



JTPF/007/2017/EN

Brussels, 30 June 2017

Summary Record

50th Meeting of the **EU Joint Transfer Pricing Forum (JTPF)** [E00951]
22 June 2017, Brussels (BE)

1. Approval of the agenda and of the minutes of previous meeting

The Agenda (doc. JTPF/006/2017/EN) was adopted. The Summary Record of the March 2017 meeting (doc. JTPF/005/2017/EN) was adopted under written procedure.

2. Nature of the meeting

In accordance with the Commission Decision of 26 January 2015 setting up the 'EU Joint Transfer Pricing Forum' expert group¹ and the Rules of Procedure of the JTPF², the meeting was non-public. Its mandate started on 1 April 2015 and will end on 30 March 2019. On 8 May 2017, the Director-General for Taxation and Customs Union renewed the mandate of the organisations appointed in May 2015 for a new mandate of two years starting on 1 April 2017. This meeting was a further step in completing the JTPF programme of work 2015 – 2019.³

Main objective of the meeting was to discuss and as far as possible finalize the report on the use of economic valuation techniques in transfer pricing (item 2.4 JTPF Programme of Work).

3. List of points discussed

Agenda item 1 (Introduction), 2 (Adoption of the Agenda) and 3 (Documents adopted under written procedure):

See section 1 above

Agenda Item 4 (Information by the Commission Services on current ongoing issues)

The Commission Services provided an update on current developments mainly:

- On 21 June the Commission adopted the Directive proposal amending Directive 2011/16/EU as regards mandatory automatic exchange of information in the field

¹ OJ, C28 of 28.1.2015

² doc. JTPF/007/FINAL/2015/EN available on the JTPF website
http://ec.europa.eu/taxation_customs/business/company-tax/transfer-pricing-eu-context/joint-transfer-pricing-forum_en

³ doc. JTPF/005/FINAL/2015/EN available on the JTPF website
http://ec.europa.eu/taxation_customs/business/company-tax/transfer-pricing-eu-context/joint-transfer-pricing-forum_en

of taxation in relation to reportable cross-border arrangements (COM (2017) 335 final). The Commission introduced the content of the proposed Directive.

- On 29 May 2017 the Directive amending Directive (EU) 2016/1164 as regards hybrid mismatches with third countries ('ATAD II') was formally adopted by the EU Council. Political agreement on this Directive at ECOFIN level had already been achieved on 21 February 2017.
- The screening process as regards the EU list of non-cooperative jurisdictions is ongoing. Endorsement by Council is expected by the end of 2017.
- Discussions on the proposed Directive on public country by country reporting are ongoing.
- On 23 May 2017 Council reached general agreement on the compromise text for the Directive on Tax Dispute Resolution Mechanisms (COM (2016) 686). The Commission gave a presentation on the content and background of the text.

Agenda Item 5 (Discussion on use of economic valuation techniques in transfer pricing)

The revised draft report 'Use of Economic Valuation Techniques in Transfer Pricing' (doc. JTPF/003/REV/2017/EN) was discussed section by section. As regards the Annexes only the main substantive points were discussed. This revised report reflects the conclusions reached at the March meeting and additional technical input received from valuation experts in the JTPFs.

A compromise was reached on the issues remaining after the March meeting. The Chair summarized the conclusion and a proposed redrafting. For some issues the Commission was invited to develop the final language of the compromises reached. As regards the Annexes, only the main issues were discussed due to time constraint. General agreement was reached.

The Chair invited Members to submit their detailed comments on the Annexes by Friday 30 June (cob).

JTPF members requested the possibility to review the final wording of the report and eventual additional drafting suggestions for the Annexes before finally approving the report.

The Commission will send the draft final report to JTPF members by Mid-July. Due to the summer break, JTPF members requested a deadline for final approval by Mid-September.

Agenda Item 6 (Statistics)

Only a preliminary overview of the data submitted on cases under the AC could be prepared for this meeting as 3 MS have not yet delivered their data (DE, MT, RO). The numbers submitted indicate that the number of cases initiated is still higher than the cases resolved. Consequently, the inventory of cases increases. The Chair stressed the importance of submitting numbers in time. MS who have not yet submitted their numbers were invited to submit them as soon as possible. The Commission will prepare the final statistics for a more in depth discussion at the next JTPF meeting in October.

Agenda Item 7: Any other business

A short exchange of views on the next item to be addressed by the JTPF took place. Following the JTPF Program of Work 2015 – 2019, the next item would be 'The practical application of Profit Split in the EU'. However, a revised discussion draft on the use of the

profit split method was published by the OECD on 22 June with an invitation to comment by 15 September. A public consultation is envisaged for November 2017.

MS expressed reluctance to start discussing this topic before OECD work is finished and referred to the conclusions reached at the time when discussing the Programme of Work was discussed, i.e. working on the basis of the conclusions at the level of the OECD.

Instead, MS suggested working on interpretational issues arising from CbCR or on simultaneous controls. NGM's expressed their reticence in this respect. They rather prefer addressing the topic of value creation of MNEs as a preliminary part of the work on Profit Split. One NGM stressed to reconsider the working approach of trying to achieve consensus on each topic. The Commission stated that it will take the discussion into account when preparing the meeting in October.

4. Conclusions/recommendations/opinions

Significant progress was made on finalising the report on use of economic valuation methods. It is envisaged to have the report approved in written procedure before the next JTPF meeting in October. The Commission will make a proposal on how to best take the work forward.

5. Next steps

The report on the use of economic valuation techniques for transfer pricing in the EU will be redrafted by the Secretariat by Mid-July with a deadline for approval in written procedure by Mid-September.

6. Next meeting

Subject to the availability of rooms, the date for the next meeting (26 October 2017) and the pre-meetings (25 October 2017) was confirmed.

7. List of participants

All MS were present except CY and PT. From the 18 Non-Governmental Members, two representatives of Non-Governmental Organisations (Eurodad and FTC) were absent. OECD and UN were not represented.

Brussels 1 July 2017

Hartmut Foerster