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COMMON CONSOLIDATED CORPORATE TAX BASE WORKING GROUP (CCCTB WG)

Draft Terms of Reference & Rules of Procedure

Meeting to be held on Tuesday 23 November 2004

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Common Consolidated Corporate Tax Base Working Group ("CCCTB Working Group")

Draft Terms of Reference

The Commission's interest in a CCCTB dates back to 2001.¹ It was further examined in 2003² and in 2004 a 'Non-Paper' was prepared with further details and discussed at the informal ECOFIN in September 2004.

The CCCTB Working Group is established by the Commission to examine from a technical perspective the definition of a common consolidated tax base for companies operating in the EU. It will discuss the basic tax principles, the fundamental structural elements of a CCCTB and other necessary technical details such as a mechanism for 'sharing' a CCCTB between Member States.

Guiding objectives of the work should be

- to remove corporation tax obstacles to the efficiency and smooth functioning of the Internal Market,
- to identify possible elements of a common consolidated tax base which improve the international competitiveness of European companies and which are adequate for the economic requirements of the 21st century,
- to lower administrative burdens on companies and tax administrations alike,
- to ensure that Member States' are able to preserve their legitimate financial interests, notably by curtailing the scope for tax evasion and fraud.

The CCCTB Working Group will be chaired by an official of DG Taxation and Customs Union and that service will also provide the secretariat to the Working Group. The Commission will invite each Member State to nominate two expert members for each meeting. The Commission may decide to hold meetings in an extended formation of the WG by inviting up to twenty individual experts from business federations and associations and academic institutions to contribute to the work of the WG.

As a group of experts the role of the Working Group is to provide technical assistance and advice to the Commission and contributions by members will therefore be made in a technical capacity. No Member State will be called upon to make political commitments and participation by a MS in the WG does not commit it to implement a CCCTB. As an expert advisory group the Working Group will take no decisions and therefore there are no formal voting procedures. The Chairperson will seek to achieve a consensus view on

¹ COM (2001) 582 'Towards an Internal Market without tax obstacles. A strategy for providing companies with a consolidated corporate tax base for their EU-wide activities' and the Commission Staff Working Paper SEC 1681 2001 'Company Taxation in the Internal Market'.

² COM (2003) 726 'An Internal Market without company tax obstacles – achievements, ongoing initiatives and remaining challenges'

the technical elements of the CCCTB but there is no requirement for the group to take a single position and a range of technical possibilities may well emerge on individual issues.

The meetings of the Working Group itself will not be public. However, public access to documents will be granted in accordance with Regulation (EC) 1049/2001. The precise modalities of giving access and allowing the interested public to follow and contribute to the work of the WG via the internet are contained in the Rules of Procedure. In general, papers submitted to the WG and any prepared by it will be made available on the internet and summaries of the proceedings once agreed will also be made available although individual member contributions will not be identified. The Working Group may prepare reports of its discussions and activities reflecting either consensus, or a range, of technical solutions and the Commission will give these the utmost attention when preparing any Communications or proposals for the Council.

Sub-groups comprising all or only a small number of the members of the Working Group may be formed to carry out more detailed research on individual issues and to report back on their work to the main Working Group.

The CCCTB Working Group is established initially for a period of three years but depending on progress this may be extended. Approximately four meetings of the Working Group are initially planned to be held per year but the frequency could vary as appropriate.

The Commission will prepare an initial outline work plan for discussion in the Working Group. This plan will be periodically updated to reflect progress and developments.

Further administrative aspects are outlined in the attached draft Rules of Procedure of the CCCTB Working Group although the Commission will take a pragmatic approach to facilitating progress and implementing the most efficient working practices in the Working Group.

Common Consolidated Corporate Tax Base Working Group ("CCCTB WG")

Draft Rules of Procedure

General

The activities of the CCCTB WG are governed by the general principles for Commission Working Groups, the Terms of Reference, and these rules of procedure.

Composition

The CCCTB WG is composed of two experts appointed by each Member State. The Commission may decide to hold meetings in an extended formation of the working group by inviting up to an additional 20 experts from business federations and associations and academic institutions to contribute to some meetings.

One Member from each Member State will qualify for the reimbursement of travel expenses and, where a meeting is scheduled for more than one day, for hotel expenses in accordance with normal Commission rules. Additional experts contributing to meetings at the invitation of the Commission will be entitled to the same expenses.

Member States will appoint their experts; the Commission may invite additional experts taking into account the need to ensure an appropriate level of expertise and experience from across the EU.

DG Taxation and Customs Union will nominate an official to chair the meetings and an appropriate number of staff to provide the secretariat and assist at the meetings.

Responsibilities of chairperson

The chairperson will have the following responsibilities:

- i) Preparation of the schedule of meetings and each agenda
- ii) Acting as chairperson of the meetings
- iii) Institutional representation of the CCCTB WG

Meetings of the CCCTB WG

Meetings will be convened at least one month in advance, the agenda and working documents will be circulated at the same time or as soon as possible afterwards.

Meetings shall not be open to the public. Public access to documents will be granted in accordance with Regulation (EC) 1049/2001. In general working documents will be made available to the public via the Commission's website after each meeting, unless the author requests that they remain restricted.

Working documents will be presented in one of the three working languages of the Commission (English, French and German) and the Commission will endeavour to make translations into the other two working languages available for meetings. Interpretation at the meetings will be provided in as many EU languages as is feasible at the time of each meeting.

Concise summaries of the proceedings will be prepared and circulated by email by the Secretariat. Members will have three weeks to comment before a final version is prepared and circulated by the Secretariat. Members will have a further week to comment before the minutes are considered to be agreed and made available to the public via the Commission's web-site. The summaries will not identify comments as being made by individual Members, unless a Member specifically requests to be identified.

Sub-groups

In order to facilitate the work of the Working Group preparatory sub-groups of Members may be established. The Commission will participate but will not necessarily chair the sub-groups. In agreement with the Commission, arrangements concerning the chairperson, the frequency and location of any meetings will be agreed by the Members themselves who may if they wish invite external experts to participate. When sub-group meetings are held on Commission premises the Commission will assist in organisational matters and may reimburse expenses in accordance with normal Commission rules. When meetings are held elsewhere the Commission will not be able to assist in interpretation or reimburse expenses. Sub-groups will be expected to submit periodic reports to the Working Group. The Commission will assist in the preparation of such reports.

Secretariat

The Directorate General for Taxation and the Customs Union shall be responsible for organising the work of the Working Group.

Reporting

The secretariat may prepare regular reports of the Working Group's discussions and activities reflecting either consensus, or a range of technical solutions and the Commission will take these into account when preparing any Communications to the Council. Any such reports will be discussed at the Working Group before completion.

Interpretation of rules

As a Commission Working Group any dispute or problems related to the application of the rules should be referred to the Chairperson who is entitled to take a final decision.