

November 11, 2019

Organisation for Economic Co-operation and Development (OECD)
Tax Policy and Statistics Division
Centre for Tax Policy and Administration
2, rue André Pascal
75775 Paris Cedex 16
France

**RE: Comments on the OECD Secretariat Proposal for a “Unified Approach”
Under Pillar One of the Inclusive Framework from the Semiconductor Industry
Association**

Dear Sir or Madam:

The Semiconductor Industry Association (SIA) appreciates the efforts of the Secretariat to identify a “Unified Approach” to Pillar One issues and the opportunity to comment on the proposal which was published on October 9, 2019.

SIA is the trade association representing leading U.S. companies engaged in the research, design, and manufacture of semiconductors. A list of SIA members can be found in the Appendix. Semiconductors are the fundamental enabling technology of modern electronics that has transformed virtually all aspects of our global economy, information technology, telecommunications, health care, transportation and energy. Innovations in semiconductor design and manufacturing have resulted in increasingly smaller, more powerful, less expensive, and more energy efficient semiconductors, which have a “multiplier effect” that drive advancements throughout other sectors of the economy, resulting in increased growth, jobs and productivity. Advancements in virtually all facets of technology are largely dependent on innovation in the semiconductor industry.

The semiconductor industry is unique in infrastructure, supply chain, and capital investment requirements. SIA member companies conduct their business globally. While the SIA agrees with the proposal that more overall discussion of scoping is important and necessary, as requested in the proposal, SIA is limiting its comments to the scoping of the “Unified Approach” and requesting that the industry receive a specific carve-out similar to commodities and extractive industries due to the uniqueness of the semiconductor industry.

Semiconductors Should be Excluded from the Scope of this Proposal

The Secretariat proposes to focus on consumer-facing businesses and excluding from the scope of this proposal industries such as extractives and commodities. As stated in the proposal (p. 7, paragraph 20):

This supports the idea that the proposed “Unified Approach” should be focused on large consumer-facing businesses, broadly defined, e.g. businesses that generate revenue from supplying consumer products or providing digital services that have a consumer facing element. It would also suggest that some sectors (for example, extractive industries and commodities) would be carved-out. Further discussion should take place to articulate and clarify this scope, including consideration of how a consumer-facing business might be defined and how the concepts of consumer products or consumer sales would deal with the supply of goods and services through intermediaries, the supply of component products and the use of franchise arrangements. Further discussion should also take place to consider whether other sectors (e.g. financial services) should also be carved out, taking into account the tax policy rationale as well as other practicalities. Such discussion should also include consideration of size limitations, such as, for example, the €750 million revenue threshold used for country-by-country reporting requirements.

Similar to commodities and extractive industries, the semiconductor industry has significant infrastructure requirements. Much of the meaningful value in the semiconductor industry is derived from the research, design and manufacturing of the chip itself, and each of these steps have significant capital, infrastructure, and supply-chain requirements. Semiconductors serve as the components that fuel technology – but as components, they are not consumer-facing. The capital associated with developing these tangible assets is immense and cannot be easily relocated, limiting the portability of revenue and income. For these reasons, the semiconductor industry should be excluded from the scope of this proposal.

The global semiconductor industry is a highly competitive industry that demands significant investments in research and capital expenditures. For instance, annual R&D expenditures as a percent of sales have averaged more than 15 percent over the past 20 years. This rate is nearly unprecedented among major manufacturing sectors of the United States economy. R&D expenditures are essential to the competitive position of semiconductor firms and the industry as a whole. The rapid pace of technological change requires constant advancements in process technology and device capabilities. In addition, because advanced semiconductors have billions of transistors imprinted on the surface of a square centimeter and line-widths are measured at the nanoscale, semiconductor manufacturing is a highly complex process and requires expensive and specially engineered manufacturing equipment in specialized fabrication facilities. These semiconductor “fabs” cost many billions to construct and operate and must be upgraded on a regular basis.

Similarly, the semiconductor industry has a limited consumer-facing element and limited direct sales to consumers. Semiconductors are components that are sold in bulk and incorporated and substantially transformed by unrelated parties into an altogether different product (e.g., a mobile phone, a computer) that is ultimately sold to customers around the world. While marketing plays

a role, it is less important than other consumer-facing industries as these products are incorporated and transformed into other products or sold in bulk to a third party. As such, the taxpayer generally does not know where the ultimate use of that product is occurring. There is no feedback loop from the consumer to the taxpayer or to the device manufacturer in relation to the taxpayer's component products. Therefore, no customization or value is being added by the ultimate user. Without the ability to access the destination of the semiconductor, it is impossible to determine whether it has been supplied for consumer products. Companies cannot be expected to have knowledge (or access) to unrelated entities' supply chains.

While some semiconductor companies may have limited consumer-facing operations, SIA believes a company should be characterized by its predominant business based on its revenue, income, and resources. In most cases, semiconductor companies would not be deemed to have significant consumer-facing operations. To the extent multinational semiconductor companies have both consumer-facing and non-consumer-facing operations, revenues should be categorized based on the predominant character of their business. Industries that are engaged in the manufacture of capital-intensive, tangible goods have not been the primary focus of the "digitalization" of the economy and SIA respectfully requests that the semiconductor industry is specifically carved out of the scope of the "Unified Approach".

We appreciate the time and effort that it takes to prepare this proposal and SIA appreciates the opportunity to submit these comments.

Sincerely,

Erik Pederson
Director, Government Relations
Semiconductor Industry Association

Appendix – Semiconductor Industry Association Membership

Charter Members

AMD
Broadcom
Cirrus Logic
Cree
Cypress
GLOBAL FOUNDRIES
IBM
Intel
Landsdale
Lattice
Marvell
Maxim Integrated

Micron
NVIDIA
ON Semiconductor
Qorvo
Qualcomm
Rochester Electronics
Silicon Labs
Skyworks
Texas Instruments
Western Digital
Xilinx

International Members

Allegro
ARM
Infineon
Mediatek
NXP
Samsung
SK Hynix
TSMC
UMC

Corporate Members

Applied Materials
ASML
Cadence
KLA
Lam Research
Veeco

