

SUMMARY

OF EU MEMBER STATES' RESPONSES TO THE QUESTIONNAIRE ON THE IMPLEMENTATION OF 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 26 MS.⁹

All MS consider their national practice to be in line with the EU TPD either by way of having their domestic rules explicitly aligned to the EU TPD or by way of accepting TP documentation in the EU TPD format.

Responses submitted by MS emphasise the importance of the EU TPD as the first commonly established tool on structuring transfer pricing documentation. The concept of a masterfile and local country files which is central to the EU TPD is perceived to be widely used in practice by MNEs across the EU. It is recognised that the EU TPD has contributed to a better standard of documentation within 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.

⁹ Hungary did not respond to the questionnaire.

Q1. A**What administrative or legal action was taken to implement the EU TPD Code of Conduct in your Member State?**

16 MS took administrative or legal action to implement the EU TPD. As a result, these MS' TP existing documentation rules/guidance were explicitly aligned with the EU TPD or such TP documentation rules/guidance were introduced for the first time. In some MS the EU TPD formed the basis of a national mandatory TP documentation standard. Other MS introduced the EU TPD as an optional regime.

10 MS did not take any administrative or legal action to implement the EU TPD. This group includes (i) MS which do not have any specific rules/guidance on TP documentation (see answers to Q1.B below) and (ii) MS which considered that their existing rules/guidance were already sufficiently consistent with the EU TPD at the time of its adoption and saw no need for further action.

	Administrative or legal action to implement the EU TPD	
	Yes	No
AT		X
BE	X	
BG	X	
CY		X
CZ	X	
DE		X
DK	X	
EE	X	
EL	X	
ES	X	
FI	X	
FR	X	
HU		
IE	X	
IT	X	
LT		X
LV	X	
LU		X
MT		X
NL		X
PL		X
PT		X
RO	X	
SE	X	
SI	X	
SK	X	
UK		X

Q1.B Do you have specific national transfer pricing documentation rules/guidance? Do you consider your national practice in line with the EU TPD?

In all MS MNEs are expected to produce upon request transfer pricing documentation for the purposes of determining whether prices charged have been computed in accordance with the applicable transfer pricing rules.

MS' requirements range from no formal rules/guidance to rather comprehensive rules/guidance, but all MS state that their national practice is in line with the EU TPD. In MS with TP documentation rules/guidance, these rules/guidance are either fully aligned with the EU TPD, partially similar to it, or at least consistent with it. In MS without formal documentation rules/guidance, MNEs can submit their transfer pricing documentation in any format that allows them to effectively prove the arm's length character of related party transactions, including the EU TPD.

Documentation submitted in the EU TPD format would therefore be accepted in all MS. It should be noted that nevertheless some MS could still request additional information and/or translation of documentation in the local language.

	Specific rules/guidance on TP documentation	National practice in line with the EU TPD
AT	yes	yes
BE	yes	yes
BG	yes	yes
CY	no	yes
CZ	yes	yes
DE	yes	yes
DK	yes	yes
EE	yes	yes
EL	yes	yes
ES	yes	yes
FI	yes	yes
FR	yes	yes
HU		
IE	yes	yes
IT	yes	yes
LT	yes	yes
LV	yes	yes
LU	yes	yes
MT	no	yes
NL	yes	yes
PL	yes	yes
PT	yes	yes
RO	yes	yes
SE	yes	yes
SI	yes	yes
SK	yes	yes
UK	no	yes

Q2. A

Do you have systems in place to assess the extent to which MNEs actually opted for the EU TPD? From those systems do you assess take-up to be at the level of minimal, medium or extensive? In the absence of any formal recording system do you assess take-up to be at the level of minimal, medium, extensive?

Only 1 MS reported to have a centralised official system in place to record the actual number of MNEs applying formally the EU TPD. The level of uptake of the EU TPD in that MS is reported to be extensive. In the remaining MS the extent to which EU TPD is used is unclear, but can be expected to be extensive in MS where the EU TPD formed the basis of a national mandatory TP documentation standard.

	System in place to record the number of MNEs applying the EU TPD	If, yes – what it indicates
AT	no	
BE	no	
BG	no	
CY	no	
CZ	no	
DE	no	
DK	no	
EE	no	
EL	no	
ES	no	
FI	no	
FR	no	
HU		
IE	no	
IT	yes	extensive use
LT	no	
LV	no	
LU	no	
MT	no	
NL	no	
PL	no	
PT	no	
RO	no	
SE	no	
SI	no	
SK	no	
UK	no	

The answers to the questionnaire indicate that in view of MS' different arrangements with respect to the application of the EU TPD, counting 'opt-ins' would not present the full picture on the use and relevance of the EU TPD, as explained below.

- In MS where the national documentation rules/guidance are fully aligned with the EU TPD, MNEs implicitly apply the EU TPD when they comply

with national law. Counting ‘opt-ins’ in this case would not be applicable as the EU TPD is understandably applied by all MNEs and no opt-in regime is actually available.

- MS which do not have formal documentation rules accept TP documentation in any format that allows them to effectively prove the arm’s length character of related party transactions, including the EU TPD. However, MNEs do not need to state that they are applying the EU TPD even if they do. Therefore counting ‘opt ins’ would only capture some cases in which the EU TPD is used, not all cases.
- In all other MS, documentation rules/guidance would be in substance consistent with or partially similar to the EU TPD. Documentation submitted in the EU TPD format would fit with these MS’ national law and/or administrative practice and would be sufficient to meet domestic requirements. However, MNEs are free to submit their TP documentation in the EU TPD format without formally qualifying it as EU TPD (in case of absence of incentives). Counting formal ‘opt-ins’ in this case would once again only capture some instances in which the EU TPD is used, not all.

Q2. B

Have you had cases of taxpayers applying the EU TPD (partly or completely) without officially opting in for it?

Most MS found it difficult to give a distinctive answer due to lack of relevant information. Some MS replied tentatively based on their general impressions; tentative replies were split between “yes/possibly” and “no”.

The context is that in MS with 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 would by definition inevitably be in line with the EU TPD at least to a certain extent in any given case. The fact that a taxpayer did not make an explicit reference to the EU TPD in its submission does not mean that the EU TPD was not used (in full or in part). On the other hand, similarities between the EU TPD and a taxpayer’s TP documentation do not automatically mean that the EU TPD as such was used by the taxpayer: the taxpayer’s primary concern might have been to comply with national law, which happens to be aligned with the EU TPD.

In MS without formal documentation rules/guidance TP documentation, taxpayers could either follow the EU TPD (in full or in part), or not follow it at all. If the EU TPD was indeed used, this would not necessarily be obvious for a MS in the absence of an explicit statement by the taxpayer.

Q2. C

Can you comment on whether you regard optionality of the EU TPD, i.e. opting in or opting out of the EU TPD approach, as helpful?

9 MS expressed negative views regarding optionality. Main arguments:

“Optionality causes that taxpayers are not required to submit documentation in all EU countries, but only in those where they want to, which leads to discretion and provides scope for manipulation. [...] The EU TPD is being prepared by the parent company and in practice does not reach its subsidiaries.”

“Considering that all MNEs should be subject to identical rules and transparency throughout the EU, we believe that the optimal functioning of the internal market and in particular the harmonized access to information by all MS’ Tax Administrations requires that the EU TPD is not optional, but mandatory throughout the EU for bigger MNEs.”

“As optional system, the EU TPD has not worked in practice. But it was a blue print for the documentation requirements of countries and for the internal documentation system of MNEs.”

“Optionality for MNEs is not helpful because it creates problems of consistency and it imposes the coexistence of at least two different sets of rules.”

“Our experience shows that the EU TPD is not used by the taxpayer, which is [...] caused by its optionality and lack of will to apply it by taxpayers. Taxpayers do not see the benefits of its preparation, see no benefit to improve cooperation between the taxpayer and the tax authority. The practice shows that aims of the Code of Conduct, i.e. transparency, consistency transfer pricing documentation within EU and facilitation the risk assessment is not carried out.”

5 MS have stated that they are favourable to optionality. Main arguments:

“In some cases MNEs may find too burdensome creating and maintaining a masterfile and several sets of country specific documentation that are not always compensated for by economies of scale. Therefore we consider that the use of the EU TPD should be optional for businesses.”

“Optionality overall is deemed to be more agreeable to a constant obligation both when opting in and opting out EU TPD approach. The stress is likely to be put on reward when opting in EU TPD and staying within the option.”

“We do not have prescriptive documentation requirements in our law and do not apply documentation related penalties. From this perspective we find the optionality of the EU TPD a more appropriate approach for the time being.”

12 MS remained neutral: some MS left this question unanswered; others commented that they lack relevant experience for the time being; others still suggested that taxpayers are best placed to comment on optionality.

	MS' views regarding optionality		
	negative	positive	neutral
AT	X		
BE	X		
BG		X	
CY			X
CZ			X
DE	X		
DK			X
EE			X
EL			X
ES	X		
FI			X
FR	X		
HU			
IE		X	
IT		X	
LT		X	
LV			X
LU		X	
MT			X
NL			X
PL	X		
PT	X		
RO			X
SE			X
SI	X		
SK	X		
UK			X

Q3.

Depending on the assessment of the level of take-up:

(i) What could be done to improve take up levels?

(ii) What has contributed to the extensive level of take up?

The main points brought up in MS' responses are listed below.

(i) *What could be done to improve take up levels?*

- removal of optionality; mandatory application in all MS
- incentives to MNEs to use the EU TPD (no examples given)
- provision of 'safe harbours' for companies that have opted for the EU TPD
- promotion of the advantages of the EU TPD through cooperation with taxpayers
- trainings for taxpayers and tax auditors
- adoption of a 'light' EU TPD for SMEs; clear and straightforward relief for SMEs based on objective criteria
- acceptance of the EU TPD by non-EU MS

France and Germany have made concrete suggestions (for details, see Q7).

(ii) *What has contributed to the extensive level of take up?*

- mandatory application; need to present the Masterfile/local country file in case of an audit
- national documentation obligations being aligned with the EU TPD
- explicit reference to the EUTPD in national legislation/guidelines
- more favourable treatment under the EU TPD than under domestic regimes
- companies' awareness of the importance of uniform TP documentation and the fact that adequately documented transfer prices can be defended internationally.

Q4.

Based on your national overview do you consider that the Code has contributed to a better standard of documentation in terms of i) quality of content, ii) standardisation between Member States, iii) the initial assessment of a MNEs group's transfer prices policy, iv) risk assessment?

Most MS answered this question in general, not referring to i), ii), iii) and iv) in particular.

According to 16 MS the EU TPD has had a positive overall influence on the standard of TP documentation. 3 MS have not observed any improvement in the TP documentation submitted by taxpayers since the adoption of the EU TPD. 7 MS did not provide a specific answer to this question due to: limited or no experience with transfer pricing that would allow them to compare the periods before and after the adoption of the EU TPD; lack of relevant information.

	EU TPD's contribution towards a better standard of documentation		
	yes	no	no experience/ no information
AT			X
BE	X		
BG	X		
CY			X
CZ	X		
DE*	X		
DK		X	
EE			X
EL	X		
ES	X		
FI	X		
FR	X		
HU			
IE			X
IT	X		
LT		X	
LV	X		
LU		X	
MT*	X		
NL			X
PL	X		
PT	X		
RO	X		
SE			X
SI	X		
SK	X		
UK			X

* Indirect influence

Q5.

Do you think there are aspects that prevent the Code of Conduct from working effectively?

9 MS (BG, CY, EL, FI, IE, LT, LU, MT, UK) did not provide a specific answer to this question due to lack of relevant experience or information.

6 MS (CZ, IT, LV, RO, SI, SK) stated that from their perspective there were no (major) obstacles to the effective functioning of the EU TPD.

2 MS (DK, NL) have suggested that in the context of BEPS it would be pertinent for the JTPF to follow the BEPS project on TP documentation and, possibly, to discuss updating the EU TPD. DK suggested supplementing current documentation requirements with additional ones, e.g. require additional information for transactions with companies covered by preferential tax regimes and companies subject to a general low tax rate.

The answers of the remaining 9 MS are summarised below. The main obstacles to the effective functioning of the EU TPD that have been identified are as follows:

- Optionality of the EU TPD (most commonly cited obstacle, mentioned by 6 MS (AT, DE, ES, FR, PL, PT));
- Resource and cost intensity of preparing the EU TPD;
- Taxpayers do not see sufficient benefits in the preparation of the EU TPD;
- Under the EU TPD MNEs need to provide more comprehensive information to all tax administrations without having any additional benefit beyond the avoidance of penalties, which is generally achieved by merely following domestic requirements (often without providing information from all related parties in the EU);
- Some information of the EU TPD is considered to be sensitive and MNEs do not voluntarily want to provide this information to all tax administrations;
- Masterfile and country file considered both too detailed by MNEs;
- Ambiguity of some concepts and terms could give rise to divergent ways to apply the rules.

Q6. A

Have you sought to differentiate between the documentation requirements for SMEs and MNEs?

According to the EU TPD: “Member States undertake not to require smaller and less complex enterprises (including small and medium-sized enterprises) to produce the amount or complexity of documentation that might be expected from larger and more complex enterprises.”

Out of 25 MS which responded to question Q6.A¹⁰, 24 MS specified that they would either allow the submission of simplified TP documentation in justified cases or not require any TP documentation in justified cases¹¹:

- In 7 MS (DK, EE, FI, FR, IR, LT, PT) SMEs are reportedly explicitly exempt from the obligation to prepare and maintain standard TP documentation. Simplified TP documentation may still be required in some MS.
- 3 MS (CZ, CY, MT) do not have any statutory TP documentation requirements (either for SMEs or MNEs). However, CZ has issued guidance recommending the application of the EUTPD.
- Rather than differentiating between SMEs and MNEs as such, the remaining 14 MS apply various thresholds (either attributable to parties or to transactions, or to both) with respect to such criteria as volume of transactions, value of assets, annual turnover, number of employees etc., with standard TP documentation obligations only applying above the respective threshold (and, consequently, simplified TP documentation or no TP documentation required below the threshold). Therefore, for a large proportion of SMEs in these MS TP documentation requirements appear to be objectively proportionate to their concrete circumstances.

Q6. B

In your view, have the potentially conflicting requirements of a comprehensive documentation package and compliance costs/administrative burden been avoided?

According to the EU TPD: “Member States should: (a) not impose unreasonable compliance costs or administrative burden on enterprises in requesting documentation to be created or obtained; (b) not request documentation that has no bearing on transactions under review; (c) ensure that there is no public disclosure of confidential information contained in documentation.”

8 MS (AT, BG, CY, IE, LU, MT, SK, UK) did not provide a specific answer to this question due to lack of relevant experience or information.

According to 3 MS (EE, LV, PT) potentially conflicting requirements of a comprehensive documentation package and compliance costs/administrative burden have not been avoided.

¹⁰ Missing answer from LU.

¹¹ RO stated that their national framework does not explicitly distinguish between transfer pricing documentation requirements for SMEs and MNEs.

The remaining 15 MS (BE, CZ, DE, DK, EL, ES, FI, FR, IT, LT, NL, PL, RO, SE, SI) reported efforts to apply a balanced approach by seeking to minimise compliance costs and administrative burdens. Some MS gave examples on their experience:

- simplification of documentation requirements or no documentation requirements in justified cases (e.g. for SMEs, certain low value transactions etc.);
- acceptance of documentation prepared for a certain tax period for further periods;
- application of risk assessment approaches (as a result of which no comprehensive requirements would be applied for non-risky (smaller) transactions)
- clear rules and instructions to taxpayers
- differentiated and proportionate approach to each specific case.

MS also made the observation that documentation which is unnecessarily long or detailed is not useful for TAs either.

Q6. C

Have you found it necessary to impose documentation-related penalties to a case in which EU TPD was applied? If so, to how many cases and for what reasons?

According to the EU TPD: “Member States should not impose a documentation-related penalty where taxpayers comply in good faith, in a reasonable manner and within a reasonable time with standardised and consistent documentation as described in the Annex or with a Member State's domestic documentation requirements, and apply their documentation properly to determine their arm's length transfer prices.”

3 MS (CY, LU, PT) did not provide a specific answer to this question due to lack of relevant experience or information.

12 MS (AT, DK, DE¹², EE, ES, FI, IE, IT, LV, NL, RO, UK) have not imposed any documentation-related penalties to cases in which the EU TPD has been applied.

The existing legal or administrative framework in 7 MS (BE, BG, CY, LT, MT, PL, SE) does not foresee documentation-related penalties. Consequently, no documentation-related penalties have been imposed to EU TPD cases in any of these MS either.

3 MS (CZ, EL, SK) provided explanations on the circumstances that could lead to documentation-related penalties, rather than report on actual cases (e.g., late or no submission of TP documentation; incomplete or inaccurate documentation; lack of evidence that the ALP was applied).

Only 1 MS (SI) found it necessary to impose documentation-related penalties in 2 cases due to non-cooperation of the taxpayers.

¹² In their responses DE and ES have specified that they are unaware of any documentation-related penalties imposed to cases in which the EU TPD has been applied.

Q6. D

Have you had to ask for supplementary information: rarely, occasionally, routinely? What have you found to be the main reasons for supplementary information requests - for example, omissions from content template, need for clarification of submitted information, etc.?

According to the EU TPD: “Since the EU TPD is a basic set of information for the assessment of the MNE group's transfer prices a Member State would be entitled in its domestic law to require more and different information and documents, by specific request or during a tax audit, than would be contained in the EU TPD.”

8 MS (CY, EL, FR, IE, MT, NL, PT, UK) did not provide a specific answer to this question due to lack of relevant information or experience, or because requesting supplementary information is not applicable in their circumstances.

17 MS have found it necessary to request additional information from taxpayers: 5 MS (AT, BG, DE, LU, SI) requested such additional information occasionally; for 10 MS (BE, CZ, DK, EE, FI, IT, LT, LV, PL, RO) asking for additional information is a routine practice; 2 MS (SE, SK) have confirmed that they have requested supplementary information from taxpayers, but did not specify the frequency of such requests.

1 MS (ES) explained the circumstances that could lead to supplementary information requests (e.g. need for evidence that the ALP was applied, other supporting documentation necessary), but did not report on the frequency of such requests.

Common reasons for supplementary information requests cited by MS are: need for clarification (mentioned by 10 MS); incomplete or missing information (mentioned by 4 MS); submitted information raises further questions (2 MS).

Q6. E

Do you wish to make any other comments on the general application rules and requirements contained in Sections 2, 3 and 4 of the Code?

3 MS (DE, DK, LT) provided comments.

As these comments contain actual suggestions for the improvement of the functioning of the EU TPD, they have been placed under Q7.

Q7.

Based on the practical experience of your administration, what would you suggest to improve the adoption, functioning and efficiency of the EU TPD as a whole (considering both aims of TP documentation: demonstrating that the arm's length principle was applied properly and risk assessment purposes)?

4 MS (DE, DK, LT, FR) made concrete suggestions. These suggestions are cited below in full.

- DE: *“The EU Joint Transfer Pricing Forum should discuss how to make the EU TPD compulsory. One way to achieve this goal could be a European commitment to create domestic rules for the MNEs in each MS that oblige*
 1. *the domestic MNEs to produce the EU TPD (master file and local documentation) and*
 2. *the MS to give the information from the EU TPD to each MS in the course of exchange of information on request, especially in cases where subsidiaries argue that they have no access to all relevant information.”*

- DK: *“Base Erosion and Profit Shifting is at the moment discussed in OECD and on a political level. In order to address these concerns it is important that we maintain the existing requirements for transfer pricing documentation and also consider whether it would be possible to supplement the requirements, e.g. by requiring further documentation for transactions with companies covered by preferential tax regimes and companies subject to a general low tax rate.”*

- LT: *“We would suggest taking into consideration regulatory requirements for formalization of year-end adjustments in EU TP documentation – whether there should be a written provision embedded.*

Regarding what was stated in the description of the questionnaire towards documentation requirements for the attribution of profits to permanent establishments, it would be of great value to have more aspects covered in any type of document on EU level. Such as, whether entity, acting through permanent establishment in another country, may refer to the TP documentation of the entity itself without preparation of a separate documentation, in what cases, what aspects should be covered in more depth (e.g. criteria for attribution of profits etc.). Illustration with examples of concrete practical situations evaluated would be appreciated as well.”

- FR suggests concrete changes to the text of Section 1 (Content of the EU TPD), Points 3 and 4, as marked in **bold underlined font** in the text below.

*[...] 3. The EU TPD covers, **unless otherwise specified**, all group entities resident in the EU including controlled transactions between enterprises resident outside the EU and group entities resident in the EU.*

4. The masterfile

4.1. The masterfile should follow the economic reality of the business and provide a 'blueprint' of the MNE group and its transfer pricing system that would be relevant and available to all EU Member States concerned.

4.2. The masterfile should contain the following items:

(a) a general description of the business and business strategy, including changes in the business strategy compared to the previous tax year;

(b) a general description of the MNE group's organisational, legal and operational structure (including an organisation chart, a list of group members **in the EU or in direct or indirect relation to group members in the EU** and a description of the participation of the parent company in the subsidiaries);

(c) the general identification of the associated enterprises engaged in controlled transactions involving **directly or indirectly** enterprises in the EU;

(d) a general description of the controlled transactions involving **directly or indirectly** associated enterprises in the EU, i.e. a general description of:

(i) flows of transactions (tangible and intangible assets, services, financial),

(ii) invoice flows, and

(iii) amounts of transaction flows **affecting group members in the EU**;

(e) a general description of functions performed, risks assumed and a description of changes in functions and risks compared to the previous tax year, e.g. change from a fully-fledged distributor to a commissionaire;

(f) the ownership of intangibles (patents, trademarks, brand names, know-how, etc.) and royalties paid or received **in relation to group members in the EU**;

(g) the MNE group's inter-company transfer pricing policy or a description of the group's transfer pricing system that explains the arm's length nature of the company's transfer prices;

(h) a list of cost contribution agreements, Advance Pricing Agreements and rulings covering transfer pricing aspects as far as group members in the EU are affected **directly or indirectly**; and

(i) an undertaking by each domestic taxpayer to provide supplementary information upon request and within a reasonable time frame in accordance with national rules."

What feedback, if any, both positive and negative have you received from MNEs and SMEs about the introduction of EU TPD?

10 MS stated that they have not received any feedback. 7 MS did not provide an answer to this question due to lack of relevant experience or information.

4 MS indicated that they have received positive feedback on the EU TPD from MNEs, with respect to the following advantages of the EU TPD:

- a reasonable documentation package based on economic considerations;
- especially helpful for MNEs preparing their first documentation packages;
- standardised TP documentation for the EU;
- envisages protection from adjustment-related penalties;
- plays a significant role in defending transfer pricing internationally.

4 MS have received negative feedback on the EU TPD with respect to the following:

- producing TP documentation according to the EU TPD imposes a high administrative burden;
- the EU TPD has theoretical attraction, but little practical use in its current form;
- problems exist in practice to obtain requested information from MNEs' Head Offices;
- country file is too comprehensive.

1 MS has received both positive and negative feedback. It reports that the EU TPD seems to appeal to bigger MNEs, but not to smaller MNEs, as the latter do not find it cost-effective to produce TP documentation according to the EU TPD.