

SUMMARY

OF RESPONSES BY NON-GOVERNMENT STAKEHOLDERS TO THE QUESTIONNAIRE ON THE IMPLEMENTATION ON THE CODE OF CONDUCT ON TRANSFER PRICING DOCUMENTATION FOR ASSOCIATED ENTERPRISES IN THE EUROPEAN UNION (EU TPD)

On 27 June 2006 the Council of the European Union and the representatives of the governments of the Member States meeting within the Council adopted a resolution on a Code of Conduct on transfer pricing documentation for associated enterprises in the European Union (EU TPD)¹.

According to the Code of Conduct “Member States will accept standardised and partially centralised transfer pricing documentation for associated enterprises in the EU and to consider it as a basic set of information for the assessment of a multinational enterprise group's transfer price”² and “the use of the EU TPD is optional for Multinational Enterprises (MNEs)”³.

“The Code of Conduct is a political commitment and does not affect the MS' rights and obligations or the respective spheres of competence of the MS and the EU”⁴.

At its meeting in October 2012 the EU Joint Transfer Pricing Forum (JTPF) agreed to monitor the functioning of the EU TPD in 2013⁵. The EU TPD was first monitored in 2008/2009.⁶ In the spring and summer of 2013 the Commission surveyed MS⁷ and non-government stakeholders⁸ with respect to new developments in the implementation of the EU TPD. The monitoring sought to collect information on the impact of the EU TPD on MS' legislation and administrative practice, the extent to which the EU TPD is used by MNEs and what value the EU TPD approach has been adding to an efficient application of transfer pricing rules.

The summary below is based on the responses received from 23 non-government stakeholders from across the EU: 13 NGMs of the JTPF (5 enterprises and 8 tax advisory firms) and 10 members of BusinessEurope (8 enterprises and 2 national business federations). Responses submitted by enterprises and national business federations are representative for their corporate group/network, while responses submitted by tax advisory firms draw on information gathered from their client base across the EU.

¹ OJ C 176, 28.7.2006, p.1

² *Ibid.*

³ *Ibid.*

⁴ *Ibid.*

⁵ See Monitoring Overview and Proposals (doc. JTPF/018/2012/EN), section D.

⁶ See http://ec.europa.eu/taxation_customs/taxation/company_tax/transfer_pricing/forum/article_6567_en.htm

⁷ Monitoring was launched in April 2013, before the accession of Croatia to the EU. Questionnaires were sent to the then 27 MS.

⁸ Questionnaires were sent to all Non-Government Members (NGMs) of the JTPF and to BusinessEurope.

2 JTPF NGMs representing tax advisors submitted country-by-country responses to the questionnaire prepared by their national practices in individual EU Member States. For the purposes of the statistics included in the summary below (e.g. counting of responses) each of these 2 tax advisors is represented in the statistical parts of summary by 1 response: the prevailing (majority) response to each question, i.e. the one given with respect to most MS. However, all qualitative data provided by the national practices in the different MS (e.g. comments and suggestions), including minority views, are reflected in the descriptive parts of the summary. 2 other JTPF NGMs representing tax advisors also collected information through their national practices in individual MS, but this information was submitted to us in an already aggregated format. The answers to the questionnaire provided by two MS national business federations, members of BusinessEurope, were also based on answers by multiple respondents (enterprises); these were submitted to us in an aggregated format as well.

This monitoring has revealed a diversity of experiences of non-government stakeholders with the EU TPD across the EU. This can be explained, on the one hand, with the fact that the EU TPD was conceived as an optional TP documentation format for enterprises – with no ambition to serve as a single EU standard – and, on the other hand, with the different approaches of MS to its actual implementation⁹, combined with the fact that some non-government stakeholders have chosen to use the EU TPD informally, rather than formally (e.g. as a template) and/or selectively (e.g. in part rather than in full; only as regards entities in certain MS, rather than for their corporate group as a whole; in some cases, rather than in all cases, etc.).

Q1.

Based on your knowledge, would you assess the extent to which the EU TPD option has been adopted by your MNEs/SMEs (or by your clients, in the case of tax advisors) as minimal, medium, or extensive?

Out of 23 surveyed non-government stakeholders 5 specified minimal adoption (5 JTPF NGMs representing tax advisory firms); 11 indicated medium adoption (4 JTPF NGMs representing enterprises, 1 JTPF NGM representing a tax advisory firm and 6 members of BusinessEurope); 2 respondents cited medium to extensive adoption (1 JTPF NGM representing an enterprise and 1 JTPF NGM representing a tax advisory firm) and 4 respondents specified extensive adoption (4 members of BusinessEurope).

1 non-government stakeholder (a JTPF NGM representing a tax advisory firm) did not give a concrete answer, but made an observation that the EU TPD has inspired domestic legislation in many MS.

⁹ In general, MS' practices with respect to TP documentation are different (existing rules/guidance or no rules/guidance). MS' reactions to the EU TPD have also been different: some MS took explicit administrative or legal action to implement the EU TPD (either as their national mandatory TP documentation regime or as an optional regime) and some MS did not.

Q2.

Depending on your assessment of the level of take up:

(i) What in your view has helped raise the levels of take up?

(ii) What in your view could be done to improve the levels of take up?

(iii) Please detail any key issues either of principle or content that in your view may prevent wider adoption of the Code.

The contributions received with respect to (i), (ii) and (iii) are summarised below.

(i) *What in your view has helped raise the levels of take up?*

- Adoption/endorsement of the EU TPD at national level through legal and regulatory instruments;
- Declarations by national competent authorities that the EU TPD and the principles of the OECD TP Guidelines are recommended;
- Recognition of the EU TPD as “best practice”;
- Awareness of taxpayers that through the EU TPD they would generally meet most MS’ requirements for TP documentation;
- Clear content of the EU TPD which facilitates its use;
- Increased number of TP audits;
- Recommended non-application of penalties in case the EU TPD is used.

(ii) *What in your view could be done to improve the levels of take up?*

- Explicit introduction of the EU TPD into MS regulations;
- Guidance in the EU TPD on what additional information is required from MNEs and SMEs to comply with individual MS regulations;
- Standardised use of pan European comparables;
- Acceptance of the EU as having the characteristics of a domestic market, therefore limiting descriptions on business and economic circumstances to EU level the in the Master file;
- Acceptance of English as language for TP documentation;
- EU-wide harmonisation of country-file requirements;
- reorganisation of the content required under the Master file and country files in a way that information from the Master file related to a specific MS is moved to the respective country file;
- Commitment by tax authorities that if the EU TPD is used they could only request limited additional information;
- Allowing MNEs and SMEs to select countries in which the EU TPD will be applied;
- Standardisation of accepted approach to economic analyses, e.g. determination of common independence thresholds and acceptance of pan-European benchmarks.

(iii) *Please detail any key issues either of principle or content that in your view may prevent wider adoption of the Code*

- Local rules according to which MS can request additional information on top of that provided in the EU TPD; local language requirements;
- Safe harboured transactions do not require documentation;
- Lack of harmonisation of the EU TPD with other documentation standards applied outside the EU (e.g. UN/PATA/US);

- Compulsory elements of the Master file regarded as too extensive (e.g. information on all transaction streams, not only those involving the local entity; information on rulings abroad which have no relation to local operations)
- Lack of flexibility: once the group has opted for it, the EU TPD approach should be consistently applied throughout the EU and from year to year. This may impact the group's flexibility for documentation purposes specifically in some EU countries that present various local particularities and practices of the tax authorities;
- Penalty protection: penalty protection is only achieved if the EU TPD approach is followed in full. If a MNE follows such an approach, this may also lead to: (i) disclosure of a huge amount of sensitive data for the group to various tax authorities, (ii) local tax authorities from one country may have different interpretation of the same "transaction/methodology" compared to the tax authorities from the other country participant to the transaction.
- Discrepancies between documentation requirements within various EU countries and local tax authorities' practice: local particularities of transfer pricing documentation throughout the MS impact the wider adoption of the EU TPD, e.g. requirements to include local comparables and to submit the file in the local language as well as to the local transfer pricing practices of the tax authorities.
- Distribution of confidential information: Some recommendations included in the Code might refer to confidential information (e.g. info on contracts valid for previous and future periods). Distribution of such information, even within the group, could be quite sensitive. It may be worth considering to include in the EU TPD only an overview of such transactions (in terms of amounts, periods, TP method used) and provide other details at the specific request of the authorities (not automatically via the EU TPD / Master file);
- Streamlining the documentation gathering process within the group: as information is dispersed within the group, collection of the required information to be included in the Masterfile generally is a difficult and time consuming process.
- TP documentation often serves only as a starting point for detailed queries;
- Information required under the Master file is too detailed; it often relates to country-specific information which should be kept to the country file, e.g. APAs concluded between specific Member States;
- Local requirements in some MS require disclosure of less information;
- The EU TPD is burdensome and time consuming and does not cater for a risk based approach (i.e. not every entity/transaction requires TP documentation if routine/simple);
- Lack of substantial savings motivating MNEs and SMEs to adopt EU TPD approach;
- Lack of certainty that the EU TPD will satisfy local requirements;
- Different country specific expectations with respect to the content of the Master file and the local file;
- Different country specific documentation requirements that have to be met to receive penalty protection;
- Low level of adoption of EU TPD approach in local legislation;
- Requirement for an MNE to apply the EU TPD in all MS where it operates (once it has opted for the regime) and to inform concerned tax thereof.

Q3.

(i) In your experience, where your (a) MNE has not formally opted into the EU TPD are you aware that the content of EU TPD (Section 1 of the Code) has nonetheless been adopted internally, in part or whole, by the MNE(s)?

This monitoring has demonstrated that in all EU MS which have TP documentation rules/guidance, these rules/guidance are either fully aligned with the EU TPD, partially similar to the EU TPD, or at least consistent with it. Consequently, compliant TP documentation submitted in these MS can be considered in line with the EU TPD at least to a certain extent in any given case. Non-government stakeholders' responses to this question pointed out that similarities between the EU TPD and a taxpayer's TP documentation could be interpreted as an indication that the EU TPD has been used (e.g. informally/partially), but in some cases a taxpayer's primary concern might have actually been to comply with national law, which happens to be aligned with the EU TPD, rather than with the EU TPD as such.

21 non-government stakeholders in total responded to this question (4 JTPF NGMs representing enterprises, 7 JTPF NGMs representing tax advisory firms and 10 members of Business Europe).

2 non-government stakeholders (2 JTPF NGMs representing tax advisory firms) did not provide concrete answers, but made general observations that the EU TPD is often used as a reference by MNEs and that bigger MNEs with centralised tax departments tend to adhere to internal templates/models similar to the EU TPD.

The remaining 19 non-government stakeholders (4 JTPF NGMs representing enterprises; 5 JTPF NGMs representing tax advisory firms and 10 members of Business Europe) responded to this question, as follows:

- 12 respondents (in particular, 4 JTPF NGMs representing enterprises; 3 JTPF NGMs representing tax advisory firms and 5 members of Business Europe) indicated internal/informal/partial use of the EU TPD;
- 1 JTPF NGM representing a tax advisory firm specified that the EU TPD is compulsory in his MS and therefore it could not be applied informally;
- Another JTPF NGM representing a tax advisory firm specified that according to their data the informal use of the EU TPD is exactly 50%;
- 5 members of BusinessEurope stated that their groups were using the EU TPD, but did not specify whether this meant informal adoption.

Q3.

(ii) Can you comment on whether you think there is an added value of the optionality of the EU TPD, i.e. the need to actually opt in or opt out?

14 non-government stakeholders (4 JTPF NGMs representing enterprises; 3 JTPF NGMs representing tax advisory firms and 7 members of Business Europe) responded to this question.

9 non-government stakeholders (2 JTPF NGMs representing enterprises; 1 JTPF NGM representing a tax advisory firm and 6 members of Business Europe) regarded optionality as adding value (especially for companies that have operations both within and outside the EU), while 5 non-government stakeholders (2 JTPF NGM representing enterprises; 2 JTPF NGMs representing tax advisory firms and 1 member of Business Europe) saw no added value of optionality.

Q4.

Based on your experience, to what extent do you consider the Code has (or has not) contributed to any improvement in the consistency of application in the area of transfer pricing documentation by the tax administrations?

22 non-government stakeholders responded to this question (5 JTPF NGMs representing enterprises, 8 JTPF NGMs representing tax advisory firms and 9 members of Business Europe).

4 of those 22 respondents (2 JTPF NGM representing tax advisory firms and 2 members of Business Europe) provided more general or neutral answers to the question:

- 2 respondents noted that the EU TPD has helped raise awareness among taxpayers about the need for TP documentation, but did not comment on whether it has brought improvements in the consistency of application of TP documentation rules by tax administrations;
- 1 respondent reported smooth cooperation with tax authorities with respect to TP documentation, but could not comment on whether this was due to the EU TPD;
- 1 respondent observed that there are differences among MS.

18 non-government stakeholders provided concrete answers to the question, as follows:

- according to 13 respondents (3 JTPF NGMs representing enterprises, 3 JTPF NGMs representing tax advisory firms and 7 members of Business Europe) the EU TPD has contributed to a medium/high extent to an improvement in the consistency of application of TP documentation rules by tax administrations;
- 3 respondents commented that from their perspective the EU TPD has brought no or not enough improvements (2 JTPF NGMs representing enterprises, 1 JTPF NGMs representing a tax advisory firm);
- 2 respondents (JTPF NGMs representing tax advisors) submitted country-by-country responses prepared by their national practices which showed mixed experiences: answers were evenly split between medium/high (contributions of the EU TPD) and none/not enough (contributions of the EU TPD).

Q5.

Section 2 of the Code relates to "General application Rules and Requirements for MNEs" and Section 3 - to "General application rules and requirements for Member States". Have you encountered or are you aware of any issues in the practical implementation of those rules? In particular:

Q5. (i)

Paragraph 23 of the EU TPD states that MS should accept documents in a foreign language as far as possible. Do you have any evidence that this request is not adhered to in practice?

All 23 surveyed non-government stakeholders responded to this question.

13 non-government stakeholders (5 JTPF NGMs representing enterprises, 2 JTPF NGMs representing tax advisory firms and 6 members of Business Europe) commented that from their perspective paragraph 23 is not adhered to in practice. According to them TP documentation is still required in the local language in certain MS (DE, EL, ES, HU, IT, PL, PT, RO were mentioned). Some respondents pointed out that acceptance often depends on the tax inspector in charge and that even in MS where submissions in EN are generally accepted the tax inspector still has a right to request a translation in the local language.

7 non-government stakeholders (3 JTPF NGMs representing tax advisory firms and 4 members of Business Europe) commented that from their perspective TP documentation is generally accepted in a foreign language (English).

3 non-government stakeholders (3 JTPF NGM representing tax advisory firms) provided nuanced answers to the question, by noting that:

- the Masterfile is more likely to be accepted in a foreign language (English) than the local file;
- tax administrations are more likely to accept documentation in a foreign language than courts;
- certain progress has been achieved, but improvement is still needed.

In general, non-government stakeholders report the following situation in practice:

- certain MS accept TP documentation in a foreign language and especially English; still, the tax inspector/court usually has the right to request a translation in the local language, if deemed necessary;
- other MS accept submissions in a foreign language only under certain conditions, for specific documents/parts and/or after prior approval by the concerned tax administration/tax inspector;
- some MS only accept TP documentation in the local language(s).

Q5. (ii)

Do you have any evidence that the acceptance of non-domestic (e.g. Pan-European) comparables has increased or decreased since the issuance of the Code of Conduct?

Paragraph 25 of the EU TPD advises "MS to evaluate domestic or non-domestic comparables with respect to the specific facts and circumstances of the case. For example, comparables found in pan-European databases should not be rejected automatically. The use of non-domestic comparables by itself should not subject the taxpayer to penalties for non-compliance".

21 non-government stakeholders in total responded to this question.

According to 11 non-government stakeholders (3 JTPF NGMs representing tax advisory firms and 8 members of Business Europe) the acceptance of non-domestic (e.g. Pan-European) comparables has increased since the adoption of the EU TPD, at least in some MS. 3 members of Business Europe pointed out, however, that the improvement has been insufficient.

3 non-government stakeholders (2 JTPF NGMs representing tax advisory firms and 1 member of Business Europe) observed no change since the adoption of the EU TPD.

2 non-government stakeholders (2 JTPF NGMs representing enterprises) noted that the acceptance of non-domestic (e.g. Pan-European) comparables has decreased since the adoption of the EU TPD in certain MS.

5 respondents (3 JTPF NGMs representing tax advisory firms, 2 JTPF NGMs representing enterprises) commented on the current situation regarding the acceptance of pan-European comparables, rather than on the effect the EU TPD has had on the acceptance of pan-European comparables, i.e. how the situation changed since the adoption of the EU TPD. Responses indicate that in general pan-European comparables are accepted in all but one MS. However, when available, local comparables are usually preferred by most MS. Non-domestic comparables are either equally accepted along with domestic comparables (less common approach), or accepted if a taxpayer can demonstrate that domestic comparables are not available or not sufficient (most MS). There have been cases when pan-European comparables were challenged and/or rejected in the absence of sufficient domestic comparables in searches.

Several non-government stakeholders noted that benchmarking studies are increasingly difficult, due to the decreasing number of comparable companies each year. At the same time, some tax auditors have very restrictive requirements: loss making companies are not accepted; comparables with less sales than the tested party are questioned/rejected; pure/exact comparables are requested. Respondents suggested that guidelines as regards benchmarking analysis and the selection of comparables would be most helpful.

Q5. (iii) Please provide a brief description of any other issues arising under this section.

6 non-government stakeholders (1 JTPF NGM representing an enterprise, 3 JTPF NGMs representing tax advisory firms and 2 members of Business Europe) responded to this question.

The main issues identified were as follows:

- very short deadlines in some MS for submission of TP documentation or for responding to clarification requests (as short as 3 calendar days in one MS);
- requirement to inform all TAs if the EU TPD is used considered too onerous;
- benchmarking studies are a challenge;
- current bill in one MS according to which taxpayers would be required to provide their TP documentation together with their tax return appears contrary to §22 of the EU TPD;
- excessive compliance costs for SMEs;
- interquartile versus full range for adjustments;
- disproportionate effect of documentation-related penalties;
- conflicting interpretation of the OECD Guidelines.

Q6.

Section 4 of the Code relates to "General application Rules and Requirements applicable to MNEs and Member States". Have you encountered or are you aware of any issues in the practical implementation of those rules? If so, please provide a brief description of the issue.

16 non-government stakeholders (4 JTPF NGM representing enterprises, 6 JTPF NGMs representing tax advisory firms and 6 members of Business Europe) responded to this question.

11 respondents did not encounter any major issues in the practical implementation of these rules. The 5 respondents who did encounter issues in the practical implementation of these rules noted the following with respect to the relevant paragraphs of the Code:

- § 26 (considering documentation as relevant for subsequent periods): conditions this rule to apply should be further clarified; some MS' national rules require the preparation of TP documentation and/or benchmarking studies on an annual basis.
- § 28 (difference between documentation obligations for parent company and subsidiary): respondents indicated that this rule is not respected by some MS. Reportedly, MNEs are required to include in the local file detailed information about all intra-group transactions carried out within the EU by the affiliated parties, not only by the local subsidiary; information on transactions, financial statements and contracts of other members of the MNE in which the company under audit is not involved are requested. It was also suggested to clarify that this rule applies to Permanent Establishments as well.
- § 30 (freedom of choice how to store documentation): one MS' regulations reportedly require storage of accounting and bookkeeping records on national territory; another MS' regulations require signing (on each page) and certification of documentation submitted to the tax authorities, therefore a clarification on the way of submission of documentation would be helpful.
- § 31 (possibility to produce more than one masterfile or to have a group member exempt from the EU TPD): conditions for this rule to apply should be further clarified.

Q7.

The Recitals of the EU TPD set out that Member States undertake not to require smaller and less complex enterprises (including small and medium-sized enterprises¹⁰) to produce the amount or complexity of documentation that might be expected from larger and more complex enterprises.

Taking into account the above, do you consider that the level of documentation required by (your) tax administration is appropriate for SMEs?

14 non-government stakeholders (2 JTPF NGMs representing enterprises; 8 JTPF NGMs representing tax advisory firms and 4 members of Business Europe) responded to this question. 3 non-government stakeholders (3 JTPF NGMs representing enterprises) indicated that they cannot provide specific answers for lack of relevant experience, as they represent MNEs.

The 14 respondents gave mixed feedback regarding the appropriateness of the level of documentation required from SMEs in the context of transfer pricing.

8 non-government stakeholders (6 JTPF NGMs representing tax advisory firms and 2 members of Business Europe) qualified the level of documentation required from SMEs as generally appropriate. However, some of them pointed out that requirements often objectively depend on amount thresholds or the complexity of the case, rather than on the size of the company involved. Some also noted that when an SME is part of a larger group it would not qualify for any exemptions, even if such exist for SMEs in a given MS.

1 non-government stakeholders (JTPF NGM representing a tax advisory firm) which carried out a detailed assessment found that in 69% of the cases simplified or no TP documentation is required of SMEs, while in 31% of the cases documentation required of SMEs is the same and/or is particularly burdensome.

1 non-government stakeholders (JTPF NGM representing an enterprise) stated that documentation requirements for SMEs are appropriate in some MS and not appropriate in others.

4 non-government stakeholders (1 JTPF NGM representing a tax advisory firm, 1 JTPF NGM representing an enterprise and 2 members of Business Europe) noted no differentiation between the documentation requirements for SMEs and those for MNEs; documentation requirements for SMEs are therefore not appropriate or not sufficiently appropriate. In particular, SMEs face excessive compliance costs in some MS due to low thresholds for qualifying as an SME, broad definitions of “related entities” or extensive amount of information required.

Some NGMs made suggestions on how to improve the situation for SMEs (see the full text of a detailed proposal made by 1 non-government stakeholder further below):

- establish a common EU definition of SMEs for TP documentation purposes;
- provide guidance on the scope of the transactions covered by documentation requirements;

¹⁰ EU law defines a Small and medium-sized enterprise (SME) as a company which employs fewer than 250 persons and which has an annual turnover not exceeding EUR 50 million, and/or an annual balance sheet total not exceeding EUR 43 million.

- provide guidance on a “light version” of TP documentation for less complex SMEs which are part of a larger group (e.g., if measured on a group consolidated basis they would often not qualify for a simplified regime);
- provide clear guidance as to the contents of “simplified TP documentation”;
- explore risk assessment based approaches to documentation.

Suggestion by 1 JTPF NGM representing a tax advisory firm:

“It would be advisable that:

- (a) a common definition of SME was applicable within the Single Market for documentation obligations purposes (the Code of Conduct and the works carried out by the JTPF on SMEs lack of a common definition of SME which, in the absence of harmonization of this definition for these purposes, can create inbound and outbound restrictions to the freedom of establishment within the Single Market by laying down very different compliance costs throughout the Member States for this large set of companies which qualify as SMEs under the Member States national tax laws); and
- (b) the scope of the transactions covered by the documentation obligations was also addressed in the Code of Conduct. In this sense, it would be advisable that:
 - only international transactions carried out between the entities belonging to the same group were covered by such obligations;
 - the shareholder-company relation was defined taking as a minimum threshold a shareholding of 25%;
 - the relations between a company and its managers or directors were kept out of the regime of related transactions; and
 - two independent companies that participate jointly in a third entity (*Joint Venture*) were not considered as related entities with respect to the transactions that are carried out between them by the mere fact of participating in such third entity.”

Q8.

Have you faced (or one/some of your client(s)) a documentation penalty? If so, please briefly outline the facts and circumstances that led to the penalty.

19 non-government stakeholders (4 JTPF NGM representing enterprises, 7 JTPF NGMs representing tax advisory firms and 8 members of Business Europe) responded to this question.

Penalties for failure to comply with TP documentation requirements are reported to be uncommon. 14 non-government stakeholders (3 JTPF NGM representing enterprises, 3 JTPF NGMs representing tax advisory firms and 8 members of Business Europe) noted no occurrences of documentation penalties. 5 non-government stakeholders (1 JTPF NGM representing an enterprise and 4 NGMs representing tax advisory firms) indicated that they/their clients have faced a documentation penalty, but have explained that such penalties are relatively rare.

Few MS in fact have a framework to impose ‘pure’ documentation penalties, i.e. penalties for missing, incomplete, unusable or otherwise non-compliant TP documentation, as well as for late submission. In the absence of (proper) TP documentation most MS’ tax authorities would just proceed to establish the transfer price in the way they consider most appropriate. Standard penalties in case of an adjustment could thus be applied at a later stage. TP documentation rather helps taxpayers defend their transfer price.

Q9.

Do you wish to make any other comment on the Code of Conduct in terms of its implementation?

12 non-government stakeholders (3 JTPF NGMs representing enterprises, 6 JTPF NGMs representing tax advisory firms and 3 members of Business Europe) provided comments/suggestions in response to this question.

Some of the comments provided in response to Q9. refer to issues already covered under other sections above (e.g. translation requirements, comparability analysis, excessive information obligations; tight deadlines for submission of documentation etc.). Only comments/suggestions not included earlier have been summarised below:

- the role of EU TPD for risk assessment purposes should be emphasized and strengthened;
- there are synergies between the EU TPD and BEPS;
- tax authorities/tax auditors’ awareness and understanding of the Code throughout the EU should be improved, as persons in the field making the tax audits are not always familiar with it;
- higher standardisation/harmonisation of local documentation requirements could be a lever for taxpayers to be able to fully benefit from the EU TPD approach;
- homogeneous/binding application of the EU TPD across the EU would help achieve consistency.