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EU JOINT TRANSFER PRICING FORUM

SUBMISSION FROM NON GOVERNMENTAL MEMBERS OF THE JTPF ON PRACTICALLY IMPLEMENTING COUNTRY BY COUNTRY REPORTING UNDER ACTION 13 OF THE OECD BEPS ACTION PLAN

Meeting of 22 October 2015

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I. Summarizing presentation

NGM responses to the EU Commissions request for a "State of Play on CBCR"

JTPF-meeting on October 22, 2015

NGM responses on CBCR

Content and compliance

- Data gathering and availability
  - Different experiences (depending on system support, level of integration, group structure etc.)
  - Some data not readily available in reporting systems (e.g. "tax paid", "PEs", "main business activities", "joint ventures")
  - Top-down v. bottom up – no "one size fits all"
  - Quality ensurance and reconciliation work needed
  - Significant compliance burden
- Unclear definitions
  - E.g. "main business activity", "revenues", "personnel" "related party" etc.
  - Uncertainty v. flexibility
- Language
  - Request to commonly accept English

NGM responses on CBCR

Interpretational aspects

- Formulary apportionment based report
  - Risk of misinterpretation leading to double taxation
- Unclear definitions
  - May give rise to interpretational issues
- "Income Tax Paid"
  - Weak risk analysis tool
  - Does not correlate to the reporting year's profit
  - Affected by tax losses carry forward, prior year adjustments due to tax audits or litigation etc.
  - Risk of misinterpretation
- Snapshot approach
  - Multiple-year analysis necessary to avoid misinterpretations
- Need of extensive explanatory notes
  - Significant compliance burden

NGM responses on CBCR

Other aspects

- EU-law concerns
  - Question of proportionality
- Incentives
  - E.g. penalty protection for compliant tax payers
- Timing issues
  - Implications if CBCR-implementation in parent company jurisdiction is delayed

NGM responses on CBCR

Potential areas for further work

- Based on the NGM submissions on the CBCR, the JTPF could consider to do further work within the following areas:
  - Clarifications of definitions – work on common EU guidelines
  - Interpretational guidelines – CBCR risk assessment code of conduct
  - Common approach on language
  - EU-law implications
  - Timing and implementation

II. NGM responses to the EU Commissions request for a "State of Play on CBCR" ahead of the JTPF-meeting on October 22, 2015

Submission 1

Anticipated practical challenges for MNEs and propositions of basic conditions regarding the implementation of the OECD Country-by-Country Reporting requirements

The OECD Guidance on Transfer Pricing Documentation and Country-by-Country Reporting (CbC Reporting) states that "the country-by-country report will be helpful for high-level transfer pricing risk assessment purposes." From the perspective of a MNE the CbC Reporting does not only increase the compliance burden, but also creates additional risks of double taxation. Regarding the planned implementation the following aspects should be taken into account to reduce that risk:

- Items to be shown in the CbC Report as defined in table 1 of Annex III to the Guidance on Transfer Pricing Documentation and Country-by-Country Reporting comprise elements that relate to positions of financial statements. The OECD, however, did not use terms as defined by accounting standards to explicitly define the financial statement components to be used when preparing the CbC Report. Hence, different interpretations by MNEs regarding the financial statement positions to be used will have a detrimental impact on the ability of tax authorities to appropriately draw conclusions from the CbC Report.

- MNEs may use different data sources when preparing the CbC Report. Depending on whether separate entity financial statements or consolidated financial statements on Group level are used, a bottom-up and a top-down approach can be distinguished. The choice of the data source directly impacts the results shown in the CbC Report:
  - The top-down approach cannot be consistently applied throughout the CbC Report. The Top-down approach uses consolidated Group financial data. In regard to the profits to be reported in the CbC Report allocation keys have to be applied to derive country-specific profits. Nevertheless, it is not defined what kind of allocation keys are applicable. The same approach can be applied to derive revenues per country. However, it is not possible to split such country-specific revenues into external and internal revenues as the internal revenues are not shown in the consolidated Group revenues. Hence, the top-down approach cannot be consistently applied throughout the CbC Report.
  - When using separate entity statutory financial statements as data source for revenues and profits, related party revenues as well as reported profits per country will be presented twice in the CbC Report as intercompany revenues and profits are not consolidated. In addition, if local financial statements are used as data source, the comparability of the country-specific results is limited due to potentially deviating local accounting standards.

- The required information on income taxes paid on cash basis is not readily available in reporting systems. In addition, this information is deemed to be incongruent with the reporting of profits before income taxes as required by the CbC reporting template:

- Cash taxes paid do not directly correlate to the reporting year's profits due to a usual lag between cash taxes paid and the realization of earnings subject to taxation;
- Income tax refunds or subsequent payments of taxes do not correlate to the profits of the reporting year;
- Loss-carryforwards or tax planning strategies that allow companies to defer tax payments to future periods diminish the correlation between taxes paid and profits realized in the reporting period significantly;
- Pending court decisions or decisions by tax authorities (e.g. pending MAP cases) further deteriorate the relationship between taxes paid and profits realized in the reporting period.

As a result, local tax authorities should focus on a multiple-year analysis in order to avoid misinterpretations of the CbC Report information. Taking this aspect into account, a meaningful interpretation of the CbC Report information is especially for the first years after the implementation of CbC Reporting requirements only to a very limited extent possible.

- The proposed CbC Reporting rules require MNEs to collect and process data and information that are not readily available resulting in a dramatic increase of transfer pricing compliance costs. This is especially true for MNEs using different ERPs and/or accounting systems within the Group. Against this background, a definition of materiality thresholds for the information to be reported in the CbC Report is deemed to be necessary in order to limit the administrative burden regarding data collection and report preparation.

- The expected differences between the conclusions drawn from the CbC Report and the economic analyses of the transfer pricing documentation will require MNEs to put additional efforts in preparing explanatory notes in order to make sure that the tax authorities do not use the information of the CbC Report for transfer pricing adjustments in terms of a global formulary apportionment of income.

- The use of English language for the CbC Report should be accepted by all jurisdictions implementing CbC Reporting requirements in order to avoid additional costs for preparing translations.

- Confidentiality of the CbC Report has to be ensured by jurisdictions implementing CbC Reporting regulations. Due to the fact that countries exhibit highly different levels regarding the protection of the tax secrecy in their domestic legislation it seems not sufficient to apply domestic laws and provisions related to the tax secrecy to the contents of the CbC Report. Instead, domestic laws and regulations should be amended by those jurisdictions that currently do not prohibit disclosures of tax information to the public.

- Furthermore, sanction instruments have to be available in order to effectively enable the MNE to defend itself against a breach of the confidentiality of its CbC Report.

- It is strongly supported that the CbC Report should not be made available to jurisdictions which have not implemented both the CbC Reporting requirements as well as sufficient legal protections of the confidentiality of the reported information.

- The rather ambiguous guidance by the OECD creates a significant scope of interpretation for local jurisdictions. This in turn will increase the risk that the information provided by the CbC Report is used to actually scrutinize the allocation of taxable income among the countries the MNE is active in. Accordingly, the introduction of CbC Reporting legislation in local tax

jurisdictions will presumably result in an increased number of cases of double taxation. Therefore, the access to mutual agreement procedures (MAP) should be a prerequisite for an exchange of the CbC Report between tax authorities.

Submission 2

“List of issues identified when preparing the Country by Country Report and issues identified in the implementation of Country by Country more in general”

Main Points

1. With reference to the EU countries where a local regulation related to TP Documentation is already in place, it would be useful if the countries would allow taxpayers to prepare documentation either under the local TP Documentation requirements or under the requirements of Action n.13 (i.e. three-tiered standardized approach).

2. With reference to the treatment of Branches and Permanent Establishments, should their data be reported within the legal entity they belong or as a separate “entities”? If the answer is the latter, with respect to Branches/PEs it might be difficult to identify certain items required by the CbCR and in particular balance sheet items such as Assets other than Cash and Cash Equivalents.

3. With reference to the source of data to be used, the Report of Action n.13 clearly states that the Reporting MNE may choose among several sources of data and that a reconciliation with the consolidated financial statements is not mandatory. It also states that for CbCR it is possible to use the consolidation reporting package. As a practical solution, it would be useful to confirm the possibility to use data from the consolidation reporting package also for the preparation of Local file and Master file (to avoid mismatch in the data used in the CbCR and in the Local file).

4. With reference to the materiality of the intra-group transactions, the Report of Action n.13 suggests to the individual countries to introduce specific materiality thresholds for individual country transfer pricing documentation that take into account the size and the nature of the local economy. However, within the EU a common minimum threshold could be considered. A lower threshold could be defined for SMEs.

5. With reference to the frequency of documentation updates, the Report of Action n.13 recognizes that in many situations functional analyses, descriptions of comparables, etc. may not change significantly from year to year. Therefore, as a practical solution, within the EU a recommendation could be introduced to allow comparable searches to be updated every three years.

6. With reference to transfer pricing documentation, it would be reasonable to introduce common approach within the EU to penalty protection, in order to make the transfer pricing documentation requirements efficient from a tax administration perspective and appealing from a taxpayer perspective (“non-compliance more costly than compliance”).

7. With reference to the definition of Constituent Entity, it could be clarified whether an entity that is not included in the consolidation area should be considered as a Constituent Entity or not. In case the former is true, the source of data used for non-consolidated entities may differ from the one used for consolidated entities (local statutory vs reporting package).

8. With reference to the CbCR, it will typically be submitted to the tax authority of the MNE’s headquarters for exchange with local tax authorities. Limits of confidentiality may exist within the MNE (e.g. deriving from internal risk management policy or based on

confidentiality terms agreed with third parties) and therefore the local subsidiary may not have access to all the information included in the CbCR. In this case, the local tax authority may have more information than the local subsidiary about profitability of the MNE's other entities.

Other Points

1. With reference to the information requested for the CbCR:

    a. the identification of "full time equivalent" employees and the count of employees with multi-jurisdictional responsibilities could not always be easy;
    b. in certain instances separate business units do not typically aggregate their data, particularly for jurisdiction-based reporting;
    c. tax accruals and payments may be not consistently tracked and may include multiple years.

With reference to the language of Master File and Local File, the Report of Action n.13 clearly states that it should be established under local laws. However, it is likely that, even if encouraged to adopt commonly used languages, many Countries will opt for local languages; this assumption is based on the current local TP Documentation requirements of some EU countries. For simplicity, the use one of the main European languages should be allowed.

Submission 3

Ref: Comments on Country by Country Report

We welcome the opportunity to present feedback and „stay of play" on the Country by Country (hereinafter "CbC") report.

Our input will be focused on following topics:

1) The CbC report general issues
   a. The concept
   b. The language
   c. The Template
   d. The timing challenge
2) IT Tools available and the use of already established tools for the CbC report;
3) Clear guidelines for the use and interpretation of the CbC report by the tax authorities among the EU;

1) The CbC report general issues

According to the "2015 Global BEPS Readiness Survey Report" from Thomson Reuters, nearly half of the multinational companies surveyed are not actively preparing for the complex reporting requirements they will face. Nevertheless, many countries have already started their legislative process in order to include the OECD initiatives into their local law. At the moment most of MNE's are behind international tax compliance issues, many MNE's are unaware of the technology they will be needing/using to comply with the compliance demands.

We have started with the analysis of available IT tools and information that will be used in order to comply with the CbC reporting requirements. The first concern that came up, is the lack of harmonization in terms of concept and general definitions, which is understandable on a worldwide basis and which we think could be improved on a EU level.

a. The Concept

In terms of concept it is our concern that tax auditors (in many cases not experts in transfer pricing) will use this information, not as a high-level risk assessment tool for tax purposes but as "the basis" for analyzing transfer pricing risk within a MNE.

By including the CbC report in the "three tiered" transfer pricing documentation confusion might arise among taxpayers and tax auditors regarding the use of the CbC report when performing a risk analysis.

With the CbC report tax administrations can certainly get an overview of certain tax risk and might be able to asses international tax issues, but this tool is definitely not a specific transfer pricing risk analysis tool.

In this order of ideas, we would find very helpful if the EUJTPF accentuates a harmonized CbC concept as a global "snapshot" of a particular MNE' tax risk not only for the taxpayer certainty but

also as clarification for the tax auditors. This clarification together with proactive actions in relation to point 3 in this document will minimize the misused of information.

We are worried that tax authorities will use CbC report in an improper manner by ignoring that the information presented in the CbC report exposes general tax issues like the effect of preferential regimes and rates promoted by many countries through their specific tax policies. Companies taking advantage of these policies will attract undue attention form tax authorities who may consider a taxpayer to be a transfer pricing high risk solely because of a law tax payment when in fact the taxpayer has behaved in accordance with a national policies and rules.

Additionally, in no means should the CbC report be used as a comparable between different MNEs with different business models, operations and structures.

b. The Language

It would be helpful on an EU level to create a CbC dictionary for those financial terms included in the CbC template, using the 24 official languages of the EU. From a language and accounting perspective this dictionary will allow the headquarters located in one of the EU countries to know without confusion (or future excuse) what information is being requested and still provide it in English to the tax authority. Also the tax administration will know what the taxpayer is providing the information in English but with a full understanding of the concept in their own language.

Although one might think that using English terms will harmonized and simplify the filling of the template there are some financial concepts that might differ from one country to another in terms of financial/accounting terminology. Also those areas that will be involved in the gathering of information (IT, Controlling, Consolidation etc.) will understand exactly what information is being requested and the terms will be in line with locally known accounting terminology, again even if the information is provided in English.

c. The Template

Related Party.- Regarding the concept of “related party”, there are different approaches among EU countries. If we take into consideration that the information will be presented by the Headquarters in one EU country and probably shared to other tax administrations in other EU countries, we consider that there should be a general rule within the EU for the Headquarter to know what will be understood in as related party for CbC purposes.

Below please find 3 examples of the problematic.

Austria	Belgium	Bulgaria
The income tax laws contain **no specific statutory provision defining the term “associated enterprise”** and the conditions under which the profits of a company may be adjusted. As a result, taxpayers and the tax authorities need to rely on decisions of the Administrative Court (AC) in this respect and also on the definition of the relevant regulations of sections 6(6) of the ITA and 8(1) and (2) of the CTL.	The concepts “direct or indirect participation in the management, control or capital of an enterprise” are not defined in the OECD Model, its commentaries or the OECD Guidelines. As such, it is not possible to compare the Belgian concepts of “associated enterprises” and “control” with the ones included in the OECD Model. Whether there is a case of participation in the management, control, or capital of an	When using the term “related parties”, all Bulgarian tax acts refer to the definition provided in the supplementary provisions of TSIPC. The definition is quite broad and stipulates the following persons as related: - spouses, lineal relatives, collateral relatives up to the third degree of consanguinity and affines/affiliates up to the second degree of affinity;

Section 6(6) of the ITA contains a definition of the relationship between legally separate persons that is required for an adjustment. For purposes of this provision, the relationship is defined both in terms of the size of the corporate holding required and of the connection existing outside any corporate participation.

Under section 6(6) of the ITA, persons are deemed to be related if one of the following criteria is met:

- the domestic as well as the foreign business are owned by the same taxpayer; or
- for partnerships, the taxpayer is a partner of the foreign and/or the domestic business; or
- for corporations, the taxpayer owns a share of more than 25% of the foreign corporation or the foreign corporation owns a share of more than 25% of the domestic taxpayer; or
- the same persons directly or indirectly participate in the management or control of both businesses.

Therefore, based on section 6(6) of the ITA in general, all cross-border transactions between related parties (legal entities) with an ownership of more than 25% and also all transactions between a branch or PE and a headquarters are subject to the transfer, pricing rules.

The concept of relationship in section 6(6) of the ITA is different from that involved in a hidden profit distribution according to section 8(2) of the CTL or a hidden capital contribution according section 8(1) of the CTL. In these cases, there is no specific statutory provision defining the relationship that must be present before the rules governing the hidden profit distribution and hidden capital contributions can be applied. Therefore, there is no minimum participation and the size of the shareholder's participation is normally irrelevant in this context; any type of corporate relationship – including portfolio holdings – would qualify. These regulations are also applicable in domestic transactions.

enterprise is a matter to be decided by reference to (domestic) company law.

In the past the courts had to decide whether existing links justified the application of section 26 of the ITC, since for a long time Belgium had no legal definition of "dependence". Notwithstanding the definitions mentioned in article 9 of the OECD Model and the various Belgian tax treaties based on this model, any definition could be nothing more than an amalgam of the case law, which gave a broad interpretation of the concept of associated enterprises.[6]

This void has since been filled, first by the European Arbitration Convention, which was signed on 23 July 1990 and entered into force on 1 January 1995. In fact, the European Convention implicitly states that an association exists between two enterprises when one enterprise participates directly or indirectly in the management, control or capital of another.

Furthermore, the Companies Code (CC) has defined a number of concepts relating to companies, such as control (sections 5 and 7), parent entity and subsidiary (section 6), consortium (section 10(1)), related and associated companies (sections 11 and 12) and holding (section 13).

Section 5 of the CC defines control at three different levels. The first subsection gives a general definition of control, the second sets forth certain presumptions of legal control, and the third describes the notion of de facto control. The presumptions stated are not to be interpreted as an exhaustive list.

In general terms and based on the legal presumptions in section 5(2) of the CC, control can be described as the power to determine the objectives of the controlled company so that, in the long term, the company may not take or uphold decisions against the will of the controlling person. Under section 5(1) of the CC, control is the ability to decide the appointment of the majority of the directors or the course of corporate policy, whether de facto or de jure.

The following court decisions and situations illustrate the concepts of control and association:

- even a minor holding of share capital may be relevant, for instance where a seemingly independent Belgian enterprise is totally dependent on a

- employer and employee;
- partners (with regard to amongst others any kind of partnership, corporation);
- any two persons, of whom one participates in the management of the other or of a subsidiary thereof;
- any persons in whose management or supervisory body one and the same natural or legal person is a member, including where such natural person represents another person;
- a corporation and a person who holds more than 5% of the issued voting participating interests or shares in the corporation;
- any two persons, of whom one exercises control over the other;
- any persons whose activity is controlled by a third party or by a subsidiary thereof;
- any persons who jointly control a third party or a subsidiary thereof;
- any two persons of whom one is a commercial representative of the other;
- any two persons of whom one has made a donation to the other;
- any persons who participate, whether directly or indirectly, in the management, control or capital of another person or persons, and thereby are able to agree on conditions other than customary conditions;
- any local and non-resident person, in the case they have concluded a business transaction, if:

(1) the non-resident person is registered in a state where:
  - the state is not a member of the European Union;
  - the tax rate applicable to the income accrued is more than 60% lower than the one in Bulgaria;[1] and
  - the goods or services are not supplied on the domestic market; and

(2) the non-resident person is registered in a state which refuses or is not in a position to exchange information and with which a tax treaty has been concluded.

A non-resident person for the purposes of this clause shall be any legal person, regardless of being considered as a resident or a non-resident person in Bulgaria, if it is controlled by a person meeting the conditions under items (1) and (2).

	foreign enterprise for its supply of raw materials, its access to the market, the sale of its products, etc.; - dependence can easily be proved if, in addition to possession of a majority shareholding, the two companies share the same board of directors; - a form of dependence was deemed to exist in an arrangement whereby a Belgian company provided administrative and personnel services to a foreign company established in Liechtenstein, in exchange for a reimbursement of its expenses only. The Belgian company undertook not to carry on any business on its own account and renounced all normal benefits. The court evidently concluded that no such contract would have been signed unless the directors of the Belgian company had been sure they could procure the advantage of the renounced benefits indirectly; - "control" was judged to exist in the case of a Dutch company that acted as a sales outlet for a Belgian company. The court noted that the boards of directors of both companies were identical and that the Belgian company was required to allow the Dutch company a degree of authority over its financial accounting; - dependence was held to exist when two companies were managed by the same board of directors; - a relation of control was deemed incontrovertibly to exist between a Belgian company and three foreign companies, all of which were controlled by a French parent company; and - a relation of dependence was also held to exist between two Belgian companies that were eventually managed by the same persons given the existing family shareholding structures.	A resident person for the purposes of this clause shall be any non-resident legal person operating in Bulgaria through a permanent establishment and any non-resident individual generating income from a source in Bulgaria through a fixed base, for the transactions realized through the permanent establishment or the fixed base; and - the owners of the resident and the non-resident persons under the previous item. In practice, the most difficult situations to determine are those involving control and that of indirect participation in the management, control or capital. Regarding taxation issues, the TSIPC provides the definition of control, according to which the controlling party is one who (supplementary provisions paragraph 1, fourth item): - holds, either directly or indirectly or by virtue of an agreement with another person, more than one half of the voting rights in the general meeting of another person; - has a possibility to designate, whether directly or indirectly, more than one half of the members of the management body or the supervisory body of another person; - has a possibility to manage the activity of another person, including through or together with a subsidiary, by virtue of articles of association or a contract; - as a shareholder or partner in one company, controls independently, by virtue of a transaction with other partners or shareholders in the same company, more than one half of the number of voting rights in the general meeting of the company; or - may in any other way exercise a dominant influence over decision-making in connection with the activity of the company.

The second group of information to fill in is the amount of revenue from unrelated and related parties. We cannot expect appropriate filling of the template if the Headquarters have certain concept for related parties and the affiliated companies understand that concept in a different way. If the EUJTPF pronounces itself regarding what exactly will be understood in the EU as related party revenue and if possible establish a percentage threshold in the shareholding there will be no room for further interpretation by neither the taxpayer nor the tax auditors.

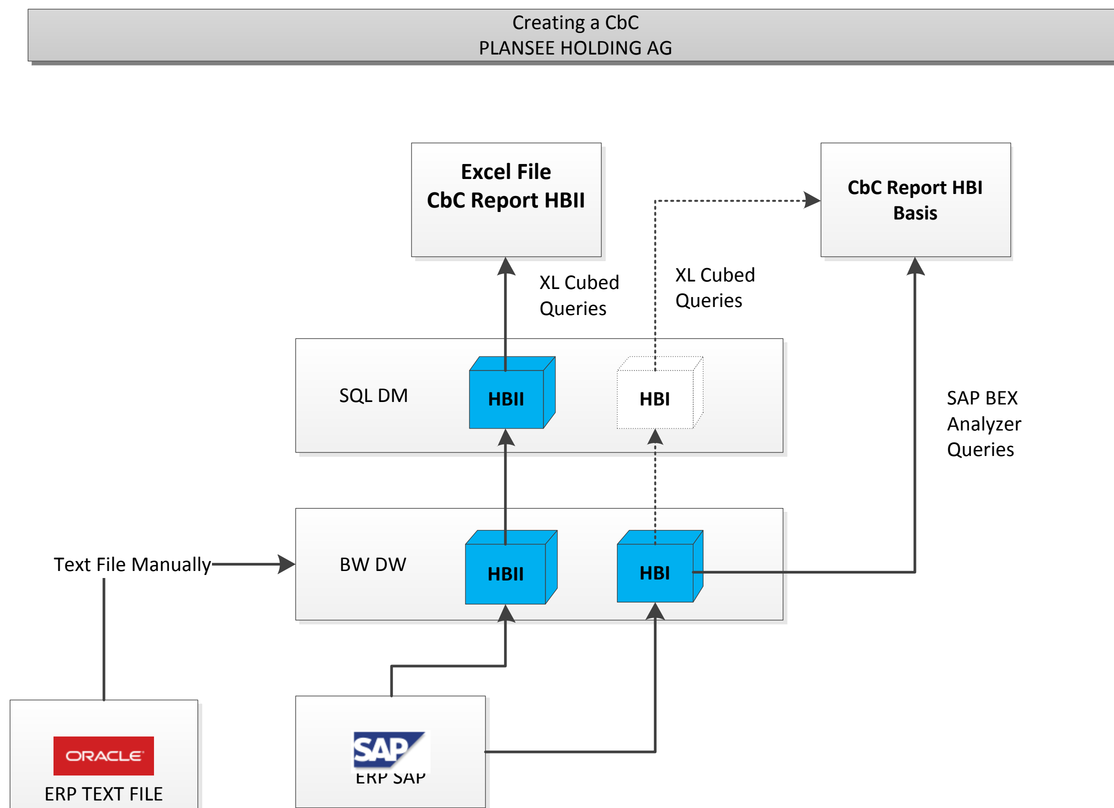
d. The timing challenge

We would like to underline that it is very difficult to segregate cash taxes from other accrued or deferred tax items within the reporting system. Regarding the information on income tax paid, the template notes that this should reflect taxes paid on cash basis. We have a concern regarding those cases where significant timing differences occur (taxes paid after year end), carried forward losses exist, or tax audit payments are made. We would like to discuss this problematic and work on a guideline for minimizing it.

If we would report only tax charges the template would then focus on providing information on revenue, earnings before tax and tax charge in the specific countries.

2) IT Tools available and the use of already established tools for the CbC report;

We have a pretty developed reporting system. We did not find particular concerns regarding the creation of a CbC report from an IT perspective. As described below in Exhibit one, using consolidation reporting packages would represent the easiest way to generate a CbC from a technological perspective. Nevertheless, to create a CbC report based on the regulatory financial statements report wouldn't represent a big burden either.



If the Group does not have the same system: SAP & ORACLE then:
- Data might vary
-Different accounts from one system to the other
-Differences in Information

ERP: Enterprise Resource Planning
BW: Business Warehouse
DW: Data Warehouse
SQL: Structured Query Language
DM: Data Mart
HBI: „Handels Bilanz“ Balance Sheet on a local level (Local Gaap)
HBII:“Handels Bilanz“ Balance Sheet Group accounting guide line (Local Gaap)

The IT tools use by the group will be SAP, BW, and XL Cubed to create the CbC report. The group has not chosen if the report will be presented on a consolidated or non-consolidated basis.

In case of choosing consolidated information and taking into consideration the reports already available on that basis there would be a need to create a report for the CbC compliance. Using XL Cubed Query the group would be able to create the report with specific information mentioned in the CbC template.

Choosing non-consolidated information would imply the creation of a special query with SAP BEX Analyzer in order to take information from the regulatory financial statements report and add that "local information", to the XL Cubed information for creating the CbC report.

Clearly the second option would imply more time consuming and resources then the first one, but both might be achieved without additional cost for the group.

There are some practical problems that MNE's will face in case their IT system is not harmonized. For example if a MNE's is growing and acquiring legal entities that do not have the same reporting system as the group, the manual work will increase dramatically. That means that the more harmonized and centralized a system is, the easier it will be to create an automatic report. (Example with Oracle in exhibit one).

It would help MNE's to receive a clear guideline for which of the options (for example consolidation reporting packages or regulatory financial statements) will be easier for interpretation by EU tax authorities. The EUJTPF should contemplate timing issues, limitations and the efforts on accounting harmonization taking place within the EU to align the report within the proper EU environment.

3) Clear guidelines for the use and interpretation of the CbC by the tax authorities among the EU;

We would like to encourage the EU tax administrations to train their auditors in coordination with the OECD.

MNE's will one way or the other do their compliance work but that work and effort will be relevant only if the tax administration uses the information provided in an appropriate way. In our experience MNE's have developed internal knowledge and tools to simplify the documentation process and some auditors seem to be overwhelmed with the information they receive because they are not trained to analyze it.

We would like to emphasis on the need of training and instruction that the auditors need to dialogue and understand the functionality of MNE's in terms of IT systems, reports, available information etc.

Most of the OECD actions are oriented to taxpayers but all that compliance will be worthless if the tax administration is not ready to use all that information in a proper way.

In our experience, the Master File is never looked at even asked for, because the auditor focuses on the Country File and does not analyze all the market and economic information contained in the Master File, for a non-trained auditor it is too much information and they do not know how to read into it.

The CbC is like a marriage, it will depend on both sites, MNE’s and tax administrations, in order to work. If the MNE’s does not comply with accurate information or the tax administration does not trained their people to analyze this avalanche of information Action 13 will fail.

Submission 4

Here are some reflections on the current state of play regarding the CBCR

1) We have a rather advanced reporting system and have managed to compile a first draft version of the CBCR table 1 based on a top-down approach. Looking at the outcome, it is very clear that the "raw CbC data", presented without proper context and guidance, will be very hard to interpret. This particularly holds true if it is read in isolation from other financial years. Also, some of the data points (e.g. tax paid) will provide very little guidance on a group's tax position. Thus, even in cases where data is readily available, there will be a major undertaking to provide a narrative explanation in Table 3, "Additional information", to make the CBCR comprehensible and to limit the risk of misinterpretations/misuse. In addition to this, it will be necessary include comparative data regarding earlier years to ensure that the risk analysis is done in the right context.

2) Data quality is another item which is expected to require significant resources. Although taxpayers are free to choose between top-down or bottom-up approach, both will have to be used to secure data quality. Although we use a top-down approach, some data points will require local reconciliation to ensure that what is presented is accurate. This will be a major undertaking.

3) Apart from saying nothing about a taxpayers tax behaviours and add very little value from a risk analysis perspective (other than spurring the risk of misinterpretation), "Income Tax Paid" is not readily available information and will require manual collection and reconciliation work to ensure data quality.

4) The report requires a listing of all the Constituent Entities and the nature of their main business activities. There are still no guidelines indicating how the wording "main business activities" is to be interpreted. The articles of association and the certificate of registration both include information regarding business activities regarding a certain company. These registered business activities can be considered as "main", but a company can of course perform several other functions. It would be useful to receive a more clear guidance on materiality criteria with thresholds etc.

5) Joint ventures are to be included in the CbC template with the same information as if they were 100% owned. The information will thus include misleading amounts. Both in our internal and external reporting the joint ventures are consolidated with a percentage reflecting the actual ownership, so the CbC reporting of the joint ventures will need to be adjusted manually.

6) A permanent establishment should be reported in the CbC template by reference to the tax jurisdiction in which it is situated, instead of the tax jurisdiction of the Constituent Entity of which the permanent establishment is a part. Our internal reporting applies the opposite treatment and the reporting regarding permanent establishments will consequently need to be adjusted manually.

Submission 5

1. CbCR and EU law

Domestic legislation implementing CbCR can fall within the scope of primary EU law (freedom of establishment). CbCR mainly affects MNCs doing business in two or more States and it is quite natural not to require the same obligation to groups of companies doing only business in one EU Member State. This means that CbCR may be regarded as being a restriction within the meaning of the freedom of establishment of the TFEU where it affects companies doing business in more than one Member State.

This is relevant because even if 'discriminatory CbCR legislation' can be easily justified under the mandatory requirements admitted by the CJEU (e.g. prevention of tax fraud and abuse, risk of tax fraud, etc.), the conditions to admit discriminatory measures as compatible with the TFEU, as defined by the CJEU, will have an impact upon domestic legislation implementing CbCR. That is to say, domestic 'discriminatory legislation' must respect:

- The principle of proportionality,
- The principle of legal certainty, and,
- EU fundamental (taxpayer) rights as defined in the EU Charter.

In fact, even if legislation on CbCR is drafted as formally covering groups of companies doing domestic and cross-border activities, it can be argued that it is inherently discriminatory since the target of it are groups with cross-border activities. In addition, as long as tax administrations have access to information about domestic groups of companies in other documents (e.g. tax returns), it can be argued that they do not fall within the subjective scope of the CbCR obligation.

The following section explains some ideas about areas of potential conflict between CbCR and the principles identified in the case law of the CJEU. That section is not a refined legal analysis but simply a (preliminary) presentation of areas of potential conflict.

2. Potential conflicts between CbCR and EU law

a. *Scope of CbCR obligation:*

i. Broad obligations imposed without indicia of tax fraud or avoidance may not be proportionate under the case law of the CJEU (only legislation attacking 'wholly artificial arrangements' is justified).

ii. Even if there are good arguments to defend that CbCR is helpful in preventing tax avoidance, its contents, unless refined, may be challenged for breaching the proportionality principle (information is requested with regard to countries, taxpayers etc. where there may not be any risk of tax avoidance).

iii. Special efforts of coordination with domestic obligations may be needed since questionnaires, information to be attached or included in tax returns may duplicate information in CbCR. Duplication should be avoided to prevent any breach of the principle of proportionality.

b. *Penalties:*

i. It may be difficult to impose sanctions with regard to an obligation (CbCR) that has diffuse contours (flexibility, no definition or clear guidance is one of the essential features of CbCR).

ii. Without adequate or proportionate sanctions it is difficult to have meaningful obligations of CbCR. Therefore, this is a crucial point.

iii. In the same vein, it may not be in line with the proportionality principle to treat equally taxpayers that make the effort of presenting good quality information / CbCR and those that do not present the information at all or whose CbCR are of low quality. This aspect has two dimensions: (1) penalties applied in the State where the CbCR is to be presented and (2) penalties applied in the State where the risk assessment and, eventually, audit is conducted and adjustments are made (good faith taxpayers should have some kind of 'relief' / incentive).

c. *No definition / clarity of obligations*[1]*:*

i. Flexibility is one of the features of CbCR, but legal certainty may require action especially if sanctions are applied:

1. Very fundamental terms are not defined and should be clarified, if possible in a coordinated level, to avoid problems with EU law and make the information meaningful (e.g. 'employees', 'PE or head office employees', 'seconded employees', 'taxes on income', 'capital', system of reporting that is more adequate to the goals, what to do with local tax consolidations etc.). For instance, lack of definition of the term 'income tax' may permit companies to offer a distorted picture of the taxes they pay in every country or territory (as it happens with CbCR of some companies that are available on the internet, where more than 60 different types of taxes are buried under the definition of income tax). Likewise, if some taxes that generally 'hit' company revenues are not regarded as such, there may be the 'image' of under / no taxation in the specific territory, again distorting the picture offered by the CbCR.

2. Adequate guidance on definitions will help CbCR serve its purpose (the default rule for interpretation according to the laws of the State of the ultimate parent company, unless context otherwise requires, does not help much in this regard). But above all, it will permit countries to avoid challenges for breaching the principle of legal certainty and will help them implement efficient penalty systems.

[1] For the CJEU the principle of legal certainty means that *'rules of law must be clear, precise and predictable as regards their effects, in particular where they may have unfavourable consequences for individuals and undertakings'* (see, for instance, CJUE 5 July 2012, *SIAT*, C-338/10, EU:C:2012:415).

3. Different reporting systems are admitted (top-down, bottom-up), but some may be more adequate than others to achieve the goals pursued, MNEs should be directed to the 'most useful models' to avoid undesirable audits and conflicts in view of what is sought by tax administrations with CbCR.

ii. Lack of a precise definition of the goal of automatic exchange of information of CbCR is also a crucial element in terms of contents and legal certainty or even taxpayers' rights:

1. Taxpayers must prepare CbCR information without knowing how it can be used (e.g. also for criminal proceedings?): the general goal of prevention of transfer pricing risk assessment / BEPS says very little about the implications of the CbCR.

2. 'Risk assessment' techniques should be refined or defined or a common guidance should be given (maybe in connection with OECD / UN materials) to give orientation to taxpayers on what to expect and what to do.

d. *Taxpayers' rights:*

i. Should the right of taxpayers be recognized to know / oppose with which countries information can be exchanged or should be exchanged? For instance, does it make sense to send the CbCR including data on a line of business to countries where that line is not present? Should the taxpayer have the right to request for limited sharing of information in specific cases? In addition, if information is not shared with a country, the taxpayer should know about it.

ii. Should taxpayers be recognized the right to know / participate in the outcome of the risk assessment process? Should the taxpayers selected have the opportunity (right to a hearing) to clarify their tax position at this stage to prevent an audit and a potential conflict? Should risk assessments be shared with other tax administrations and should the taxpayer know about it?

iii. Apart from having a constitutional dimension in some countries, publication of CbCR at this stage may affect taxpayers' rights (especially if heterogeneous information is used for comparison across MNEs) and expose good faith taxpayers to moral rather than legal judgments that may affect their reputation / profit and loss accounts even if nothing illegal is done. Discrimination may also be relevant in this regard: if data from domestic groups / companies are not public, why should data from cross-border groups have a different treatment in terms of transparency?

iv. The secondary rule for 'surrogate' parents is specially problematic:

1. How can a subsidiary know whether there is effective exchange of information between the country of the parent and the country of the subsidiary?

2. How can the subsidiary have access to all information required when the rule applies?

3. How are conflicts between several States that apply the secondary rule prevented so that the CbCR only applies in one State and the group does not have the same obligation in different countries (even within the EU)? Even if the OECD Model Legislation has a rule for conflicts, which may not cover all the circumstances, the legislation of the States implementing the obligation may not have such a 'tie-breaker' rule.

v. Taxpayers should be recognized the right to present the CbCR in English even if English is not the official language of the country of the ultimate parent (who should in other cases bear the cost of translation if, for instance, a Spanish multinational presents the CbCR in Spanish in Spain? Tax administrations? Subsidiaries?).

3. Conflicts, CbCR and EU law

The new CbCR obligation is likely to fuel conflicts between taxpayers and tax administrations since, in view of the CbCR received and how consistent they are with tax returns, countries will decide to open transfer pricing audits. If domestic law is not compliant with EU law, new arguments can be added to those conflicts or new conflicts can arise. Providing solutions and best practices at a central level may, at the same time, reduce conflicts between taxpayers and tax administrations and conflicts with EU law.

4. Masterfile

Some of the reflections above may also apply to the 'masterfile', although this piece of the documentation package may have some specific nuances and features in terms of EU law.

Submission 6

Observations:

- It is appreciated that some concepts are at this stage agreed on whereas they may -when applied- mean different things to different people. This is a natural effect of introducing new "jargon". It is therefore somewhat unclear how the template is actually to be used as a transfer pricing risk assessment tool. Under the tight schedule it was imposed the OECD had little occasion to provide guidance as to how the data points should actually be used for that purpose. Even though for a trained tax practitioner/public servant it may be clear, the risk remains that the way it could be used is to make allocations consistent with formulary apportionment. See, e.g., China's new transfer pricing rules, which apparently say that "traditional transfer pricing methods that rely on comparables will no longer be acceptable" and that their new transfer pricing method called the “value creation method,” must take into account assets, costs, revenue and number of employees - which looks to us a lot like formulary apportionment. We sincerely hope such interpretation does not risk to serve as an (informal) precedent for other countries.

- An interesting feedback and probably food for thought and discussion is how to see the possible need for "clear definitions" against the benefit of "flexibility". We hear sometime about a perceived lack of clear definitions on the data items to be included in the CbCR. In particular, some businesses would appreciate having clear, precise definitions on each data item to be included. Some examples include a definition of revenues (all types of revenues, revenues except of "other" revenues, revenues in the context of an insurer), clear definition of personnel, are domestic related party revenues included, etc. On the other side of the spectrum are the respondents arguing that having less clarity on some of these items gives MNEs more flexibility (and may eg consequently limit the need for (ERP) systems changes and the like).

- Businesses are waiting for guidance on how confidentiality will be safeguarded. This is a concern for all countries but particularly for largely outbound jurisdictions. Needless to say, everyone appreciates the difficulties around this so once again, we believe these remarks were voiced in an open and respectful atmosphere vis-à-vis the ones that set the rules

- Businesses are also concern about the implementation of automatic exchange of information. It is still early days so it comes as no surprise that one wants to know how this is going to be implemented

- There is also an expectation to gain clarity on what happens if one fails to comply (i.e., in the absence of preparing/filing the CbCR)

- Probably a less "burning issue" but worthwhile mentioning is that balance sheet items would likely be more meaningful on an average beginning of year/end-of-year basis

- Another recurring theme was that aggregation as opposed to consolidation can render the information less reliable (and for the cynically enhanced even literally meaningless, creating fictional inconsistencies with MF and LF)

- Maybe the purpose/application of the 'deemed publicly listed equity point' (see article 1, first paragraph of the September OECD implementation package) deserves some additional clarity. It is potentially difficult for family or privately owned groups. It would be good to gain a good understanding on how tax payers and tax authorities could interpret this consistently

- Another observation is that passively owned funds structures that are treated as investments for statutory accounting purposes but consolidated into the group results under some GAAPs could meet the definition of constituent entity and be brought in

- There may be a timing issue with respect to MF/LF filings (latest recommendation is to file both of them with local tax authorities) - as suggested in para 30. "best practice is to require that the local file be finalised no later than the due date for the filing of the tax return for the fiscal year in question. The master file should be reviewed and, if necessary, updated by the tax return due date for the ultimate parent of the MNE Group." We can see several countries with local file due dates earlier than tax return due date of ultimate parent - what should be the protocol/rule in these situations? Two filing due dates? (I guess this would be a good one to bring to the table at the JTPF in an early stage of the discussion)

- Another issue with timing, but this time on CbCR. The OECD acknowledges (Executive Summary - page 10 on final report issues Oct 5) that some jurisdictions may need time to follow their particular domestic legislative process in order to make necessary adjustments to the law. In these cases, would it make sense to claim the secondary mechanism? when, in view of the OECD, it should apply on "limited circumstances"?

Submission 7

Contribution to the analysis of the "state of play" on the CbCR initiative

OECD members have adopted different schedules for the implementation of CbCR. As a result, some of them will introduce the obligation to file CbCR already for 2016, others most probably only for 2017 or even 2018. Subsidiaries of Groups headquartered in countries where the CbCR requirements will be introduced in the second or third wave should not be penalised in the first year(s) if the CbCR is not available from their ultimate parent.

The items to be covered by CbCR are not defined in details in the OECD Guidance. It can be then assumed that the company preparing the CbCR (typically Group's ultimate parent) will set the definitions of particular items (revenues, assets, headcount, etc.) based on its local GAAP. It should be ensured that this is acceptable also in the case the local GAAP of the subsidiaries set different definitions of particular line items.

We see some practical difficulties that may arise as regards classification of particular items to be included in the CbCR. As an example, there is a column „Tangible assets other than cash and cash equivalent" that should be reported, in this category cash should be excluded from tangible assets but in fact cash is not tangible asset. Tangible assets should be differentiated form intangible assets, however, intangible assets are included in the fixed assets in the profit and loss account.
Therefore, we would suggest make a transition of CbC categories to the IAS/IFRS definitions. It will be a great practical solution to ensure coherent CbC reporting.

We would like also to like to work out when table 3 of the CbCR should be submitted.
In table 3, further brief information or explanation shall be included that is necessary or that would facilitate the understanding of the compulsory information provided in the country-by-country report. We would like to know the expectations of the tax authorities with this regard.

We endorse the solution that the CbCR will be shared among relevant tax administrations under the information exchange mechanism, maintaining the commercially sensitive information subject to confidentiality usual for such mechanism.

Submission 8

Even though it will not be required by the local tax authorities till 2017, our testing was made with 2014 data. The main handicaps identified so far have been as follows:

- Definition of the information required: headlines and explanations provided by the OECD prove insufficient to determine which data should be reported. Many questions arise in order to decide what accounts to include, how to get consistency among data, etc.
- Practical issues in order to extract data from SAP; information cannot be obtained straight forward and many internal resources would need to be devoted in order to properly present the required data.
- We are still working on it, but we are afraid that the final result of this exercise may not show the reality of the taxes effectively paid by the Group.

Submission 9

CbCR raises numerous concerns amongst taxpayers and practitioners. The concern I hear most frequently is the fear that the purpose of the CbCR is distorted so as to allow abusive reassessment based on back of the envelope apportionment calculation by field auditors that has no resemblance to the arm's length dealings. In order to mitigate this risk, we would suggest that:

1. Internal guidelines or administrative circulars are enacted to precise to specify the use of CbCR forms in the context of tax audits. In particular, the guidelines should be specific in stating that the CbCR may not be used on a standalone basis to perform transfer pricing adjustment. This would ensure consistency with §25 of the OECD / G20 Final Action 13 Deliverable on TP Documentation and CbCR which states:

   The information in the Country-by-Country Report should not be used as a substitute for a detailed transfer pricing analysis of individual transactions and prices based on a full functional analysis and a full comparability analysis. The information in the Country-by- Country Report on its own does not constitute conclusive evidence that transfer prices are or are not appropriate. It should not be used by tax administrations to propose transfer pricing adjustments based on a global formulary apportionment of income.

2. Produce guidelines or circular that specify how Confidentiality and Data protection will be treated in the context CbCR.

Submission 10

As outlined in the executive summary of the BEPS Action 13, the country by country report should pursue the aim of enhancing transparency for tax administration taking into consideration the compliance costs for businesses. Such target is so far unclear, taking into account the current content of Action 13. In order to avoid to jeopardize the efforts of taxpayers, further work should be done. Indeed, my main concerns are: (a) on one hand, the transparency has not been enhanced due to the absence of some key information that could be of paramount importance in understanding the real risk profile of the tax policy implemented by a group (e.g., information on business restructurings), and (b) on the other hand, it may become a burdensome fulfilment taking also into account the existence of some grey area that may lead to very expensive exercise (e.g., reporting all the turnovers and profits under either statutory accounts or group financial accounts).

1. **<u>Enhancement of transparency</u>**

Transparency, a part from being a milestone of the BEPS project it is also an issue that has recently drawn political attention at the European level in the context of some well-known State Aid investigations procedure on some member states' tax rulings practice. What it is crucial for the purpose of levelling the play field of international taxation and for enhancing transparency is the active cooperation between member states.

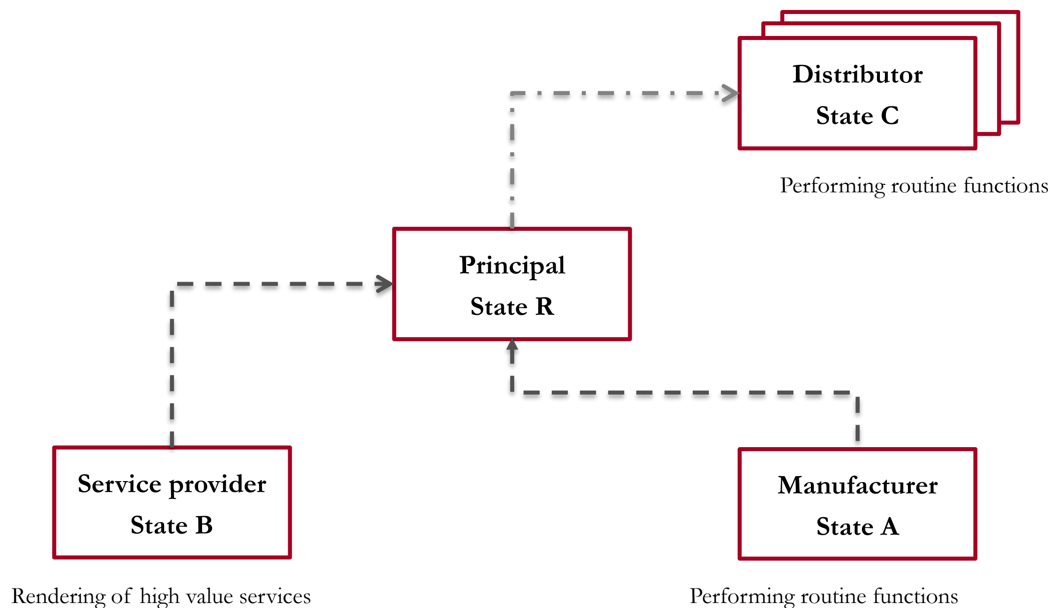
In this respect, the first step has been already undertaken by amending the directive 2011/16/EU on administrative cooperation in the field of taxation (the "**Directive**"), however, what it is of paramount importance is don't losing the focus on the main scope of the BEPS project: avoiding the shift of profit to low tax countries and restoring the balance of taxation between residence and source countries. This means that member states should: (i) actively cooperate each other in order to tackle BEPS issues, and (ii) avoid to take unilateral action merely focused on savings their tax basis. Therefore, the first way to achieve transparency is the collaboration between tax authorities. This will enhance transparency by sharing a unique source of information on multinational enterprises.

It seems, however, from the country by country report that to some extent there is the intention to shift entirely on the MNEs the burden to gather and provide information to tax authorities even in those cases where between them there is already in place a transparent and consolidate exchange of information agreement. Therefore, the first immediate consequence of the country by country report is to increase tax compliance for multinational enterprises which is not its objective.

Multinational enterprises should grant the maximum transparency by: (a) entering into advance pricing agreements, (b) participating to cooperative compliance regimes, and (c) making available all the relevant and key information to tax authorities. The last point should be pursued through the country by country report, but the current version proposed by the OECD in the BEPS Action 13 seems not to be enough suitable to enhance transparency.

Indeed, the function of the country by country report should be to allow tax administrations around the world to understand firstly how a group is structured and secondly where profits are generated among the value chain of MNEs and where they are ultimately allocated and taxed. However, the information currently requested in the country by country report are not enough to achieve these scopes.

The following case shows how the country by country report should work in order to enhance transparency.



Tax authorities of State A, in assessing the transfer pricing policy for the sale of finished goods between the Manufacturer and the Principal, is generally not in the position of understanding how other interrelated transactions impact on the functional profile of the Principal and therefore on conditions set in the transfer pricing policy. In particular, in this case all the significant people functions of the business carried out by the Principal are employed in the Service provider of State B and charged with a low mark-up to the Principal. This means that the main strategic functions and the core risks are performed/controlled by the Service provider, but ultimately attributed to the Principal. The outcome of this transfer pricing policy is that substantial part of income is allocated to the Principal. Does this outcome reflect the real substance of the case? How may the relevant tax authorities be put in the position of assessing this scenario?

In this respect, in order to understand whether the overall transfer pricing policy implemented in the example depicted above is arm's length it is necessary to understand: (a) the overall structure of the business, (b) the functions performed by all the relevant parties involved in the value chain, (c) where the key decisions are made, and (d) how the profit is allocated among the value chain. The current standard of country by country report does not request such set of information and therefore it is still not suitable enough to enhance transparency. In particular:

(i) although the role of each entity is requested, the interactions among the different entities of the value chain are not provided. Therefore, we will know that an entity is acting as service provider but we do not know who is/are the service recipient/s. In the example depicted above, we would not be in the position of understanding that the company in country B is performing services on behalf of the Principal;

(ii) it is not requested any information on the effective activity performed locally by each entity. This means that to each entity are attributed also the functions deriving from the services rendered by entities established in other countries. In the example above, the services rendered by the Service provider in Country B are part of functions attributed to the Principal, although are not performed in the country where the latter is established;

(iii) the number of employees is not enough to understand whether significant people functions are locally employed. Indeed, since 2008 the OECD is stressing the importance of the significant people functions in value added creation in the light of their performance of strategic functions leading to the control of key risks. However, the

country by country report does not request the information pertaining where the directors/top managers of the group are employed;

(iv) finally, how the overall value chain profit is allocated among the relevant parties involved is a key aspect to understand. For this reason, it would be reasonable: (a) to provide also the EBIT result, and (b) to include economic data based on the group financial accounts, which is the only way to have data on common basis.

The table below shows an example of which should be the relevant information to be provided in the country by country report for the case depicted above (and not requested so far).

	Role in the Value Chain	Client/Recipient	Provider	Directors/Top Manager		Functions performed locally	EBIT	
				Number	Weight on Group		Local	Weight on Group
COMPANY A	Manufacturer	Company R	N/A	2	10,53%	Manufacturing, Quality and Assurance	8	8,00%
COMPANY B	Service Provider	Company R	N/A	14	73,68%	Strategic Marketing, Supply Chain	2	2,00%
COMPANY C	Distributor	Third parties	Company R	2	10,53%	Logistics, Trade Marketing	10	10,00%
COMPANY R	**Principal**	**Company C**	**Company B**	**1**	**5,26%**	**Administrative, Tresury, Customer Service**	**80**	**80,00%**

On the basis of such information, the overall analysis of the value chain could lead to a re-characterization of the transactions with the Principal or to consider the application of the profit split among all the entities involved in the value chain. This would certainly lead to a different allocation of the EBIT.

Further information relevant to enhance transparency are the following:

(i) Emphasis should be put on **business restructuring transactions**. Indeed, in the last decade, many tax planning schemes started from business restructuring such as centralization of either strategic functions or intellectual properties. Although this information should be already contained in the Masterfile, I would strongly suggest inserting in the country by country report specific information on: (a) involvement in business restructuring, (b) changes to functional profiles, and (c) payment/receipt of indemnifications/buyouts.

(ii) Share information on **local tax assessment** carried out on related parties could enhance transparency between tax authorities. Indeed, this is one of the standard questions posed during advanced pricing agreements procedures.

(iii) Share information on **local rulings (or application of favourable regimes)** as suggest by Action 5 Harmful Tax Practice should be welcome for the enhancement of transparency. Nonetheless, it should be considered that in light of the amendment of the Directive, which will require member states to exchange information automatically on advance cross-border tax rulings, as well as advance pricing arrangements, the requirement of filling the country by country should be limited to those enterprises located in particular jurisdictions (see Reducing of compliance costs section).

(iv) Furthermore, also the list of the board members (with their tax residence) of each entity should enhance transparency.

(v) Finally, instead of providing information regarding the amount of taxes paid or accrued, what should be inserted in the report is the **effective tax rate** for each jurisdiction.

2. Reduction of compliance costs

The country by country report is a part of a three-tiered approach where other documents (Masterfile and Country file) already provide a lot of information. In this respect, some exceptions should be provided in order to avoid some useless activities where there is the risk that Tax Authorities may receive information which may have been already provided or made available by the taxpayer to one of the jurisdiction involved. In particular:

(i) Where **advanced pricing agreements are in place** in a certain jurisdiction, all the relevant local information may be easily be taken from the local Tax Authorities. In this case, the country by country report should provide, for those jurisdictions, less information by leaving to the exchange of information between Tax Authorities any further action to be taken.

(ii) Another case where less information should be provided is when the tax jurisdiction where the group is established is a **white list country**. Indeed, in that case the risks are lower than in case of establishment in a black list country in particular taking into account that the local Tax Authorities may exchange information if requested. In this case, it would be acceptable to provide only information on the activities performed locally and existence of local rulings/advanced pricing agreements.

(iii) Finally, also the participation of local entities into a **cooperative compliance program** should grant an adequate level of transparency, without posing on the taxpayer further requirements. In this case, the transparency should be granted by the application of the Directive among members states without shifting any further burden on taxpayers. .

3. Accounting standards

This is a common issue faced by several multinational enterprises dealing with transfer pricing. Indeed, intragroup transactions are generally based on group financial standards, which is the only way to put economic information on common basis. Furthermore, group financial accounts are generally audited by third parties. On the other hands, statutory accounts are viewed as a mere local fulfilment not monitored at central level. In this respect, for the purposes of the country by country report, information should be reported on the basis of group financial accounting only in order to grant **consistency among countries** and **the third parties audit**. Specific issues may arise in case of captive company, due to the fact that, generally, for group financial accounts purpose only third party turnover is reported. This means that a captive contract manufacturer/service provider may not report any turnover. Additionally, further indication of the impact of the domestic's accounting and tax consolidation regimes should be provided.