be the required procedures to put forward a project-based MCC program?

☐ Administrative practice
☐ Administrative rules (e.g., circulars)
☐ Domestic legal instrument
☐ Double tax convention
☐ Intergovernmental agreement (multilateral)
☐ Other

If "Other," please specify:

23. *What criteria would you consider relevant to setting a threshold for entry into an MCC program?

- ☐ Turnover
- ☐ Risk profile
- ☐ Economic footprint of a project in your country
- ☐ Other

Please explain:

24. What should ideally be the desired outcomes of the program?

    - ☐ One opinion with signatures of all participating tax authorities and the taxpayer
    - ☐ Separately signed but coordinated opinions for each jurisdiction that shares commonly agreed facts
    - ☐ No outcome letter, but just common understanding (best effort) based on which each TA would provide consistent interpretations

25. What should this desired outcome ideally relate to? Please select all that apply:

    - ☐ Facts & circumstances
    - ☐ Process of the assessment
    - ☐ Risk classification for audit purposes ☐ Common tax treatment of the position(s)
    - ☐ Other (please specify)

26. Are there any issues not addressed in the questions above which you would like to raise?

IDB

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