

The Global Minimum Taxation (GloBE)



Implementation of GloBE in Asia-Pacific, Europe and the Middle East

Impact on Tax Incentives, Tax Systems and Tax Competition

TAXATION LAW RESEARCH PROGRAMME (TLRP)

The University of Hong Kong (HKU) | Faculty of Law

Hong Kong, 10 October 2024



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The Global Minimum Taxation (GloBE)

International Tax Architecture: Dynamic and global vs. fragmented Level-Playing Field on Taxation (LPFT)



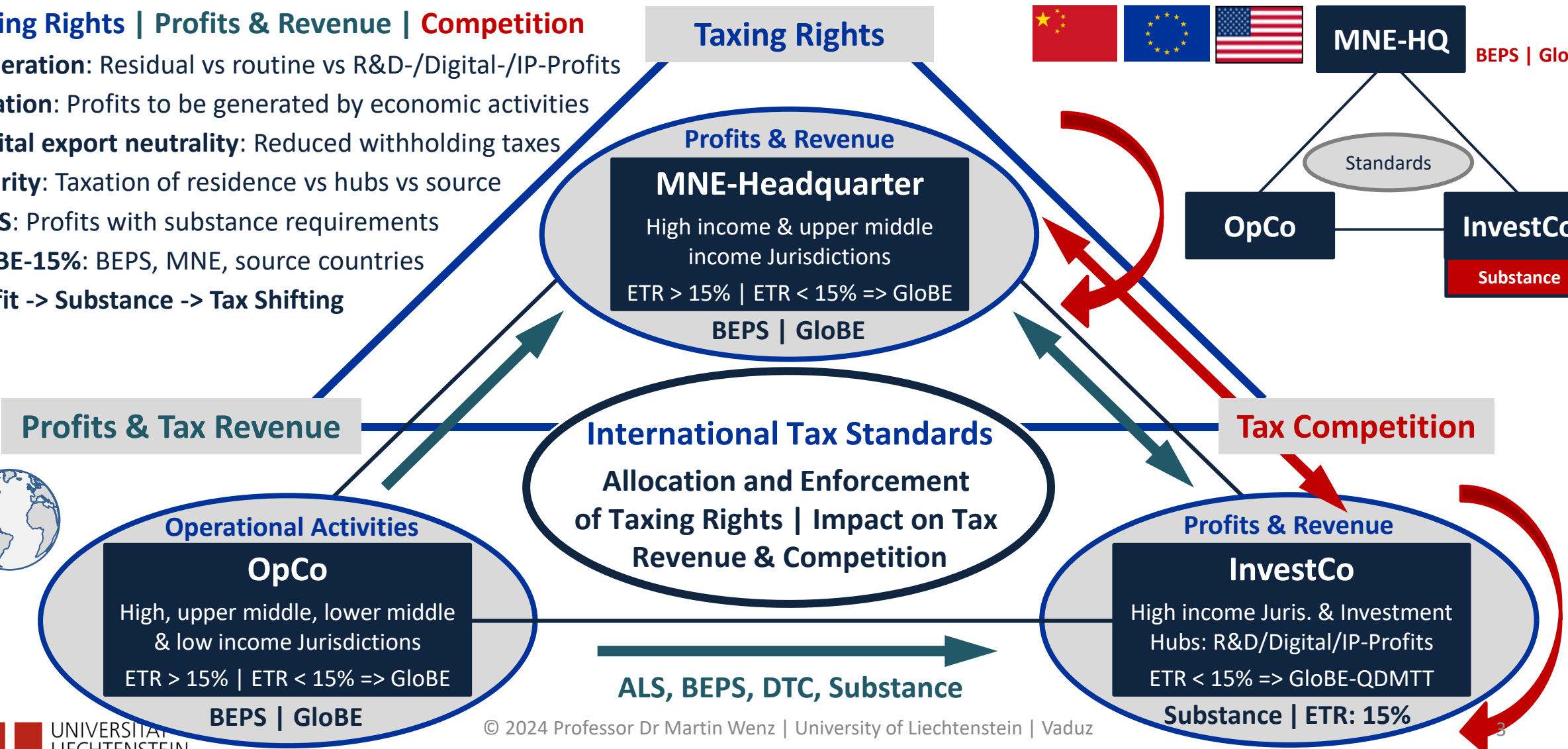
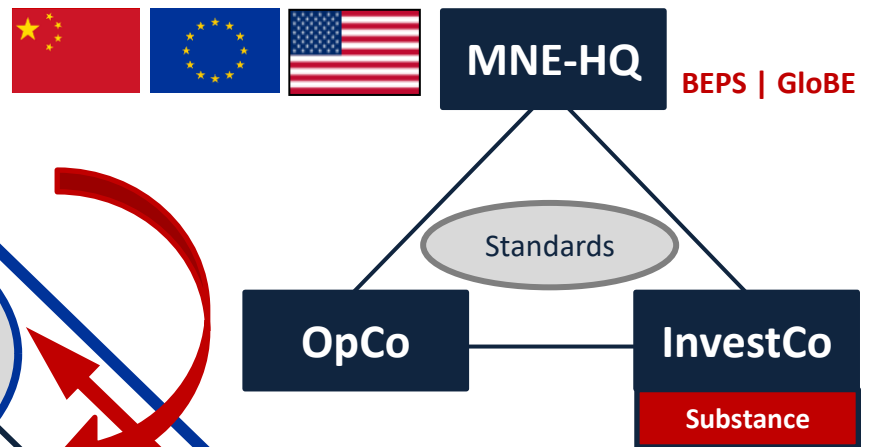
The Global Minimum Taxation (GloBE)



International Tax Standards regarding MNE: Taxing Rights, Profits & Tax Revenue, Tax Competition

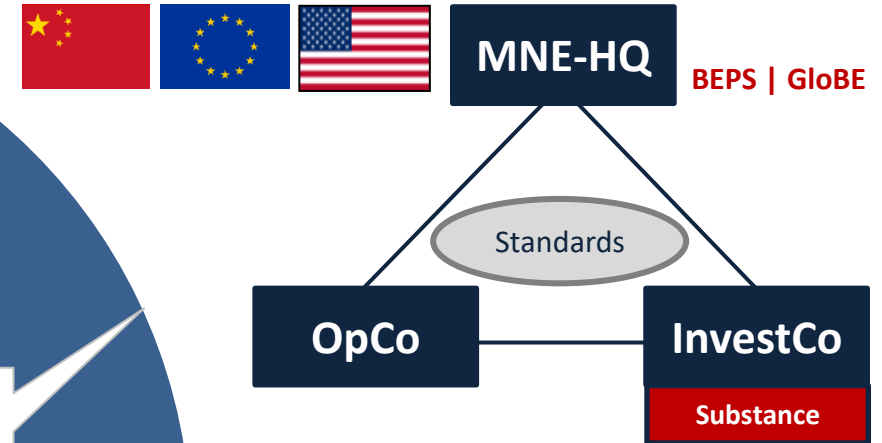
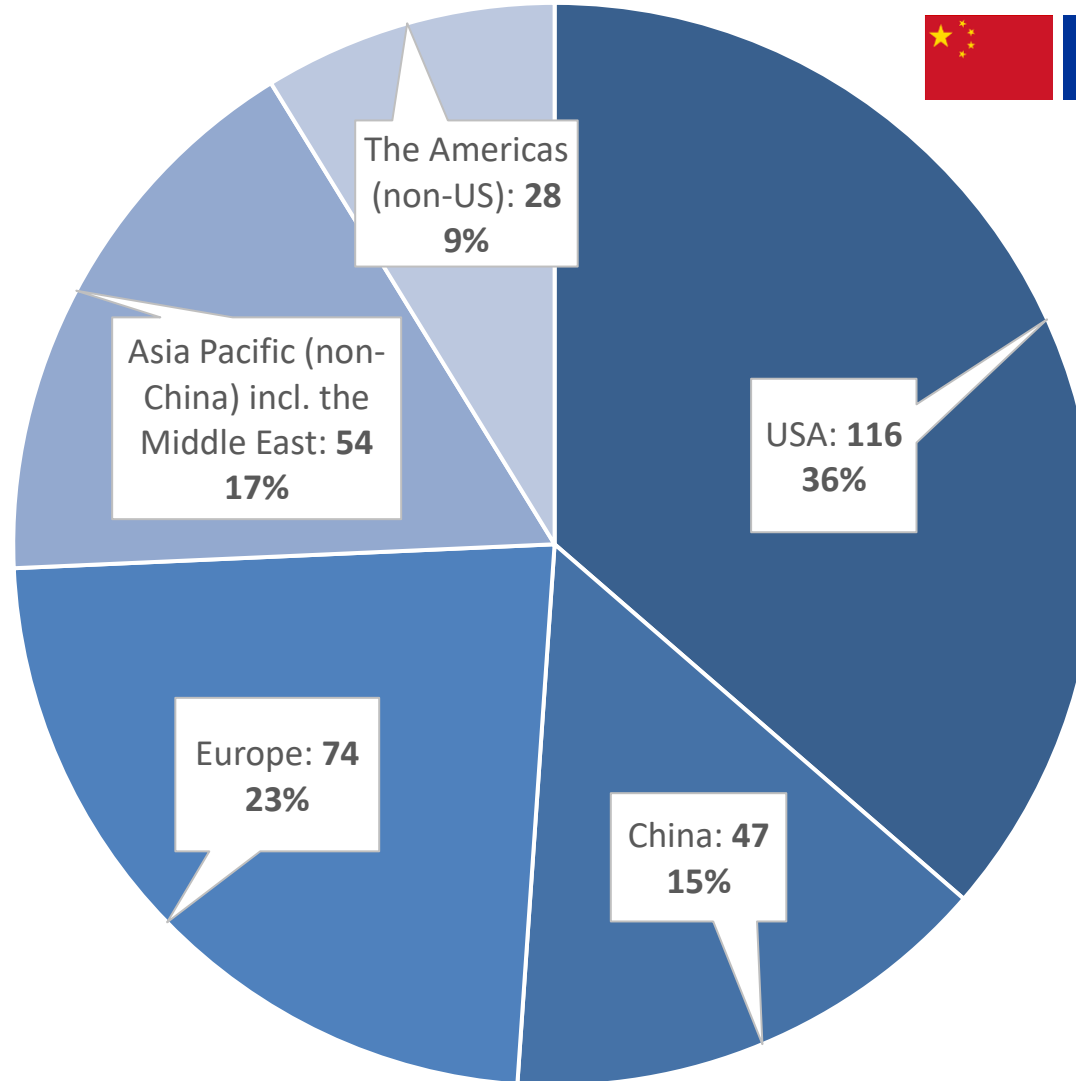
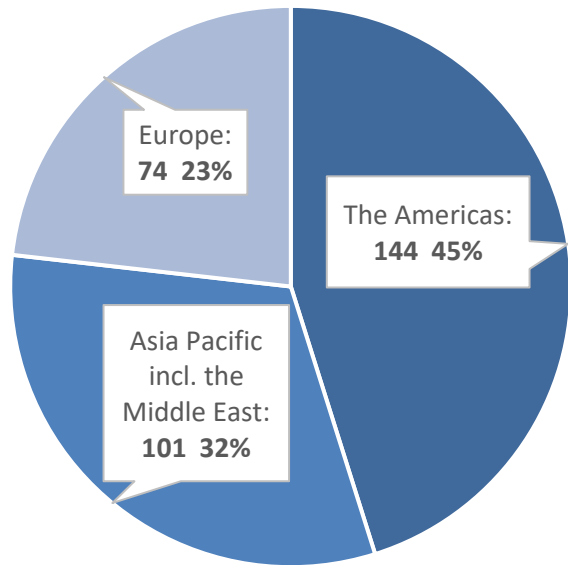
Taxing Rights | Profits & Revenue | Competition

- Generation:** Residual vs routine vs R&D-/Digital-/IP-Profits
- Taxation:** Profits to be generated by economic activities
- Capital export neutrality:** Reduced withholding taxes
- Priority:** Taxation of residence vs hubs vs source
- BEPS:** Profits with substance requirements
- GloBE-15%:** BEPS, MNE, source countries
- Profit -> Substance -> Tax Shifting**



The Global Minimum Taxation (GloBE)

The Global Top > 300 MNE-Headquarters (large and profitable)



Data: Orbis Database

Source: Modified from Oka, Be Prepared for New Tax Competition: Impact Assessment of Two Minimum Taxes of the OECD, Tokyo Foundation, March 2022, p. 13

The Global Minimum Taxation (GloBE)



International Taxation of MNE: Empirical evidence on international taxation of MNE profits

Reported profits of large MNEs in different Jurisdiction-income-Groups

- » 50.1% of MNE-profits are reported in High-income Jurisdictions + 18.8% in Investment Hubs: Σ 68.9%
- » 27.7% of total MNE-profits are booked in Upper middle-income Jurisdictions + 3.4% in Lower-middle- and Low-income Jurisdictions: Σ 31.1%

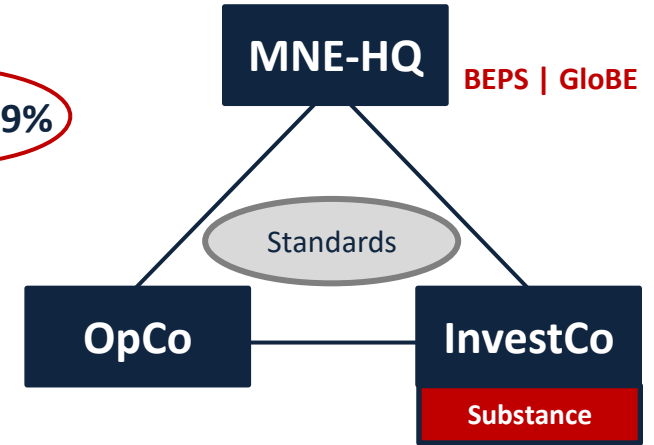
■ High income ■ Upper middle income ■ Lower middle and low income ■ Investment Hub



Reported profits of large MNEs in different Jurisdiction-average ETR-Groups

- » 6.8% of MNE-profits are reported in Jurisdictions with an average ETRs < 5% + 14.6% in Jurisdictions with an average ETRs between 5% and 15%: Σ 21.4%
- » 68.9% of MNE-profits are reported in jurisdictions with average ETRs between 15% and 25%
- » 9.7% of MNE-profits are reported in jurisdictions with average ETRs exceeding 25%

■ 0-5% ■ 5-15% ■ 15-25% ■ >25%



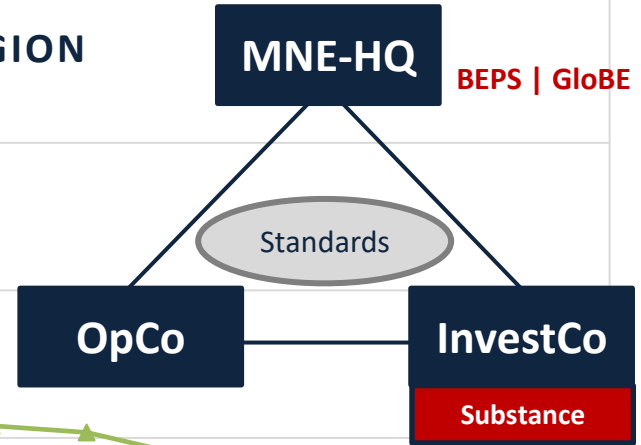
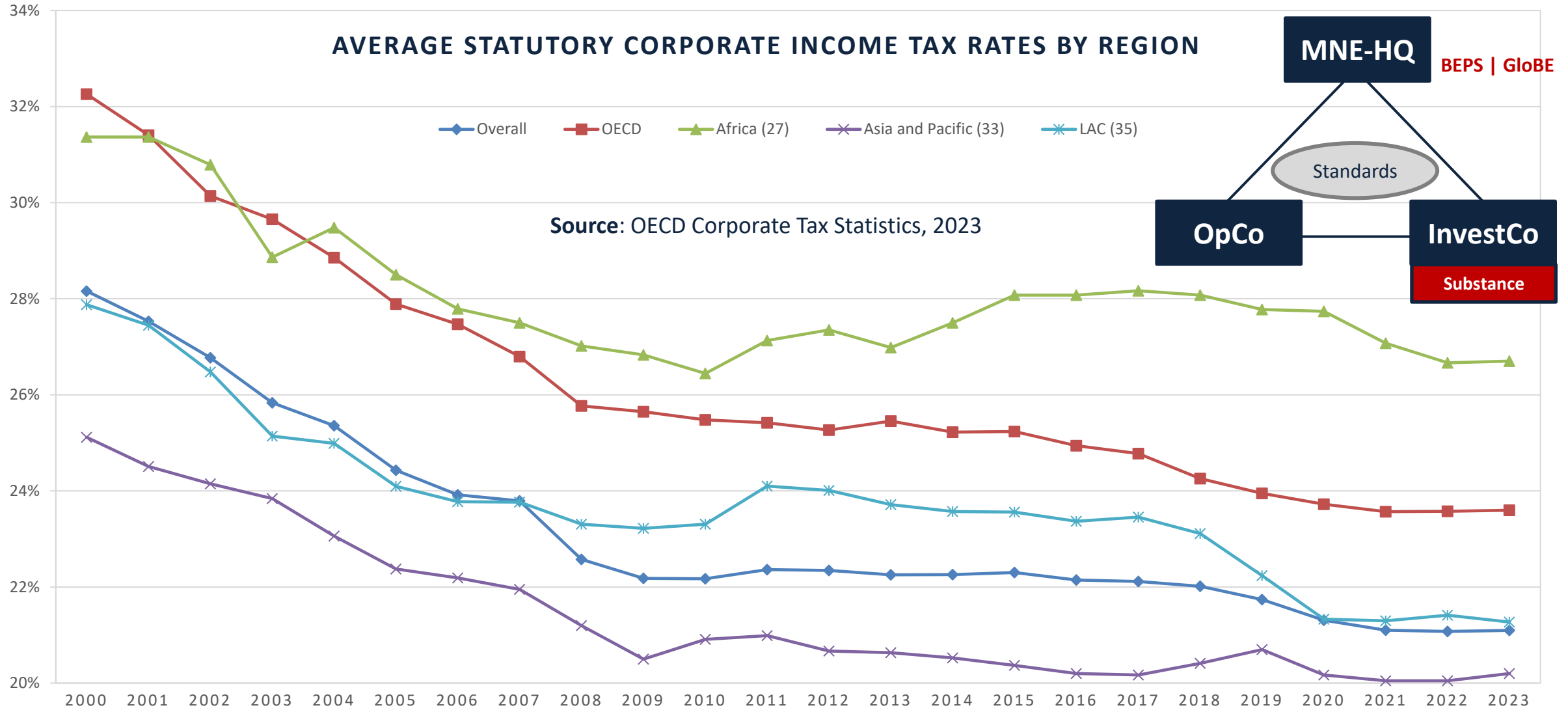
Data (2017-2020): OECD CbCR data, US Bureau of Economic Analysis (BEA), Torslov, Wier and Zucman (2023), Bureau van Dijk Orbis Database | **Reported average annual net profits of USD 5,929 bn, total profits for the whole 4-year period = USD 23,715 bn**

Source: OECD Taxation Working Paper No. 67: Effective tax rates of MNEs: New evidence on global low-taxed profit, 21 November 2023, pp. 29-30

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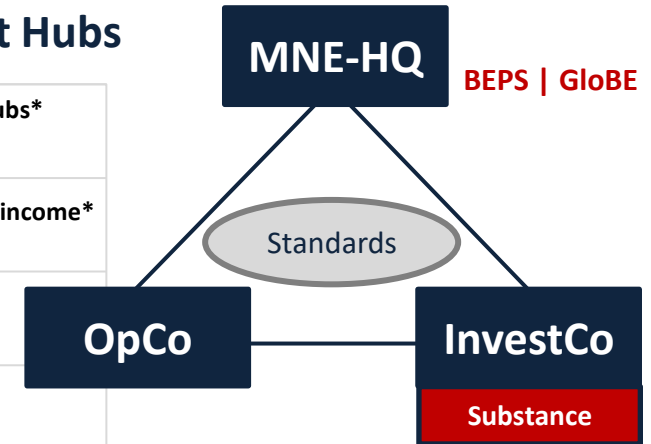
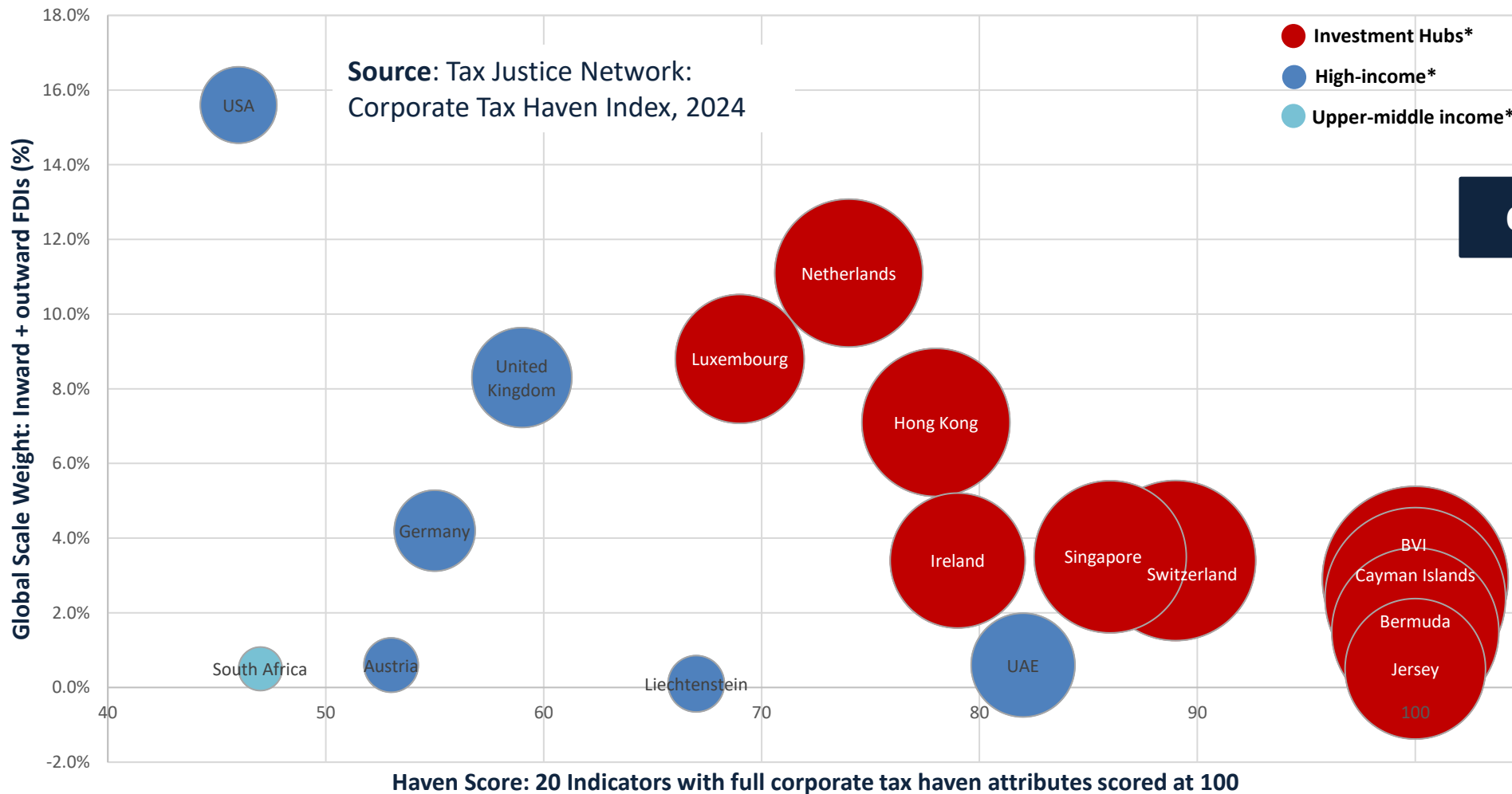
Corporate Income Tax: The International Race to the Bottom





The Global Minimum Taxation (GloBE)

TJN-Corporate Tax Haven Index: Global Tax Havenry

Corporate Tax Haven Index Value: Selected High-income Jurisdictions and Investment Hubs



 The Netherlands

 The Netherlands

Haven Score: 74 (max. 100)

Global Scale Weight (FDIs): 11.1%

$$GSW = \frac{\$ 9.9 \text{ trillion}}{\$ 88.5 \text{ trillion}}$$

CTHI-Value: 1,945 | Rank: #7

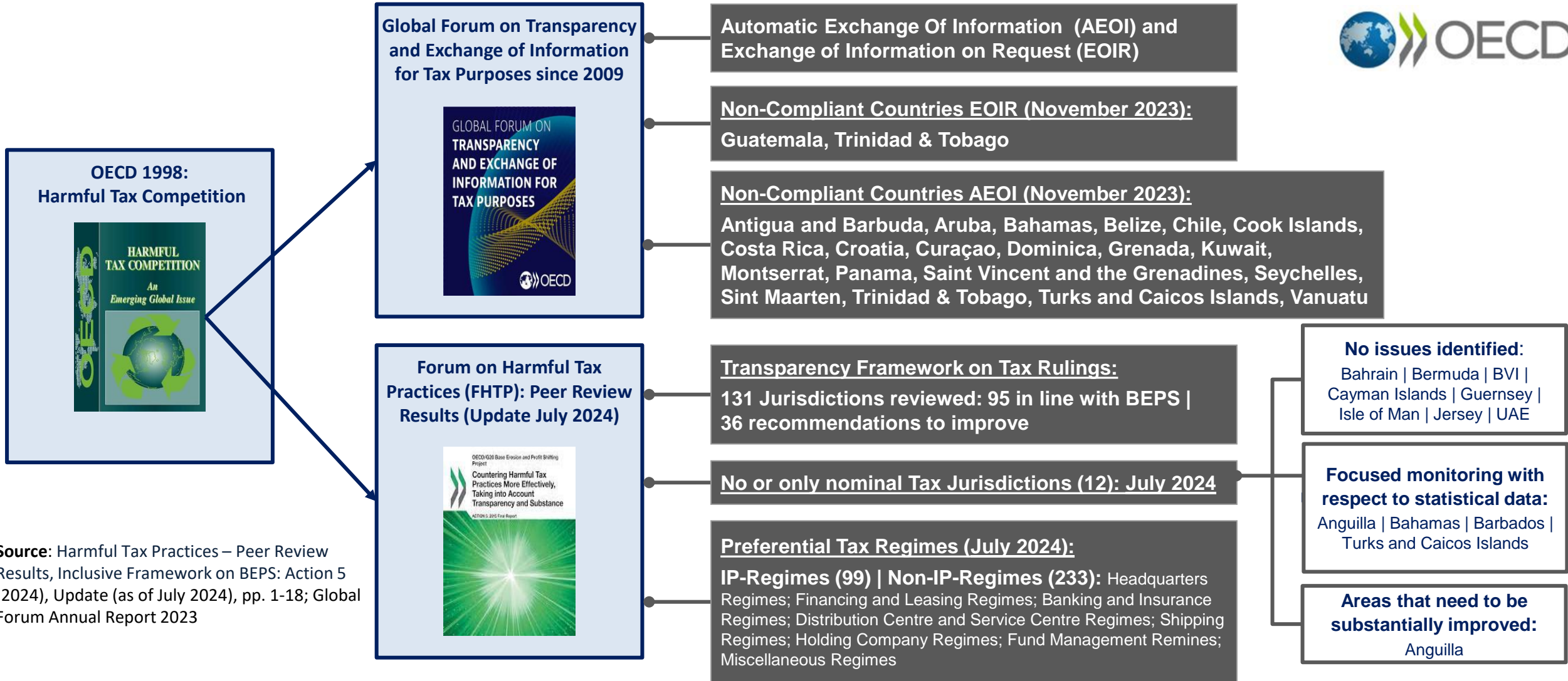
$$CTHI = (74^3 * \sqrt[3]{0.111})/100$$

*Country classification: World Bank & OECD



The Global Minimum Taxation (GloBE)

G20/OECD/FHTP: Classification of jurisdictions being non-compliant according to GF- and FHTP-Requirements



Source: Harmful Tax Practices – Peer Review Results, Inclusive Framework on BEPS: Action 5 (2024), Update (as of July 2024), pp. 1-18; Global Forum Annual Report 2023



The Global Minimum Taxation (GloBE)

EU-Council: Classification of jurisdictions being non-compliant according to EU-Tax Good Governance Principles

EU-List of non-EU non-cooperative Jurisdictions (NEUNCJ) -> Tax Good Governance Principles (TGGP)

Objective and relevance

Update: 08 October 2024

Annex I: The aim of the EU list of non-EU non-cooperative jurisdictions, which is published as an annex to conclusions adopted by the Ecofin Council is **not to name and shame countries**, but to encourage positive change in their tax legislation and practices, through cooperation

Annex II: Jurisdictions that do not yet comply with all international tax standards but have committed to implementing reforms are included in a state of play document including sunset to switch to Annex I

Annex III: For the EU list to be effective, it is important that EU member states put in place efficient defensive measures in non-tax and tax areas. Defensive measures help to **protect tax revenues** and **fight against tax fraud, evasion and abuse**

Annex I: 11 non-cooperative Jurisdictions (NCJ) in tax matters

American Samoa, Anguilla, Fiji, Guam, Palau, Panama, Russian Federation, Samoa, Trinidad and Tobago, US Virgin Islands, Vanuatu

Annex II: 9 Jurisdictions (NCJ), but committed to implement TGGP soon

Antigua and Barbuda, Belize, **British Virgin Islands**, Costa Rica, Curaçao, Eswatini, Türkiye, Vietnam, Seychelles

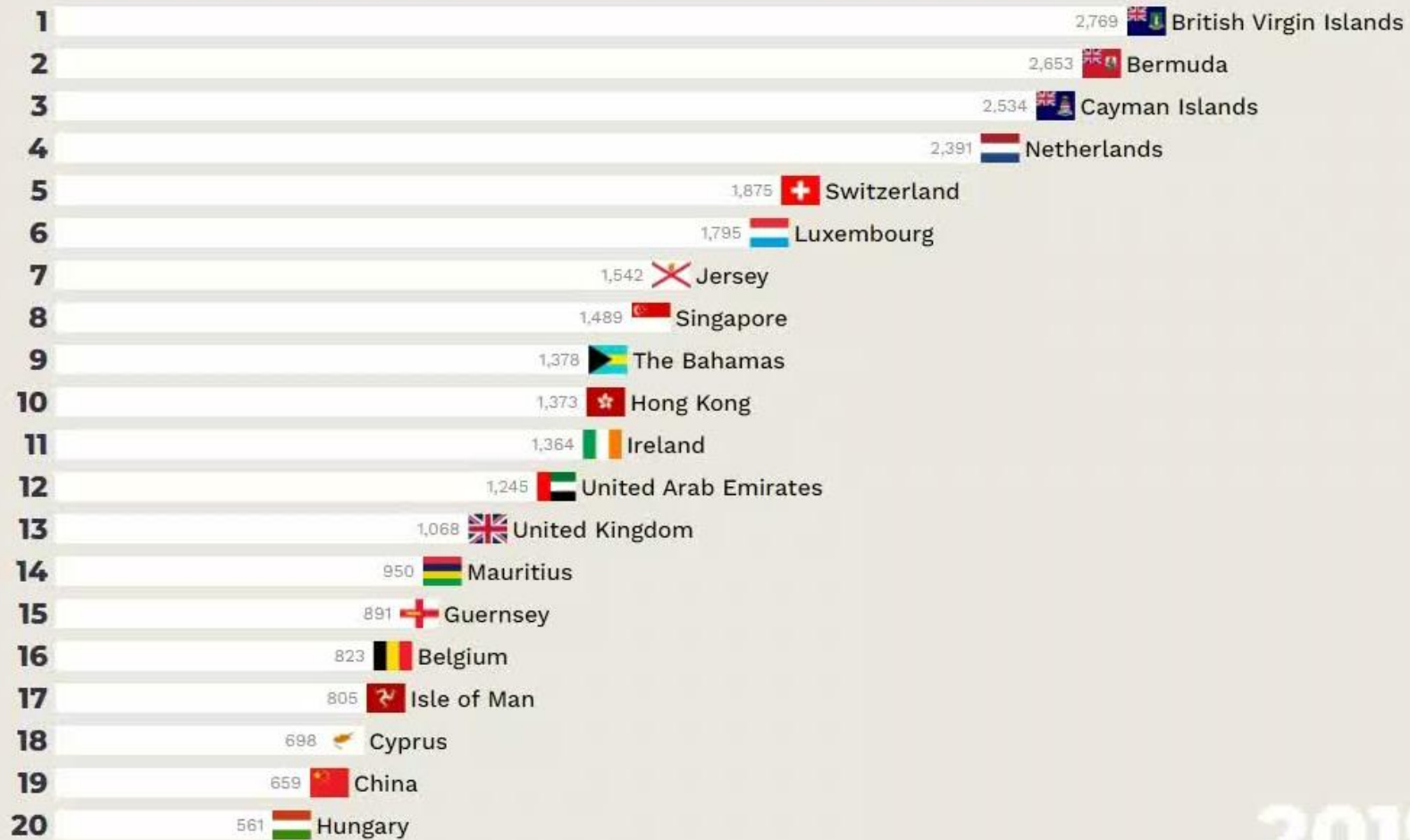
-> **Criteria 2.1 – Existence of harmful tax regimes** e.g., foreign source income exemption regime (treatment of income and capital gains) -> **Hong Kong, Singapore** ✓

Annex III: Defensive measures

- Monitoring and increased audit risks
- Countermeasures, i.e., non deductibility of expenses, CFC rules, withholding tax measures and limitation of participation exemption
- Documentation/reporting/disclosure requirements

THE WORLD'S BIGGEST ENABLERS OF CORPORATE TAX ABUSE

UPDATED 7 DAYS AGO



Source: Justice Network:
Corporate Tax Haven Index, 2024

2019



2019

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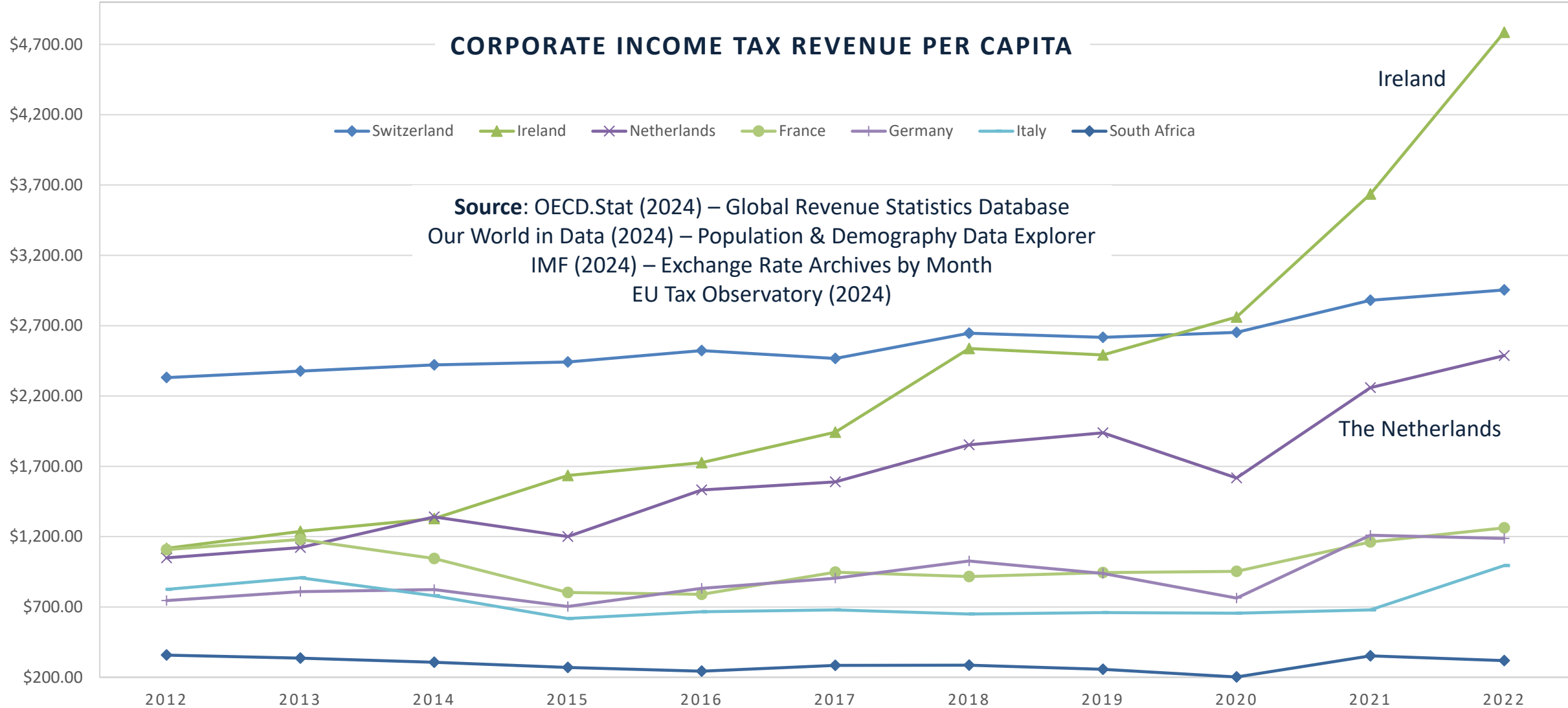
2021

Source: Tax Justice Network:
Corporate Tax Haven Index, 2024

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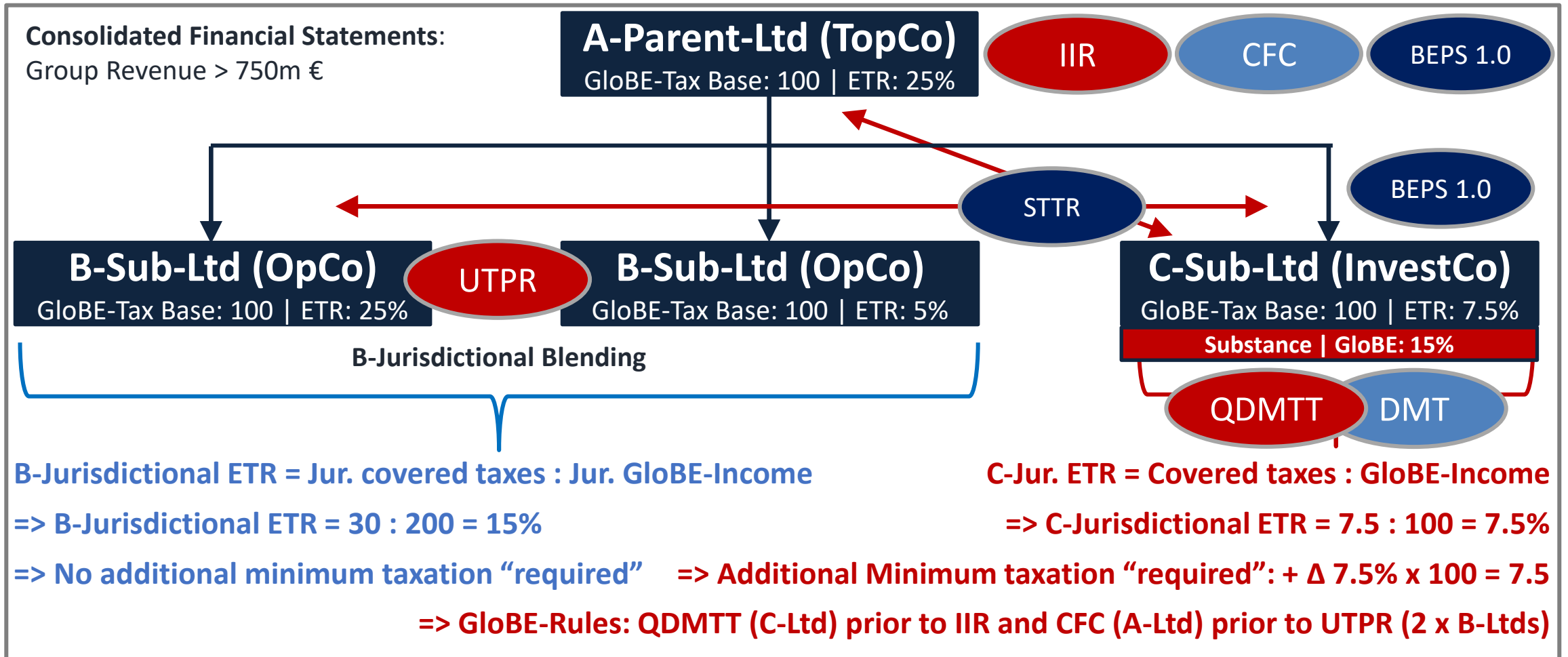
Global Profit Shifting: Limited Effect of BEPS-Reforms





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Pillar 2: Comprehensive backstop mechanism with jurisdictional blending to prevent BEPS and to curb tax competition at 15% of MNE profits and all source countries (GloBE) and 9% on certain gross payments (STTR)

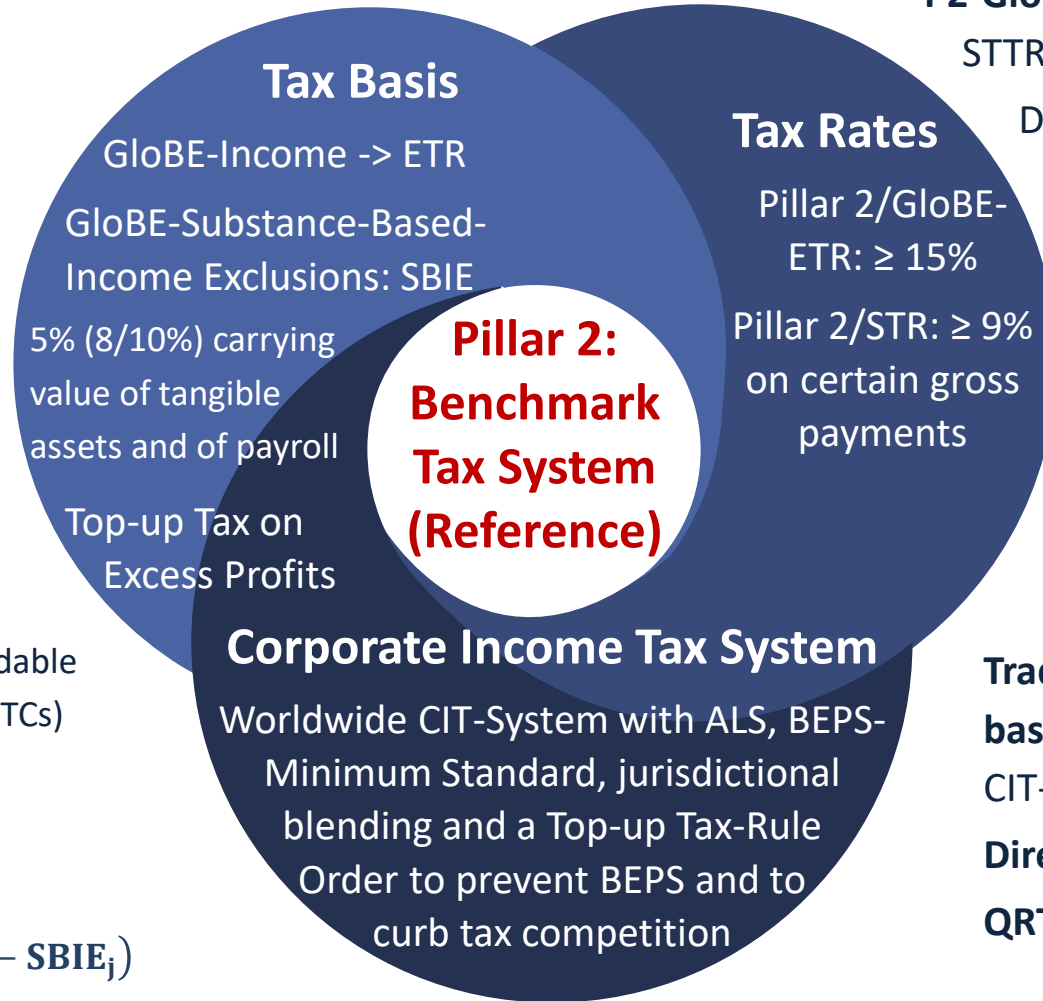




The Global Minimum Taxation (GloBE)

Pillar 2-New International Benchmark Tax System: Compromise to prevent BEPS and to curb tax competition

Financial Accounting Net Income / Loss	
+	Net taxes expense
-	Excluded dividends (> 10% or > 1 year)
+/-	Excluded equity gains (-) / losses (+) (>10%)
+	Policy disallowed expenses
+	Accrued pension expense
+/-	Other items
=	GloBE-Income
-	GloBE-Substance-Based-Income Exclusions
=	GloBE-Excess Profits (Exp)



P2-GloBE-Rule Order (Allocation of Taxing Rights):

STTR -> DMT -> QDMTT -> CFC -> IIR -> UTPR

DMT (GloBE-Income) ≥ QDMTT (Ex Profits)

QDMTT ≥ IIR -> CFC as covered tax?

P2-GloBE-Minimum Effective Tax Rate ≥ 15% on overall profits (Exp)

P2-Minimum Statutory Tax Rate ≥ 9% on certain gross payments

Traditional income- vs. expenditure-based tax incentives: IP-Boxes, reduced CIT-Rates, R&D-super-deductions etc.

Direct subsidies

QRTCs: Qualified Refundable Tax Credits

Additional allowances, exemptions, rate reductions

Qualified Refundable Tax Credits (QRTCs)



$$ETR_j = \frac{\sum \text{Covered Taxes of all CEs in the jurisdiction}}{\sum \text{GloBE Income of all CEs in the jurisdiction}}$$

$$QDMTT_j = (15\% - ETR_j) \times (\text{GloBE Income}_j - \text{SBIE}_j)$$

$$TT_j \text{ (IIR/UTPR)} = (15\% - ETR_j) \times (\text{GloBE Income}_j - \text{SBIE}_j) - QDMTT$$

The Global Minimum Taxation (GloBE)



Implementation of Pillar 2 (STTR and the GloBE-Rules): Roadmap



Global Implementation

Corporate Income Tax Act and in addition ... GloBE-Tax Act
Framework GloBE-Tax Act vs. Comprehensive GloBE-Tax Act



27 EU-Member States vs. 3 EEA-Member States

EU-Directive: Mandatory implementation of Pillar 2 in accordance with the EU-legal framework (fundamental freedoms, prohibition of state-aid) covering MNE and Large-Scale Domestic Groups (LSDG)



OECD Inclusive Framework (IF) with about 147 Members

IF-Agreement for a Two-Pillar Solution to address the tax challenges arising from the digitalisation of the economy (BEPS) + Tax Competition!

Pillar 2 (STTR and the GloBE-Rules) as a common approach





The Global Minimum Taxation (GloBE)

GloBE-Level Playing Field of Implementation: Implementation of Pillar 2 – GloBE vs. GILTI?

All in⁺: MNE, LSDGs
| IIR, UTPR, QDMTT

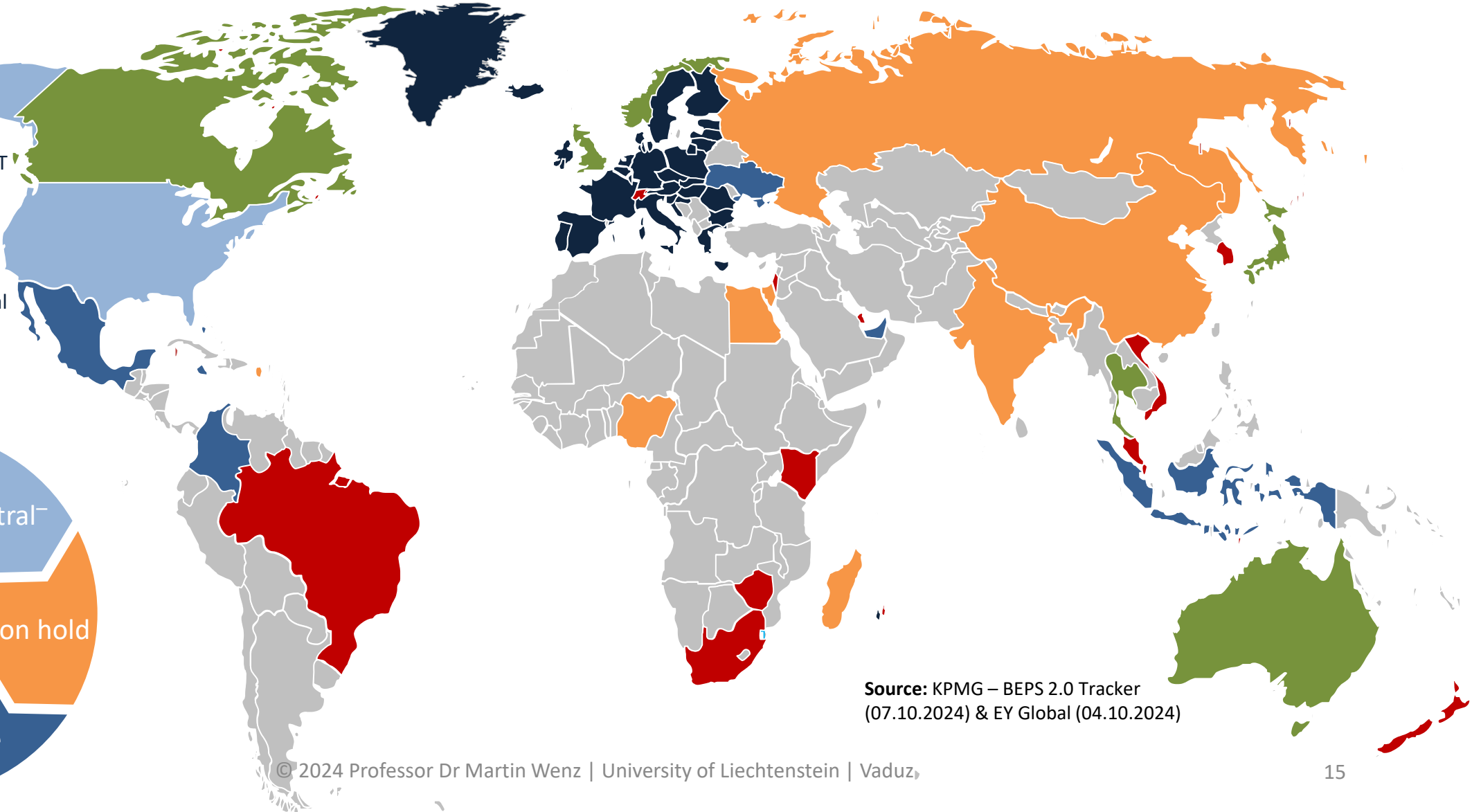
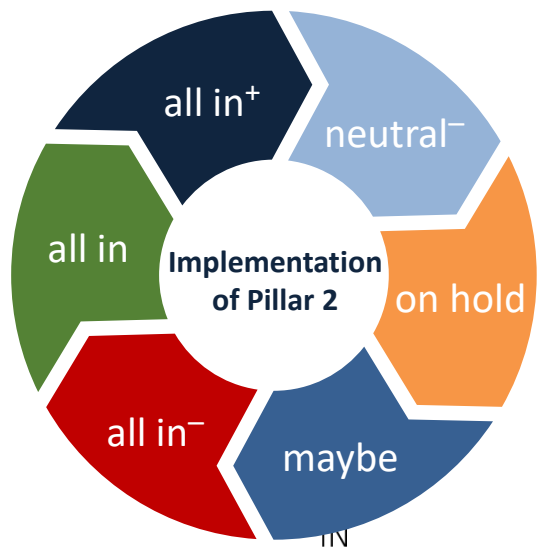
All in: MNE | IIR, UTPR, QDMTT

All in⁻: MNE | One or two out:
IIR, UTPR and/or QDMTT

Maybe: Ongoing discussions

On hold: Awaiting international
developments

Neutral⁻: No implementation,
consider counter measures

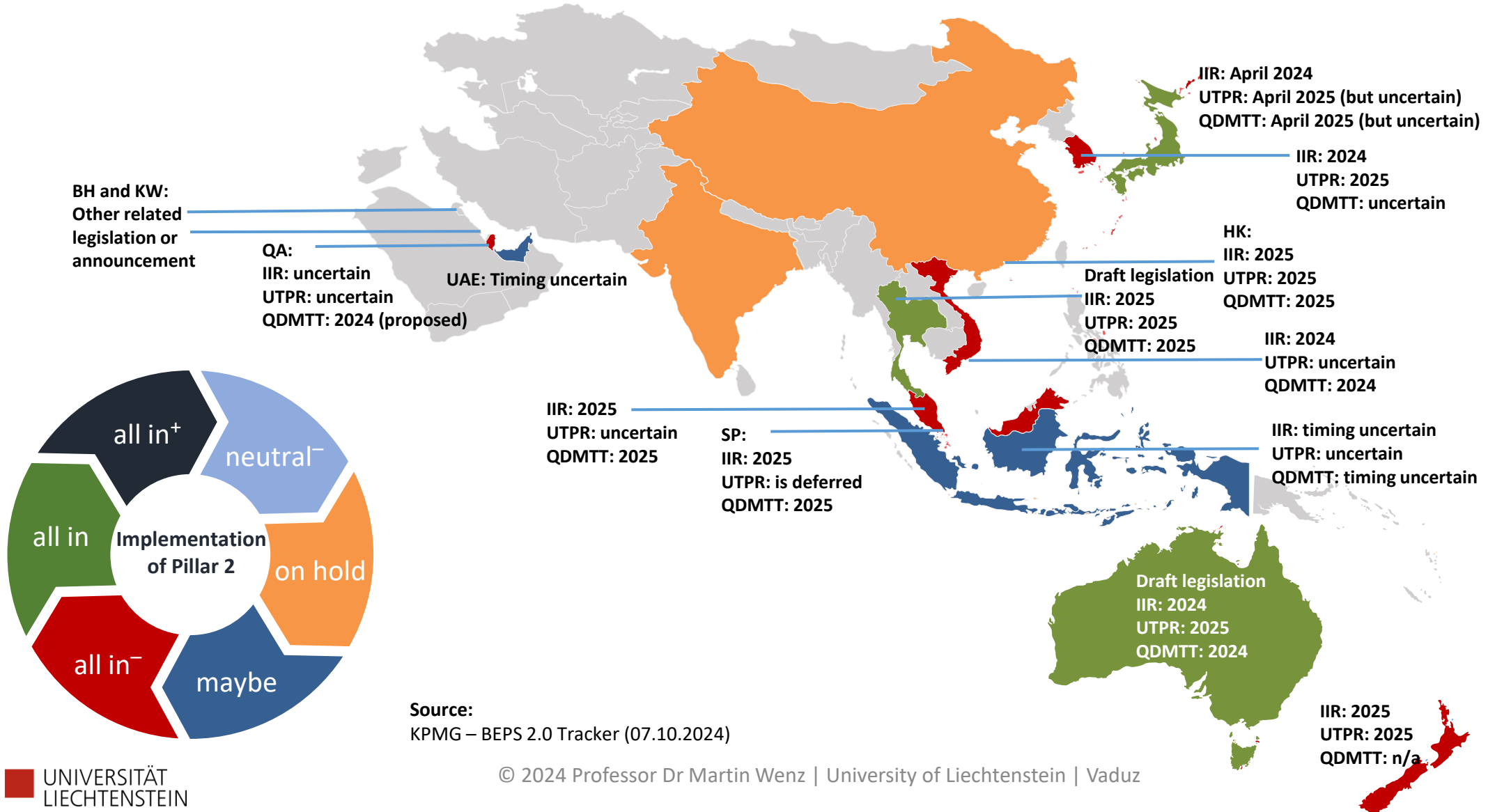


Source: KPMG – BEPS 2.0 Tracker (07.10.2024) & EY Global (04.10.2024)



The Global Minimum Taxation (GloBE)

GloBE-Level Playing Field of Implementation: Implementation of Pillar 2 in Asia-Pacific incl. the Middle East

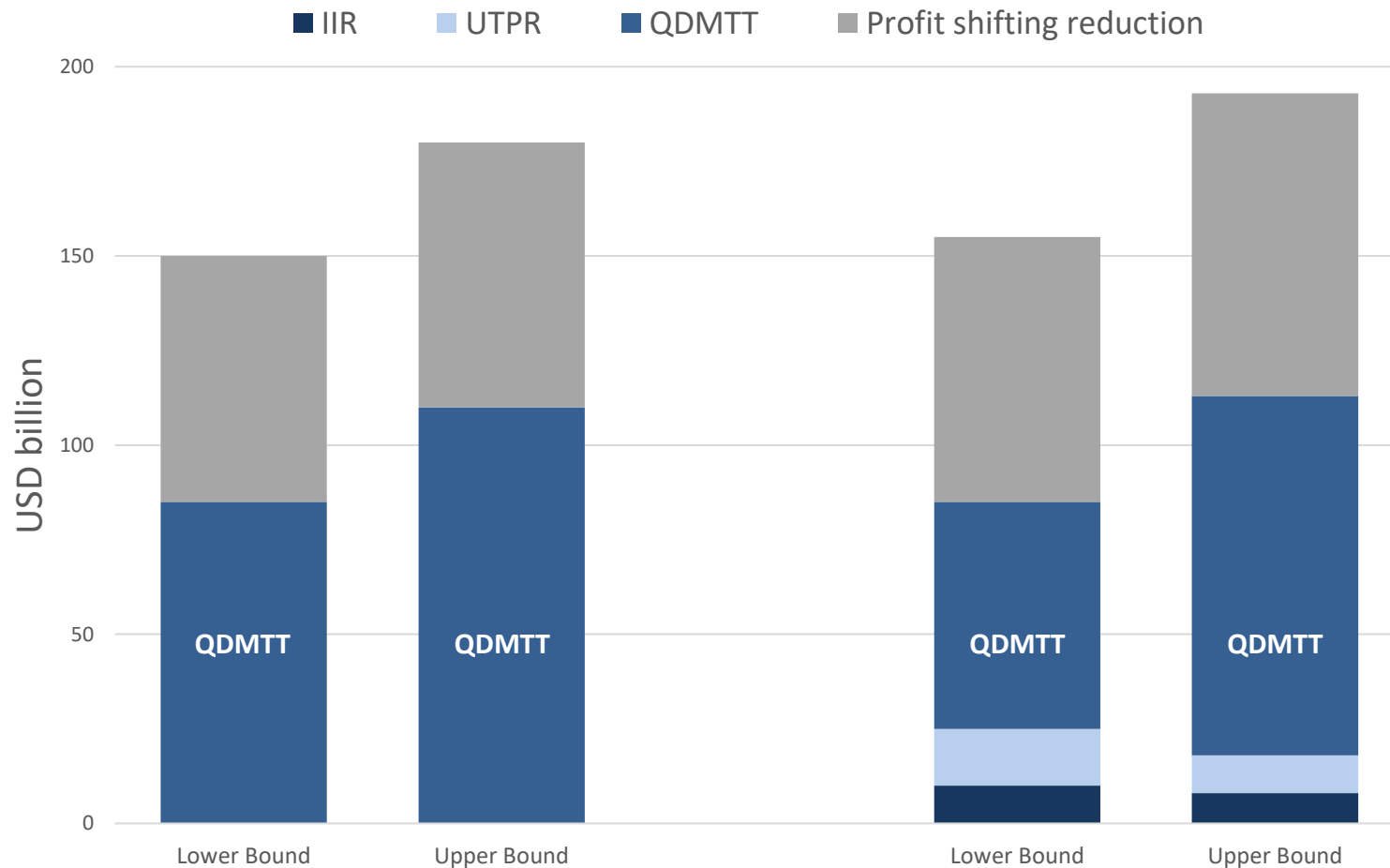


The Global Minimum Taxation (GloBE)



Impact of Pillar 2 (STTR/GloBE-Rules) on Tax Revenue: Low vs. high-tax countries

Global Revenue gains by implementation scenario



Revenue gains by implementation scenario

- » **Global revenue gains: USD 155 up to 192 bn pa**
 - ~2/3 direct gains: Top-up taxes
 - ~1/3 indirect gains: Reduced profit shifting
- » **The higher the share of implementing jurisdictions, the higher the revenue share of QDMTT vs. IIR and UTPR**

Source: OECD Taxation Working Papers No. 68: The Global Minimum Tax and the taxation of MNE profit, 9 January 2024, p. 50

Global implementation

Partial implementation: 70-100% of 147 Inclusive Framework Members



The Global Minimum Taxation (GloBE)

Impact of Pillar 2 on the LPFT and the Tax Systems of jurisdictions to prevent BEPS and to curb Tax Competition

Foreign-sourced passive income and capital gains Exemptions (FSIE)

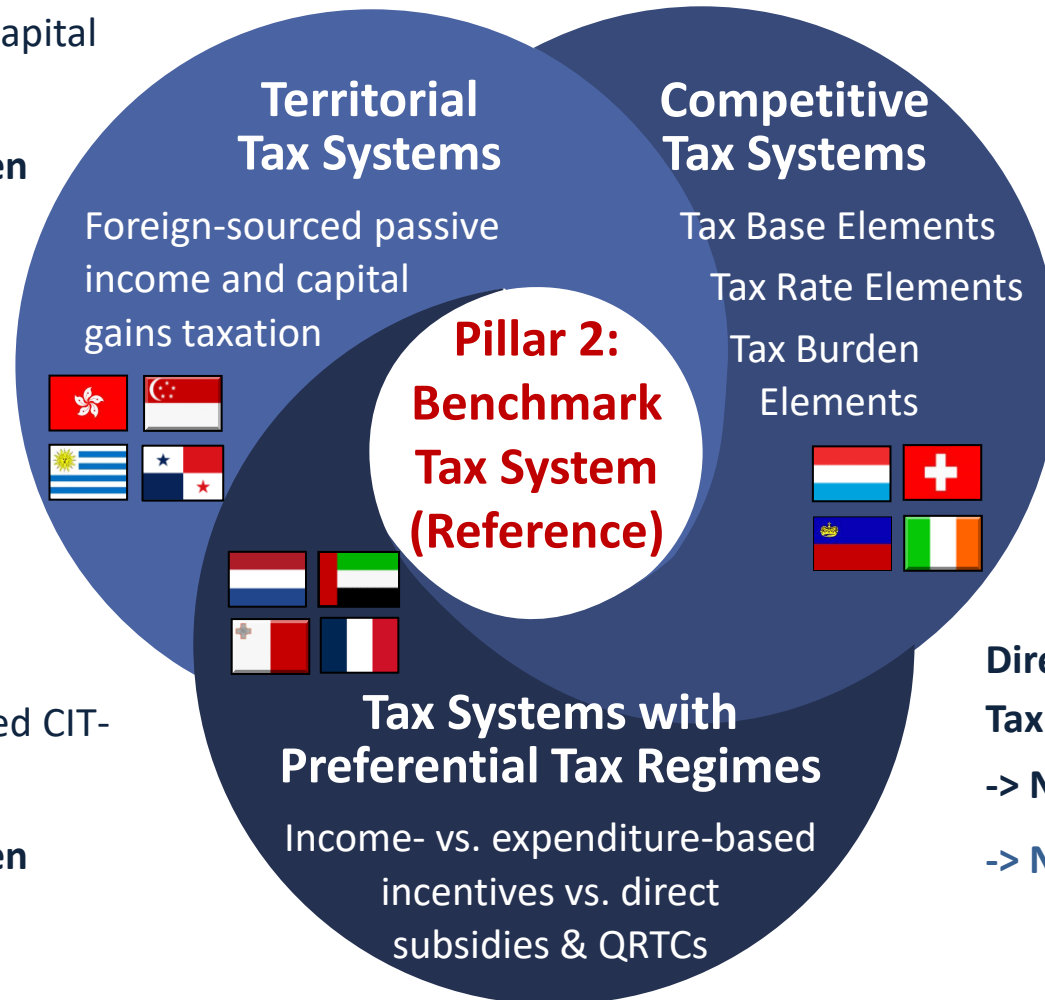
-> **Reduced GloBE-Effective Tax Burden**

-> **Cancelled-out by GloBE!!!**

Traditional income- vs. expenditure-based tax incentives: IP-Boxes, reduced CIT-Rates, R&D-super-deductions etc.

-> **Reduced GloBE-Effective Tax Burden**

-> **Cancelled-out by GloBE!!!**



Neutral tax systems with an Allowance for Corporate Equity (ACE) to prevent e.g., a debt-equity-bias

-> **Reduced GloBE-Effective Tax Burden**

-> **Cancelled-out by GloBE!!!**

Direct subsidies and Qualified Refundable Tax Credits (QRTCs)

-> **No reduced GloBE-Effective Tax Burden**

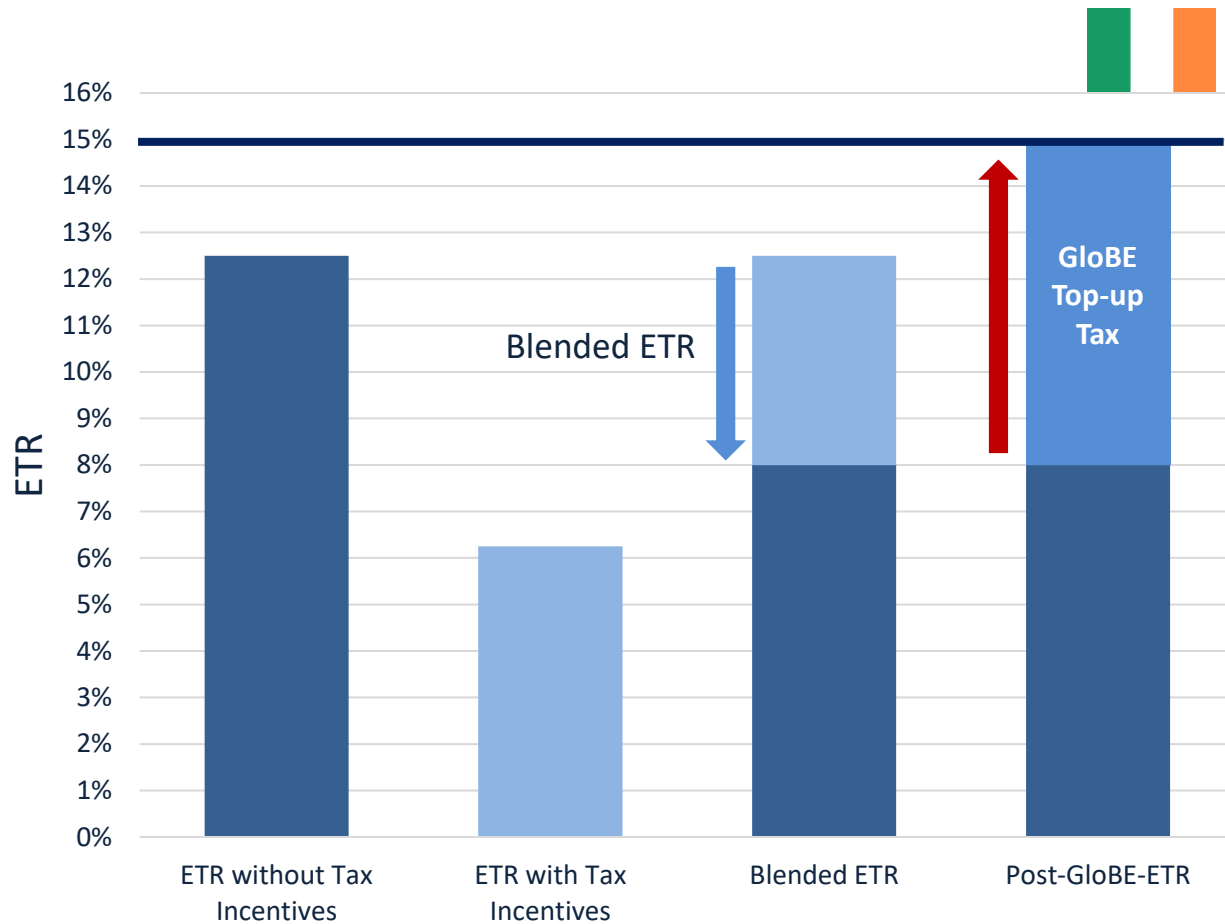
-> **Not cancelled-out by GloBE!!!**



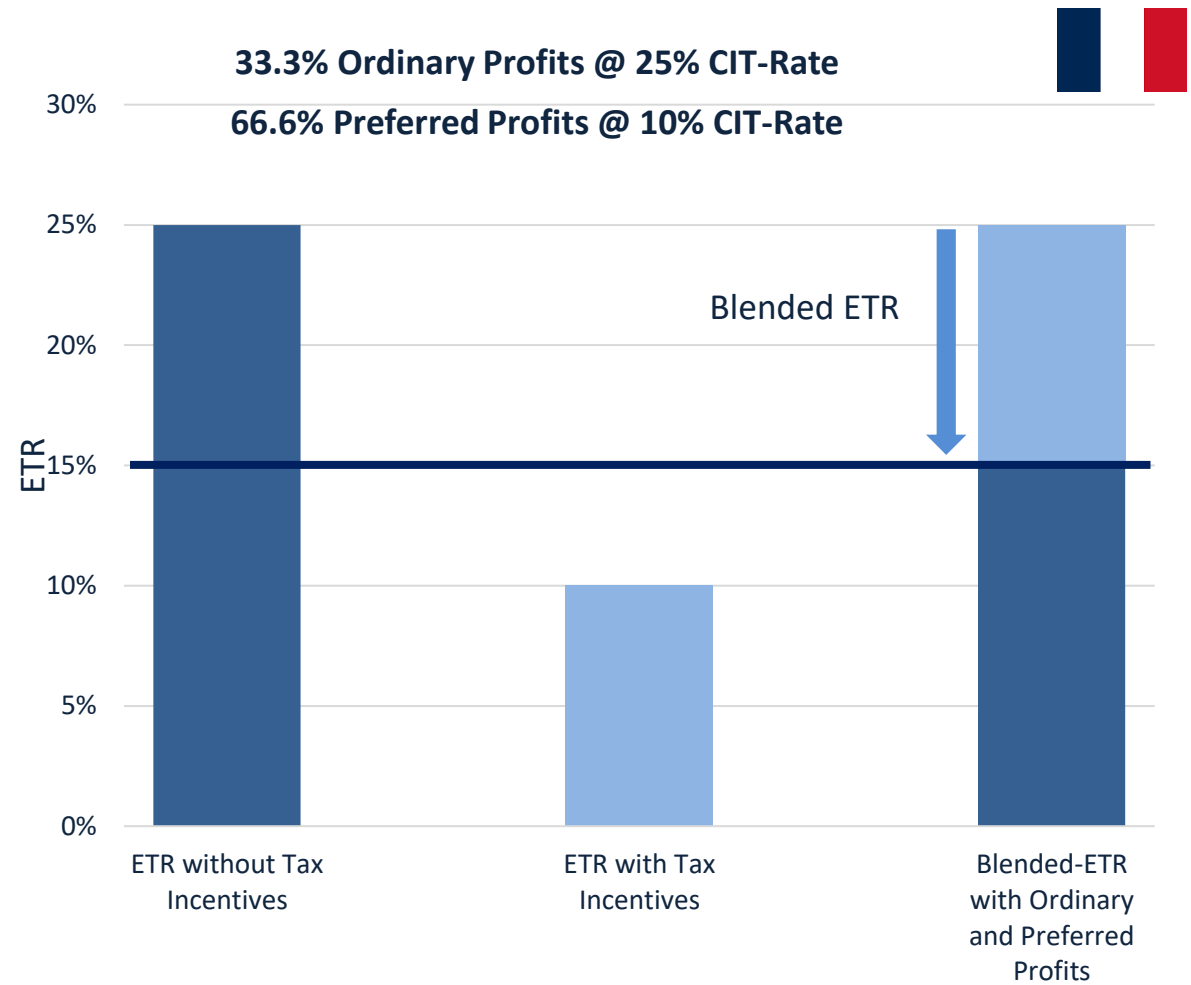
The Global Minimum Taxation (GloBE)

Impact of Pillar 2 (STTR/GloBE-Rules) on Tax Systems and Tax Incentives: Low vs. high-tax countries (1/2)

Low-tax countries: No cross-border or domestic BEPS possible



High-tax countries: Domestic BEPS possible by blending



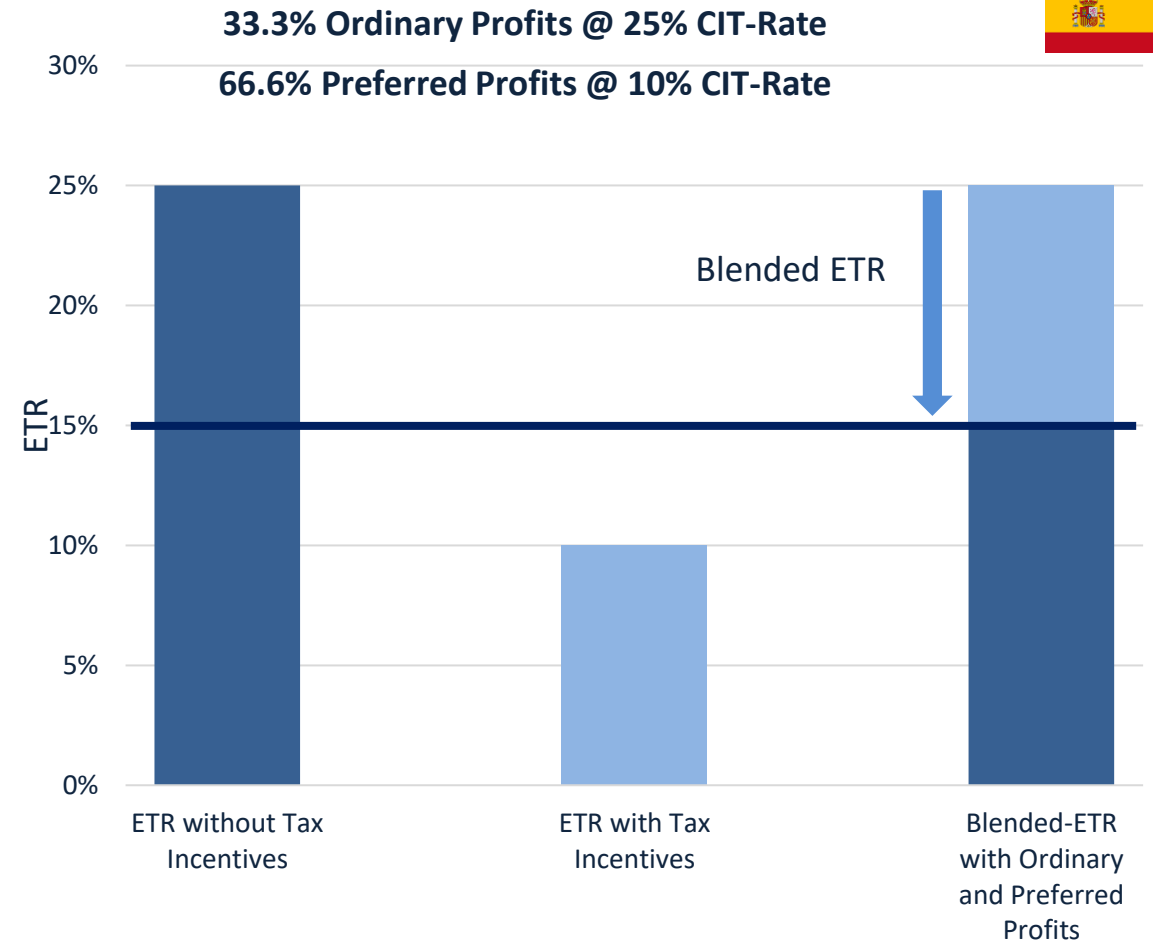
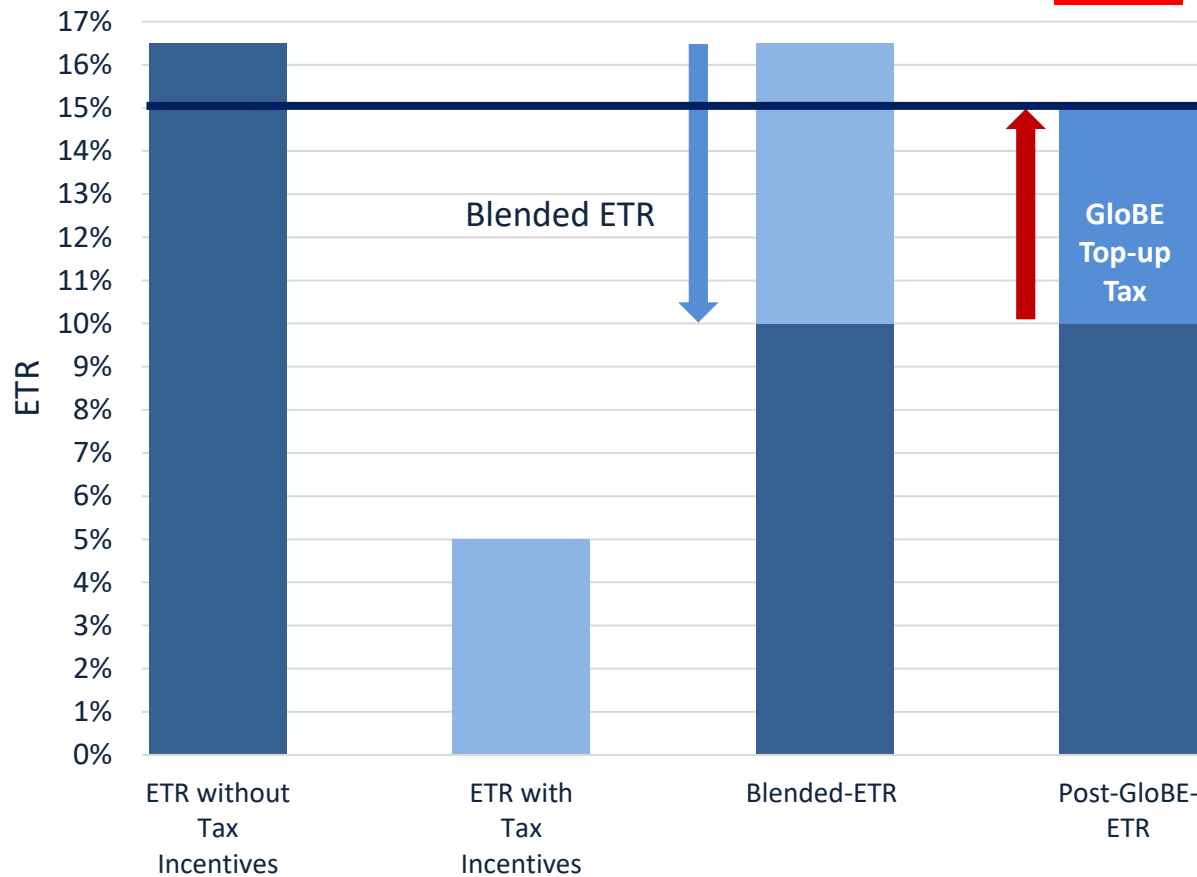
The Global Minimum Taxation (GloBE)



Impact of Pillar 2 (STTR/GloBE-Rules) on Tax Systems and Tax Incentives: Low vs. high-tax countries (2/2)

Low-tax countries: Limited cross-border or domestic BEPS possible

High-tax countries: Domestic BEPS possible by blending





The Global Minimum Taxation (GloBE)

Impact of Pillar 2 (STTR/GloBE-Rules) on International Tax Competition

GloBE: Incentive for **low-tax jurisdictions** to implement a **QDMTT**

GloBE: Incentive for **high-tax jurisdictions** to implement tax incentives & to blend with high-taxed profits: **Domestic BEPS**

Increasing Tax Competition -> **Investment Hubs vs high-tax jurisdictions:** Tax incentives vs. subsidies

Increasing Tax Competition -> **High-tax jurisdictions**

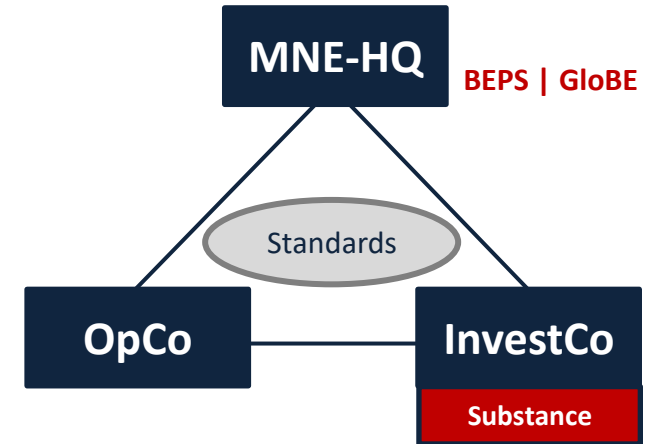
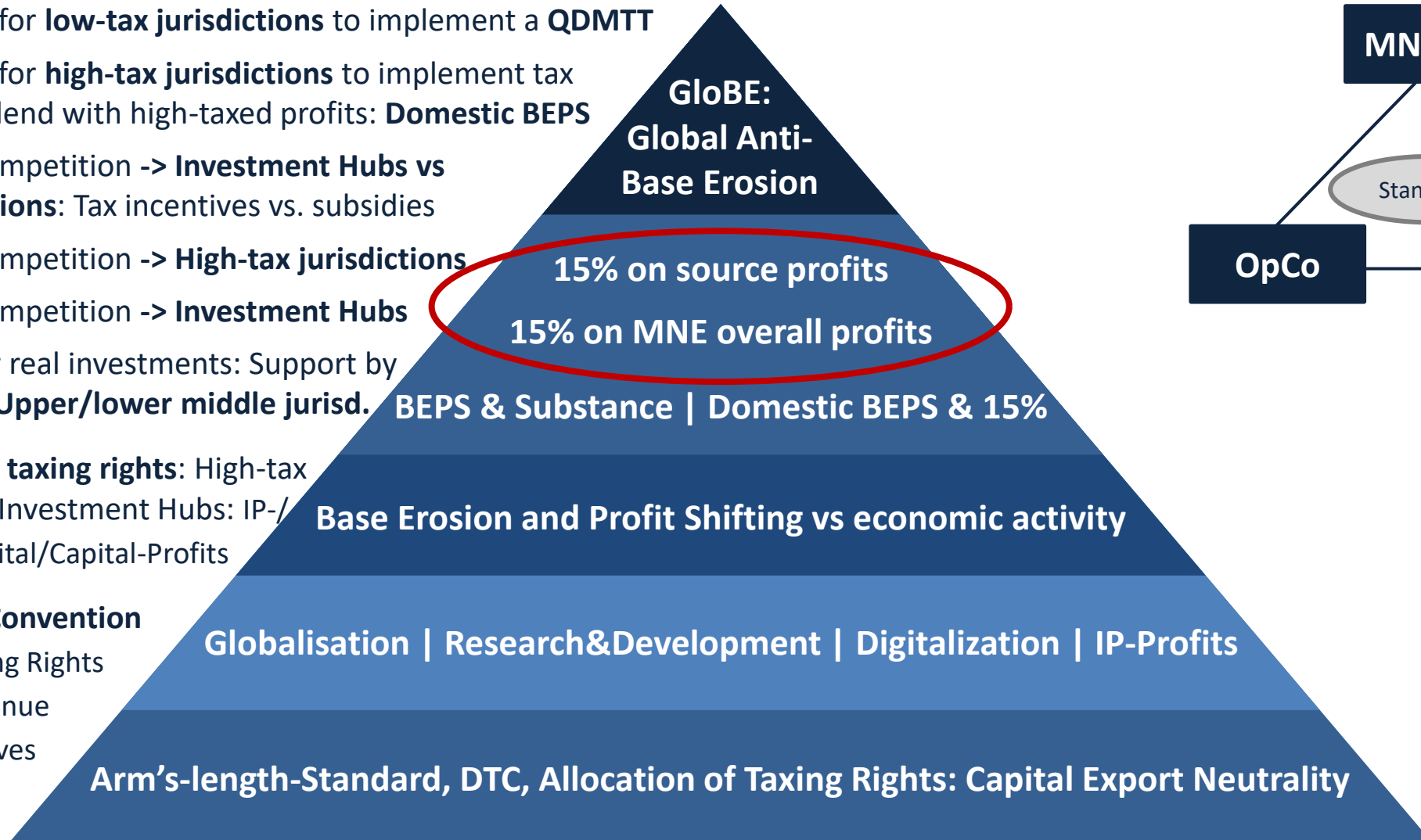
Increasing Tax Competition -> **Investment Hubs**

Tax incentives for real investments: Support by SBCO vs. SBIE -> **Upper/lower middle jurisd.**

Strengthening of taxing rights: High-tax jurisdictions and Investment Hubs: IP-/Residual/R&D/Digital/Capital-Profits

UN Framework Convention

- Allocation: Taxing Rights
- Allocation: Revenue
- New tax objectives
- GloBE | GloWT



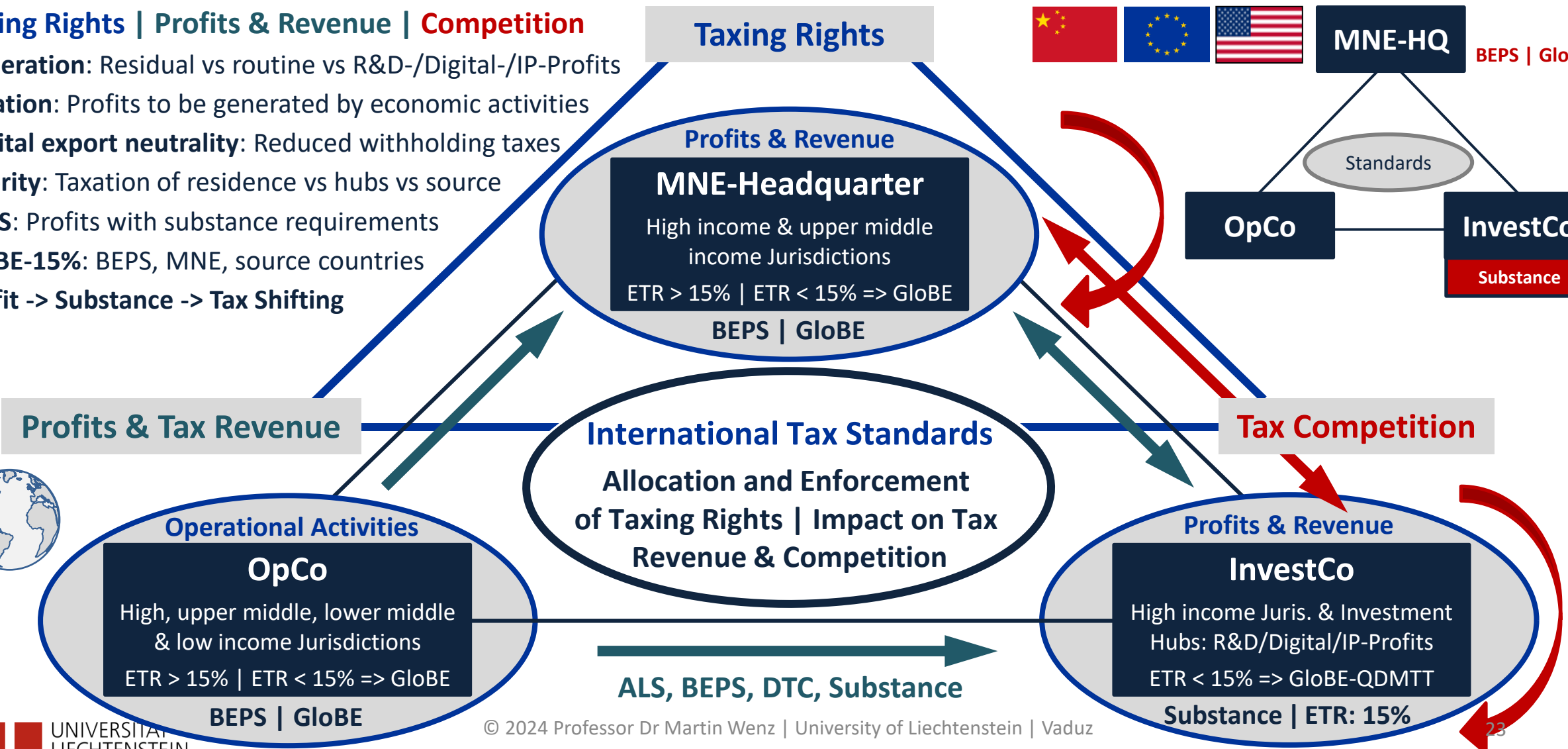
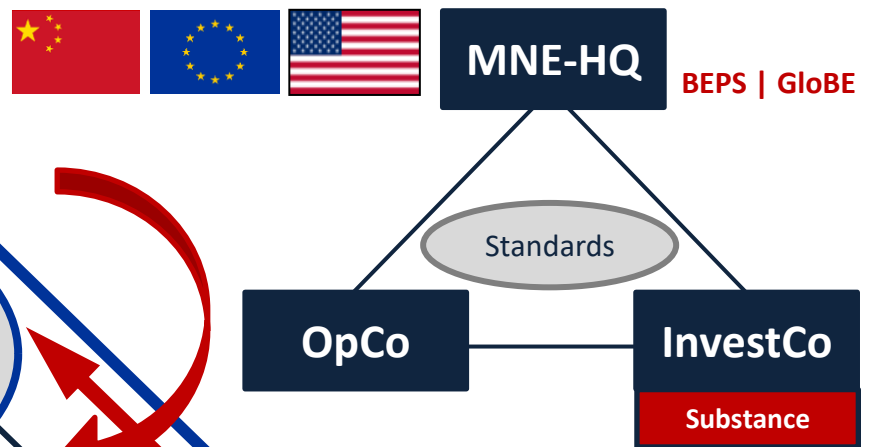
The Global Minimum Taxation (GloBE)



International Tax Standards regarding MNE: Taxing Rights, Profits & Tax Revenue, Tax Competition

Taxing Rights | Profits & Revenue | Competition

- Generation:** Residual vs routine vs R&D-/Digital-/IP-Profits
- Taxation:** Profits to be generated by economic activities
- Capital export neutrality:** Reduced withholding taxes
- Priority:** Taxation of residence vs hubs vs source
- BEPS:** Profits with substance requirements
- GloBE-15%:** BEPS, MNE, source countries
- Profit -> Substance -> Tax Shifting**





The Global Minimum Taxation (GloBE)

International Tax Standards regarding UHNWI: Taxing Rights, Profits & Tax Revenue, Tax Competition

Taxing Rights | Profits & Revenue | Competition

Generation: Residual vs routine vs Capital-/IP-Profits

Taxation: Profits to be generated by economic activities

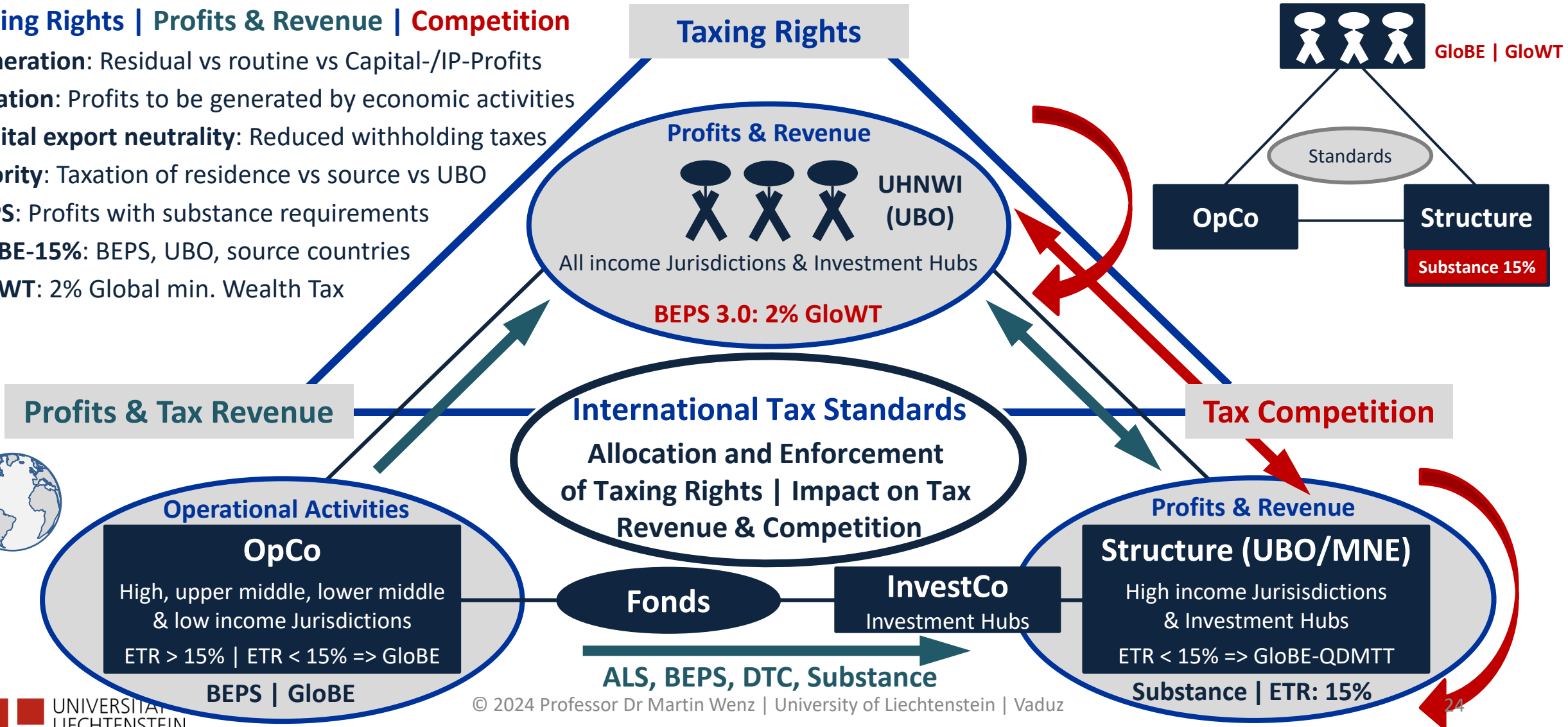
Capital export neutrality: Reduced withholding taxes

Priority: Taxation of residence vs source vs UBO

BEPS: Profits with substance requirements

GloBE-15%: BEPS, UBO, source countries

GloWT: 2% Global min. Wealth Tax





The Global Minimum Taxation (GloBE)

Implementation of GloBE and Impact of GloBE on Tax Systems, Tax Incentives and Tax Competition

Current state of play: Implementation of GloBE worldwide

- » Implementation of GloBE in Asia-Pacific, Europe and in the Middle East
- » Dominant role of QDMTT including respective tax and revenue allocation effects (QDMTT prior to CFC)

→ Profit Shifting -> Substance Shifting -> Tax Shifting incl. Global Minimum Taxation

Impact of GloBE on Tax Systems and Tax Incentives

- » Impact of GloBE on Territorial Tax Systems (Foreign-sourced passive income and capital gains Exemptions, FSIE): Cancelled-out by GloBE
- » Impact of GloBE on Modern Tax Systems (Allowance for Corporate Equity, ACE): Cancelled-out by GloBE
- » Impact of GloBE on Tax Incentives (IP-Boxes, reduced CIT-Rates, R&D-super-deductions etc.): Cancelled-out by GloBE

→ Cancelling-out of reduced ETR by GloBE-top-up taxes, subject to Qualified Refundable Tax Credits (QRTC), direct subsidies and the use of Substance-Based-Income Exclusions (SBIE) to reduce Excess Profits (not GloBE Income)

Impact of GloBE on International Tax Competition

- » Incentive for low-tax jurisdictions (high-income jurisdictions and Investment Hubs) to implement a QDMTT
- » Incentive for high-tax jurisdictions to implement tax incentives & to blend with high-taxed profits: Domestic BEPS

→ Increase in Tax Competition -> Investment Hubs vs high-tax jurisdictions -> High-tax jurisdictions -> Investment Hubs

The Global Minimum Taxation (GloBE)



Implementation of GloBE in Asia-Pacific, Europe and the Middle East

Impact on Tax Incentives, Tax Systems and Tax Competition

TAXATION LAW RESEARCH PROGRAMME (TLRP)

The University of Hong Kong (HKU) | Faculty of Law

Hong Kong, 10 October 2024



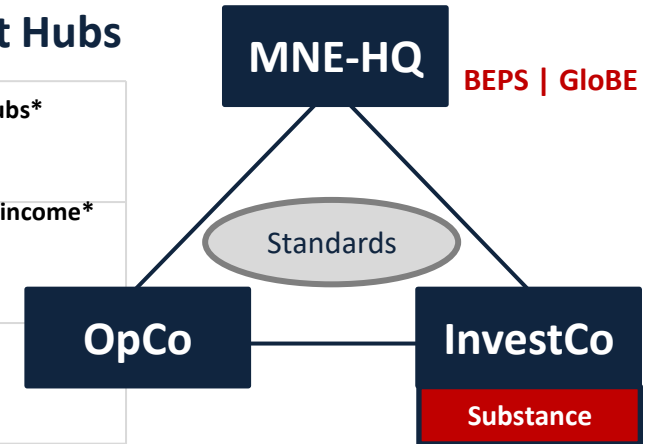
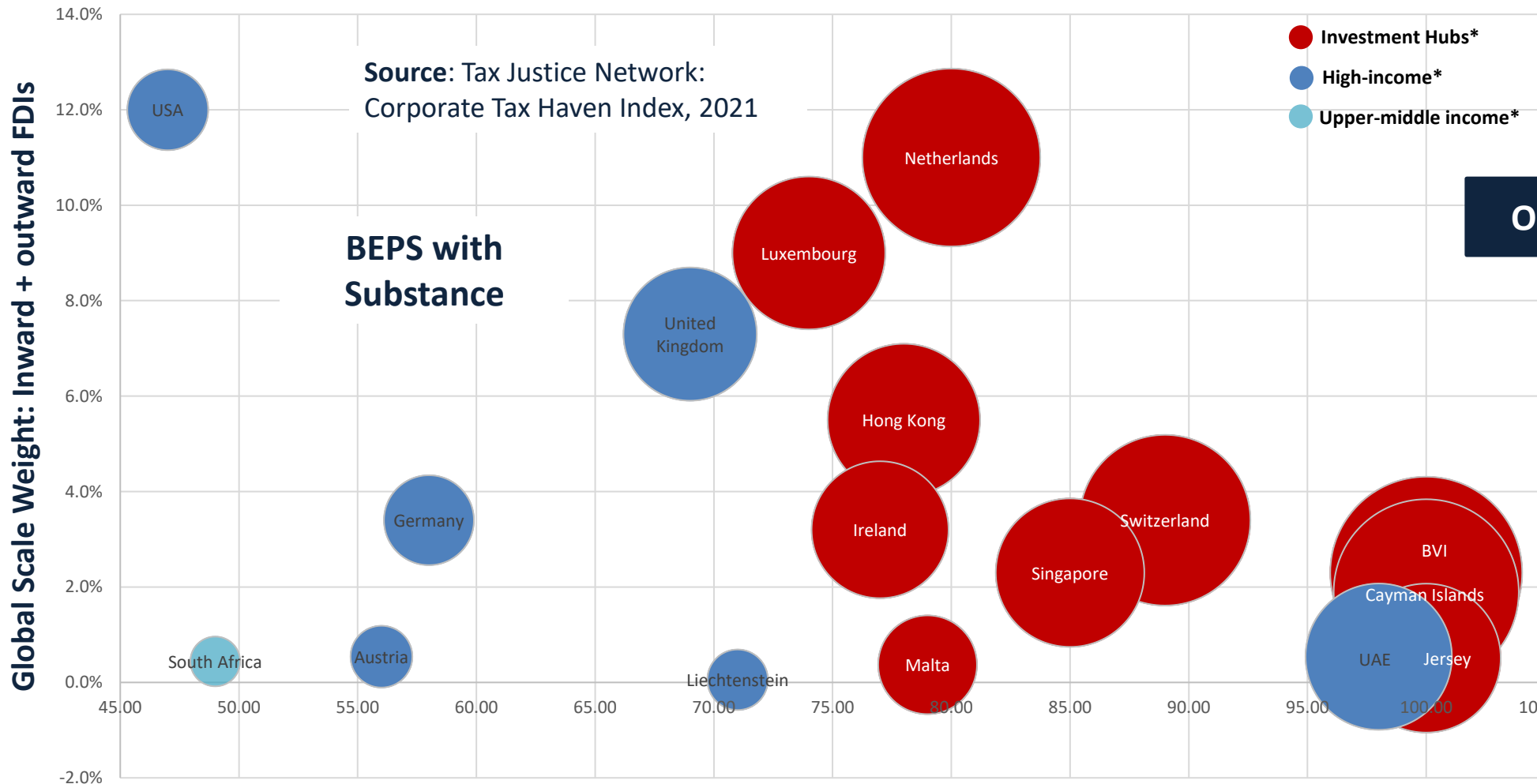
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The Global Minimum Taxation (GloBE)

TJN-Corporate Tax Haven Index: Global Tax Havenry

Corporate Tax Haven Index Value: Selected High-income Jurisdictions and Investment Hubs



The Netherlands

Haven Score: 79.9 (max. 100)

Global Scale Weight (FDIs): 11%

$$GSW = \frac{\$ 10,505,369,133,418}{\$ 94,690,323,833,261}$$

CTHI-Value: 2,454 | Rank: #4

$$CTHI = (79.9^3 * \sqrt[3]{0.11})/100$$

The Global Minimum Taxation (GloBE)



Corporate Tax Haven Index 2024 | Methodology and Results (1/2)

British Virgin Islands



- Haven Score: 100 (max. 100)

$$HS = \frac{100 + 100 + 100 + 100 + 100}{5}$$

- Global Scale Weight (FDIs): 2.9%

$$GSW = \frac{\$ 2.5 \text{ trillion}}{\$ 88.5 \text{ trillion}}$$

- CTHI-Value: 3,061 | Rank: #1

$$CTHI = (100^3 * \sqrt[3]{0.029})/100$$

- Contribution to Global Tax Abuse: 7.1%

Switzerland



- Haven Score: 89 (max. 100)

$$HS = \frac{93 + 75 + 98 + 100 + 79}{5}$$

- Global Scale Weight (FDIs): 3.4%

$$GSW = \frac{\$ 3 \text{ trillion}}{\$ 88.5 \text{ trillion}}$$

- CTHI-Value: 2,279 | Rank: #4

$$CTHI = (89^3 * \sqrt[3]{0.034})/100$$

- Contribution to Global Tax Abuse: 5.3%

Singapore



- Haven Score: 86 (max. 100)

$$HS = \frac{100 + 79 + 100 + 100 + 49}{5}$$

- Global Scale Weight (FDIs): 3.5%

$$GSW = \frac{\$ 3.1 \text{ trillion}}{\$ 88.5 \text{ trillion}}$$

- CTHI-Value: 2,059 | Rank: #5

$$CTHI = (86^3 * \sqrt[3]{0.035})/100$$

- Contribution to Global Tax Abuse: 4.8%

Hong Kong



- Haven Score: 78 (max. 100)

$$HS = \frac{100 + 61 + 100 + 100 + 28}{5}$$

- Global Scale Weight (FDIs): 7.1%

$$GSW = \frac{\$ 6.3 \text{ trillion}}{\$ 88.5 \text{ trillion}}$$

- CTHI-Value: 1,948 | Rank: #6

$$CTHI = (78^3 * \sqrt[3]{0.071})/100$$

- Contribution to Global Tax Abuse: 4.5%

The Global Minimum Taxation (GloBE)



Corporate Tax Haven Index 2024 | Methodology and Results (2/2)

Ireland



- Haven Score: 79 (max. 100)

$$HS = \frac{100 + 64 + 83 + 95 + 56}{5}$$

- Global Scale Weight (FDIs): 3.4%

$$GSW = \frac{\$ 3 \text{ trillion}}{\$ 88.5 \text{ trillion}}$$

- CTHI-Value: 1,622 | Rank: #9

$$CTHI = (79^3 * \sqrt[3]{0.034})/100$$

- Contribution to Global Tax Abuse: 3.8%

Luxembourg



- Haven Score: 69 (max. 100)

$$HS = \frac{99 + 49 + 64 + 90 + 45}{5}$$

- Global Scale Weight (FDIs): 8.8%

$$GSW = \frac{\$ 7.7 \text{ trillion}}{\$ 88.5 \text{ trillion}}$$

- CTHI-Value: 1,480 | Rank: #10

$$CTHI = (69^3 * \sqrt[3]{0.088})/100$$

- Contribution to Global Tax Abuse: 3.5%

United Arab Emirates



- Haven Score: 82 (max. 100)

$$HS = \frac{74 + 50 + 88 + 96 + 100}{5}$$

- Global Scale Weight (FDIs): 0.6%

$$GSW = \frac{\$ 0.497 \text{ trillion}}{\$ 88.5 \text{ trillion}}$$

- CTHI-Value: 964 | Rank: #17

$$CTHI = (82^3 * \sqrt[3]{0.006})/100$$

- Contribution to Global Tax Abuse: 2.2%

Liechtenstein



- Haven Score: 67 (max. 100)

$$HS = \frac{64 + 54 + 100 + 100 + 17}{5}$$

- Global Scale Weight (FDIs): 0.1%

$$GSW = \frac{\$ 0.079 \text{ trillion}}{\$ 88.5 \text{ trillion}}$$

- CTHI-Value: 290 | Rank: #33

$$CTHI = (67^3 * \sqrt[3]{0.001})/100$$

- Contribution to Global Tax Abuse: 0.7%