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EU JOINT TRANSFER PRICING FORUM

Contribution from business on the possible extension of the Forum's two years mandate

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The following topics are of particular interest to the business and should be discussed in an eventual extension of the JTPF:

1. APAs and other preventive measures within the EU boundaries (if eventually not dealt with sufficiently in the remaining year) 1.1 APAs 1.2 Alternative ways of dispute settling (e.g. mediation and prior consultation between tax administrations before making adjustments)

2. Documentation

3. Safe harbor approaches

Use of safe harbors for typical and ancillary corporate functions/schemes

4. Monitoring of the implementation of the code of conduct

5. Issues for the accession states

5.1 As of May 1, 2004 there will be 10 countries not part of the Arbitration Convention. The existence of the Forum should help speed up the ratification process, as well as facilitate the implementation of the conclusions and recommendations adopted now.

6. Issues for regulated Businesses:

6.1. Methodologies for businesses for which there is a special EU regulatory framework such as banking and insurance.

Indeed, such businesses are regulated by EU Directives and picking one of them as a test case for applying the arm's length methodologies might have a merit. The underlying EU regulatory framework might also facilitate the discussion and a few regulatory experts could be invited to the sessions dedicated to the subject matter. The Forum work on the methodologies could continue in some other areas which are also influenced by the EC Regulations and this would be a good reason to say that there would be no overlapping with the OECD Guidelines. 6.2. Methodologies for business where the customer price or the other aspects are regulated differently in the various countries

7. Suspension of tax collection: common Interests for late payment or no interests at all

8. Penalties

9. The influence of IAS rules on TP (eg. on pan-European comparable searches)

10. Common Methodologies

10.1. The methodologies should be harmonized notwithstanding the OECD guidelines. Indeed, there are discrepancies in application of the arm's length principles among Member States (e.g. Hierarchy of methods, ruling out of certain methods, etc.). We might select these inconsistencies and propose EU recommendations.

10.2 Day-to-day practice oriented transfer pricing topics e.g. country specific points of view on pricing methodologies, positioning within arm's length range, use of country specific databases, adjustments in case of positioning outside the arm's length range, use of secret comparables, bottom-line thinking by tax authorities,

10.3. Data Bases: The issue of whether Europe is one market for comparable searches is a big issue for large companies when they prepare documentation.