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**EU JOINT TRANSFER PRICING FORUM**

**MS' ANSWERS ON THE IMPLEMENTATION OF THE CODE  
OF CONDUCT ON EU TRANSFER PRICING  
DOCUMENTATION (EUTPD)**

**Meeting of 8th June 2010**

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## **Summary table on MS' answers on the questionnaire related to the implementation of the Code of Conduct on EU transfer pricing documentation (EUTPD)**

The revised version includes the Greek and Portuguese contributions and a technical amendment from Estonia.

### **Letter sent to all Member States:**

The main purpose of the questions is to establish how the EUTPD was implemented by the Member States (MS) and to establish the extent to which the EU TPD has been taken up by Multinational Enterprises (MNEs) and what value the adoption of an EU TPD approach is adding to an efficient application of transfer pricing rules to in turn assist the smoother functioning of an internal market balanced with the desire to minimise compliance costs.

The questionnaire also addresses some more specific points contained within the Code and concludes with an invitation for any other comments.

Finally, when responding to the questionnaire please bear in mind that the application of the EUTPD was agreed to apply equally to documentation requirements for the attribution of profits to permanent establishments.

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Q1. A What administrative or legal action, was taken to implement the EUTPD Code of Conduct?

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

Q1. C Did your tax administration use "publicity" or other incentives to promote the use of the EUTPD ?

Q2. Do you have systems in place to assess the extent to which the EUTPD option has been adopted by MNEs? 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? (*Member States may find it useful to refer to any notifications received by MNEs under paragraph 12 of the Code in responding to this question*)

Q3. Depending on your assessment of the level of take-up:

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

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

Q4. Based on your national overview to what extent do you consider 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?

Q5. If you feel the Code has not significantly contributed to a better standard of documentation in terms of achieving i) quality of content ii) standardisation between Member States iii) the initial assessment of an MNEs group's transfer prices policy please explain the key factors that in your view still prevent the Code from working efficiently.

Q6. The Code addressed some issues directly relevant to MS.

6A) *Paragraph 5: 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.*

How have you sought to differentiate between the documentation requirements of SMEs and MNEs?

6B) *Paragraph 6 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.*

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

6C) *Paragraph 7. 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.*

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

6D)

*Paragraph 18 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.*

Have you had to ask for supplementary information: rarely, occasionally routinely? What would you say were the main reasons for supplementary information request for example failure omissions from content template or as clarification of information submitted?

6E) Do you wish to make any other comments on General application Rules and requirements contained in Section 2, 3 and 4 of the code?

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?

Q8. What feed back, if any, both positive and negative have you received from MNEs about the introduction of EUTPD?

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**Answers to question 1A:**

**What administrative or legal action, was taken to implement the EUTPD Code of Conduct?**

<b>Member State</b>	<b>Question 1A</b>
Austria	Austria is currently working on Austrian Transfer Pricing Guidelines. Therein, the question of Transfer Pricing Documentation will be dealt with as well. A separate reference to the EU TPD is included.
Belgium	The EU TPD was introduced by Administrative Circular No. Ci.RH.4211580.456 (AOIF 40/2006) of 14 November 2006 (Dutch and French versions attached in annex). Preference was given to an administrative procedure that reflected the optional nature of the EU TPD. The business sector (Verbond van Belgische Ondernemingen/Federation of Enterprises in Belgium) was closely involved in the administrative introduction of the EU TPD.
Bulgaria	Bulgaria takes the view regarding this question that no legislative measure is necessary at the moment for applying the Code of Conduct on transfer pricing documentation for associated enterprises in the European Union. In this case the best thing would be to adopt a more flexible approach, and the necessary clarity in the relations between the Bulgarian Revenue Administration and business in respect of the requirements for documentation regarding transactions between associated entities should be ensured by issuing the bodies of the Bulgarian Revenue Administration with instructions whose contents should also be disclosed to the taxable entities concerned. These instructions will be based on the Code of Conduct on EU transfer pricing documentation and on Heading V "Documentation" of the 1995 OECD Transfer Pricing Guidelines for Multinational Enterprises and Tax Administrations. This decision was taken on the basis of the work of the Bulgarian Revenue Administration's Advisory Board, acting on a proposal by the representatives of Bulgarian business. It should be noted that multinational companies are currently not hindered in applying the rules of the Code on EU transfer pricing documentation directly, since the national tax legislation does not restrict or place explicit requirements on the form and contents of the transfer pricing documentation.
Cyprus	The issue is currently being addressed
Czech Republic	The Ministry of Finance of the Czech Republic (MF ČR) issued methodological guideline No D-293 (applicable since 1 January 2006) governing the scope of documentation on pricing between associated enterprises, which is fully based on the Code. The D-series methodological guidelines are binding on the tax administration and constitute recommendations for taxpayers. This type of methodological guidance is traditionally well-accepted by enterprises as it facilitates communication with the tax administration.

Denmark	The Code of Conduct was implemented in Denmark through a Statutory Order no. 42 of 24 January 2006 issued by the Tax and Customs Administration.
Estonia	<p>The EU TPD Code of Conduct was used as a basis for establishing the documentation requirements for transactions between associated persons laid down by Regulation No 53 of the Minister for Finance of 10 November 2006.</p> <p>Documents submitted to the tax authorities should thereby be divided up as follows:</p> <ol style="list-style-type: none"> <li>1) documents concerning the MNE group (this is the “master file”);</li> <li>2) information on legal persons resident in Estonia and non-residents operating out of a permanent place of business in Estonia and on their transactions (this is the “country-specific documentation”).</li> </ol>
Finland	The EUTPD should not be viewed as a binding legal instrument for member states to follow, because this would be against the national sovereignty principle that governs direct taxation. Nevertheless, Finland has taken account of the recommendations included in EUTPD in our national legislation and regulations
France	<p>By letter of 23 October 2008 the Commission asked France to report on any measures it had taken further to the Code of Conduct on transfer pricing documentation for associated enterprises in the EU and on the practical functioning of this Code.</p> <p>This request calls for the following response:</p> <p>The Code of Conduct aims at harmonising the documentation requirements imposed on enterprises with regard to their transactions with associated enterprises within the EU. It is only applied when national rules impose such requirements.</p> <p>France has no legislation laying down a general obligation to document transfer pricing between associated enterprises. Although Article L 13 B of the French Tax Procedure Code (Livre des Procédures Fiscales) does indeed call for the presentation of transfer pricing documentation for the purposes of tax audit, this obligation is subject to the administration first demonstrating that there appears to be a transfer of profits. In this case the documents required by the law are more targeted than those provided for by the Code of Conduct.</p> <p>In practice, the majority of large enterprises operating in France provide documentation which broadly meets EU TPD standards. However, the marked reluctance on the part of the latter in discussions undertaken with a view to the systematisation of document requirements in line with EU TPD standards appears to demonstrate the absence of a consensus on the procedures of the Code of Conduct should they become binding.</p>
Germany	Germany has introduced national transfer pricing documentation obligations in Article 90(3) and Article 162(3) and (4) of the Tax Code (AO), the GAufzV (Transfer Pricing Documentation Regulation) and the BMF Circular of 12 April 2005 (administrative principles). These rules apply to financial

	<p>years after 31 December 2002. The national documentation obligations are based on the EU's work on the Code of Conduct for transfer pricing documentation and are, in our view, in line with the Code of Conduct. Consequently Germany does not consider that any special transpositional measures are necessary</p>
Greece	<p>Recently the Greek Tax Authority introduced Transfer Pricing Documentation Rules for intra-group transactions. Under the provisions of articles 1 and 2 of the adopted no.3375/2009(Governmental Gazette A' 122/21-7-2009) our internal legislation is harmonized with those defined in the Code of Conduct on transfer pricing documentation for associated enterprises in the European Union (EUTPD) and follows the OECD Transfer Pricing Guidelines for Multinational Enterprises and Tax Administrations.</p> <p>According to its provisions the above-mentioned law, will entry in force on and after 1-1-2011. Ministerial degrees or circulars are being elaborating for the properly implementation, and practical functioning of these law provisions.</p> <p>Unfortunately, the procedure is still in progress, therefore not many details can be given. But we would like to provide you with some general information.</p> <p>The adopted law no.3375/2009, is modifying the Income Tax Code, by amending the existing article 39 and adding article 39A.</p> <p>Until now, this article 39 of the Income Tax Code was dealing only with the treatment of “underpricing and overpricing of transactions”, without mentioning the OECD Transfer Pricing Guidelines for Multinational Enterprises and Tax Administrations.</p> <p>Instead, the amended article 39 makes this reference to the Guidelines, and also introduces <b>the obligation</b> for transfer pricing documentation, as defined in the new article 39A.</p> <p>The article 39A, under the title “Transfer Pricing Documentation for Cross Border Transactions”, foresees that a domestic enterprise that is associated to a foreign enterprise and member of a multinational group <b>can choose</b> either the <b>general obligation for documentation</b> or <b>to keep the “documentation file”</b>, in order to fulfill its obligation for documentation of transfer pricing.</p> <p><b>General obligation for documentation</b> means to provide data and information for the documentation of the prices of its intragroup transactions, according to those defined in article 9 of the OECD Model Tax Convention, the corresponding articles for associated enterprises of the Double Taxation</p>

	<p>Conventions that Greece has concluded and the OECD Transfer Pricing Guidelines.</p> <p>The “<b>documentation file</b>” follows those referred in the Code of Conduct on transfer pricing documentation for associated enterprises in the European Union (EU TPD) and consists of :</p> <ol style="list-style-type: none"> <li>a. The "<b>masterfile</b>" of documentation which is common for all the group companies and contains common standardised information for all the affiliated companies and branches of the group.</li> <li>b. The “<b>Greek file of documentation</b>”, which would supplement the "<b>masterfile</b>" and contains additional information, with regard to the Greek enterprises of the group.</li> </ol> <p>Also, the new Article 39A foresees that:</p> <ul style="list-style-type: none"> <li>• The transfer pricing documentation obligation will be applied proportionally and to permanent establishments that maintain in Greece foreign enterprises members of multinational groups or that Greek enterprises members of multinational groups maintain abroad.</li> <li>• Medium and Small enterprises shall keep simpler and limited documentation.</li> <li>• obligation of updating the documentation data, so that they always correspond to the current prevailing prices between the obliged enterprises</li> <li>• obligation to uphold and maintain the confidentiality of the documentation data</li> </ul>
Hungary	Hungary has special national transfer pricing rules as of 2003, so the answer to Q1 is yes. We have just finished the amendment of the decree on transfer pricing documentation. The new rules are in line with the EUTPD and will enter into force on 1 January, 2010. (Application of the EUTPD will be optional.)
Italy	Response awaited.
Ireland	Ireland does not have in its domestic legislation any specific requirements relating to transfer pricing documentation. We advise companies that ask us to consider using the EUTPD and we have included a link to the EUTPD on our website.

Latvia	<p>In reply to the first question on the measures taken by Latvia to implement Code of Conduct, we would like to note that general rules of " Law on Taxes and fees " and "Law on Enterprise Income Tax" are applied for documentation of transactions between associated enterprises and Latvian tax laws currently do not provide for particular rules on transfer pricing documentation.</p> <p>According to general tax rules enterprises that are involved in transactions between associated enterprises (persons), are obliged to file the second annex of the corporate income tax declaration to tax administration. In addition, enterprises are obliged to collect and keep documents that justify their proceeds and expenses related to their economic and financial activity and shall prove the correctness of tax calculation and payment by providing tax administration with the requested documents.</p> <p>In order to facilitate application of the Code of conduct, the State Revenue Service has issued recommendation on documentation that may be provided by taxpayers to prove that the transactions between associated enterprises are concluded at a price which is set at arm's length. The recommendation on transfer pricing documentation generally follows the first section of the annex to the Code of Conduct and it is available in Latvian on the following web page:  <a href="http://www.vid.gov.lv/default.aspx?tabid=8&amp;id=3033&amp;hl=1&amp;mod=33">http://www.vid.gov.lv/default.aspx?tabid=8&amp;id=3033&amp;hl=1&amp;mod=33</a></p> <p>Furthermore, in order to draw public awareness of the code of conduct, the representatives of the State Revenue Service have taken part in several seminars on transfer pricing, including on transfer pricing documentation.</p> <p>Taking into account that particular requirements on transfer pricing documentation have not been introduced in Latvian laws and practical experience of the application of the Code of conduct is minimal, at present we cannot provide for answers to questions 2 to 8. Finally, we would like to note that in addition to general provisions on documentation of transactions for tax purposes, it is planned to implement in our laws special rules on transfer pricing documentation.</p>
Lithuania	A limited response has been provided to complete summary and a full response is awaited.



Luxembourg	<p>With reference to your letter concerning the report on the implementation of the Code of Conduct on transfer pricing documentation for associated enterprises in the European Union, I am pleased to inform you that, following the work of the Joint Transfer Pricing Forum, the direct taxation authorities have made a point of disclosing the following documents:</p> <ul style="list-style-type: none"> <li>- the Code of Conduct for the effective implementation of the Arbitration Convention;</li> <li>- the Code of Conduct on transfer pricing documentation for associated enterprises in the European Union.</li> </ul> <p>These documents have been made available to the administrative departments directly concerned with this matter.</p> <p>It should be pointed out that, in general, Luxembourg tax legislation has proceeded for a long time on the principle that direct or indirect relations between shareholders/members and their companies, as well as relations between undertakings in one and the same group, must be treated from a taxation point of view as relations between independent third parties.</p> <p>Moreover, Luxembourg applies the principles of the OECD where transfer pricing for multinational enterprises and tax authorities are concerned</p>
Malta	<p>Given that Malta has no specific national rules relating to the documentation of price transfers (see reply to M2B) no administrative or legal action was necessary with regards to the implementation of the Code of Conduct of the EU TPD. At this stage, and as long as matters remain unchanged, the political commitment Malta has undertaken in the European Council, with regards to the Code of Conduct, is deemed sufficient. If, in the future, Malta decides to introduce these specific type of Regulations, all the necessary administrative and legal actions will be taken to ensure that the Codes are implemented.</p>
Netherlands	<p>It's implemented through administrative practices.</p>
Poland	<p>On 1 January 2007 provisions entered into force making the general rules on TPD applicable to taxpayers engaged in business activities in Poland by way of a fixed establishment.</p>
Portugal	<p>To date, EU TPD was not adopted by law or administrative regulations.</p>
Romania	<p>The content of the transfer pricing file was approved by Order no. 222/2008 of the President of the National Agency of Fiscal Administration (NAFA). Order no. 222/2008 is supplemented by EU Code of conduct on transfer pricing documentation provisions, as published in the Official Journal no. C176/1 from July 2006.</p>
Slovak Republic	<p>The Act No. 595/2003 Coll. on income tax as amended in its Section 18, paragraph 1 sets the requirement to keep transfer pricing documentation as of 1 January 2009. The content of the documentation requirements determines the Ministry of Finance by its Guideline No. 5 published in Financial Bulletin No. 1/2009. Under the Guideline, a Slovak company's obligatory TP documentation should include information how the prices applied in transactions with foreign related parties have been set, and justifies their arm's length nature. The basic TP documents under the Guideline are based on the principles of the EU TPD Code of Conduct and should include general</p>

	TP documentation (masterfile) and specific TP documentation (local file).
Slovenia	The Code of Conduct on transfer pricing documentation for associated enterprises in the European Union (EU TPD) ("the Code") was implemented by the <i>Zakon o davčnem postopku</i> (Tax Procedure Act, Official Gazette of the Republic of Slovenia No 117/06, "ZDavP-2").
Spain	<p>Act 36/2006 of 29 November 2006 on measures for the prevention of tax fraud (published in the Spanish Official State Gazette, <i>BOE</i>, of 30 November 2006), in effect for tax periods that begin as from 1 December 2006, has established a new wording for article 16 of the revised text of the Corporate Income Tax Act (texto refundido de la Ley del Impuesto sobre Sociedades), approved by Legislative Royal Decree 4/2004 of 5 March 2004 (<i>BOE</i> of 11 March 2004), hereinafter TRLIS. The new wording has allowed Spanish legislation on transfer pricing to be adapted to the international context, in particular, to the OECD guidelines on the matter and the European Forum on transfer pricing. The new version should be interpreted by the light of the said guidelines. This has permitted the actions of the Spanish tax authorities to be made consistent with those of our partner countries, and made review functions more secure by laying down the obligation to document the determination of the market value that has been agreed in the related-party transactions to which the taxpayer is party, in accordance with the provisions of the EU TPD Code of Conduct.</p> <p>The aforementioned act, in turn, has been implemented in the regulations laid down in Royal Decree 1793/2008 of 3 November 2008, amending the Corporate Income Tax Regulation (Reglamento del Impuesto sobre Sociedades, hereinafter RIS), approved by Royal Decree 1777/2004 of 30 July 2004 (<i>BOE</i> of 6 August 2004), detailing the document that must be made available to the tax administration for such purpose. The specific documentation obligations are governed by the principle of reducing the cost of compliance, while at the same time ensuring that the tax administration can exercise its review powers in this matter, especially for operations that may be detrimental to public finances.</p> <p>Pursuant to the third transitional provision of Royal Decree 13/2008 and, in accordance with the seventh additional provision of Act 36/2006, the documentation obligations will apply as from three months following the effective date of that Royal Decree, that is, as from 19 February 2009.</p>
Sweden	Provisions on documentation requirements have been introduced into Swedish legislation, in Chapter 19 Sections 2a–2 b of the Tax Return and Statements of Income Act (2001:1227). The Swedish Tax Agency has issued regulations, SKVFS 2007:1, explaining the documentation requirements in more detail. These guidelines are binding on enterprises. The Tax Agency has also issued a communication, SKV M 2007:25, with further information on documentation requirements. The body of regulation is not simply an implementation of the Code of Conduct, see question 1 B

<p>United Kingdom</p>	<p>On 20 June 2007 UK requested the views of business on the implementation of EU TPD in the public consultation documentation entitled “<i>HMRC approach to transfer pricing for large business.</i>” (A copy of the document is available at <a href="http://www.hmrc.gov.uk">www.hmrc.gov.uk</a>). The question posed was,</p> <p><i>“Comments are invited on the extent to which companies find “EU Transfer Pricing Documentation” helpful, how far they currently use it or might plan to use it, and whether it imposes any compliance costs in excess of what they would have to incur in any event.”</i></p> <p>The response of business was published in the public document, “<i>Making a difference: clarity and certainty</i>” in October 2007 (available at <a href="http://www.hmrc.gov.uk">www.hmrc.gov.uk</a>). Some respondents said that it had theoretical attractions but most said that in its current form it had little practical use. Only one business said that it prepared information in the form set out in EU TPD. The UK decided that the implementation of the Code of Conduct was not its highest priority due to the lack of support from business</p>
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## Answers to question 1B:

**Do you have specific national transfer pricing documentation rules? Do you consider your national practice in line with the EU TPD?**

Member State	Question 1B
Austria	<p>The documentation requirements for international transfer pricing are based on a very general provision in the Federal Tax Proceedings Code according to which the taxpayer is required to document the correctness of his calculation of the taxable profits (sec. 131 para. 1 no.5). Furthermore the taxpayer is obliged to cooperate with the tax administration wherever doubts arise with regard to the computation of the taxpayer's income (Sec 138). Under court rulings this provision must not be used in an excessive manner and only reasonable documentation has to be supplied. In that regard these legal provisions are interpreted on the basis of the OECD-Transfer Pricing Guidelines. Especially the documentation requirements as laid down in chapter V and VIII of the guidelines are considered to be within the boundaries of "reasonable documentation" because what is reasonable for all the other OECD-countries must also be reasonable for Austria.</p>
Belgium	<p>Belgium does not have any specific legislation on transfer pricing documentation. The documentation requirements are set out in Article 315 of the 1992 Income Tax Code (WIB 92), which states that<sup>1</sup> :</p> <p style="padding-left: 40px;">Persons who are liable to pay personal income tax, corporate tax, tax on legal persons or non-residents' tax must present to the administration for the purposes of inspection, at its request, without movement, all books and records necessary for determining the amount of their taxable income.</p> <p style="padding-left: 40px;">The obligation to present accounts:</p> <p style="padding-left: 40px;">1° covers, in the case of residents of the Kingdom, the books and records relating to the accounts referred to in the second paragraph of Article 307(1);</p> <p style="padding-left: 40px;">2° extends, in the case of companies, to the registers of shares and registered bonds, as well as the attendance lists of general meetings.</p> <p style="padding-left: 40px;">Unless they have been seized by the court, or are the subject of a derogation granted by the administration, the books and records on the basis of which the amount of taxable income can be determined must be kept at the disposal of the administration in the office, agency, branch or any other business or private premises of the taxable person where the books and records have been held, drawn up or forwarded, until the end of the fifth year or financial year following the taxable period.</p> <p>The provisions of Belgian tax legislation concerning documentation permit the implementation of the EU TPD in full.</p>

<sup>1</sup> Undertakings that make use of a computerised system are of course also required to provide access. This obligation extends to the analyses and programmes and the system used -- Article 315bis, WIB 92.

Bulgaria	As already mentioned, there are no detailed national rules regarding the requirements for transfer pricing documentation. Taxable entities have to draw up transfer pricing documentation on the basis of Article 116(2) of the Tax-Insurance Code of Procedure. The above-mentioned provision is general and stipulates that when the taxpayer concludes transactions with associated entities, he/she is obliged to show that the prices in these transactions are consistent with the market prices, as well as the reasons for any deviations from market prices. Thus, when this provision is applied, it is implicitly required that the documentation drawn up should follow the structure and content of some of the transfer pricing methods, and should ensure that the information needed for this purpose is provided.
Cyprus	No
Czech Republic	Under national law, where the prices agreed by associated enterprises differ from the prices that would have been agreed by independent entities in normal business relations under the same or equivalent conditions, the taxpayer has to provide evidence for the difference. The taxpayer must substantiate any information which he is obliged to indicate in a tax return, declaration or statement or any information for which he has been invited to produce evidence by the tax administrator in the course of the tax proceedings. However, the scope and/or content of such evidence to be provided by the taxpayer is not laid down by law; it is only recommended in the above guideline No D-293. Our national practice is thus in line with the EU TPD.
Denmark	Yes, we do have specific national transfer pricing documentation rules. It is already possible to draw up the transfer pricing documentation in accordance with the EUTPD.
Estonia	Yes, Estonia's specific national transfer pricing documentation rules are in line with the EU TPD.
Finland	Pursuant to § 14, Act on Assessment Procedure, TP documentation requirement concerns dealings of Finnish enterprises with a foreign counterpart. Using EUTPD is sufficient to meet the transfer pricing documentation requirements in Finland, because the overall scope of the Finnish requirements is smaller than that of the standardized country-specific documentation
France	
Germany	See answer to Q 1. A
Greece	See Q1 A
Hungary	Our experience shows that multinational enterprises operating in Hungary are aware of the provisions of the Code of Conduct; however, these undertakings mainly apply the provisions of the Decree when preparing their transfer pricing documentation.
Italy	
Ireland	See answer to Q1.A.
Latvia	
Lithuania	
Luxembourg	

Malta	Malta has no specific national rules relating to the documentation of price transfers
Netherlands	Yes, we do have specific national transfer pricing documentation rules (Article 8b, paragraph 3 of the Corporate Income Tax Act 1969). Yes, we consider the national practice in line with the EUTPD.
Poland	Rules on TPD have applied in Poland since 1 January 2001. They are less strict than the rules set out in the Code.
Portugal	The domestic rules on TP documentation are quite detailed about the content and nature of information to be provided but doesn't impose any specific format or form of organisation. In this way, we consider that the domestic rules on TP documentation have enough flexibility in order to easily accommodate the EU TPD
Romania	We do have specific national transfer pricing documentation rules in accordance with the EUTPD. See answer Q1A.
Slovak Republic	Prior to the publication of the Guideline on TP documentation (see answer to the Q 1A) the Slovak Republic had not had in place any legislation on documentation requirements in the field of transfer pricing. In the Slovak Republic the TP rules are applied only to the foreign related companies/parties and not to the domestic related parties, so we can say that our practice is in line with the EU TPD.
Slovenia	The Code was implemented by Article 382 ZDavP-2, which lays down that taxable persons must provide documentation on associated entities, on the extent and type of business conducted with them and on the setting of comparable market prices. Taxable persons must provide both general documentation (masterfile) and country-specific documentation. The above-mentioned Article of ZDavP-2 also specifies what kind of documentation taxable persons must submit as the masterfile and as country-specific documentation. We consider that Slovenia's legislation and practice on transfer pricing documentation is substantially in line with the Code.
Spain	Article 18 of the Corporate Income Tax Regulation (RIS), as amended by the above-cited Royal Decree 1793/2008, lays down the fundamental principles that must inspire documentation obligations for related-party transactions. In particular, pursuant to the principle of reducing compliance costs, the said article waives the documentation obligation for undertakings that belong to the same tax consolidation group, in relation to the inter-company transactions carried out within the group, as well as for economic interest groupings, in relation to transactions with their members, given the special characteristics of the respective tax rules applicable to those structures. Nor will the documentation obligation apply to related-party transactions carried out in connection with public offerings for the purchase or sale of shares.  In particular, the documentation relating to the group (masterfile) that must be prepared by the related undertakings and made available to the tax administration, in relation to the related-party transactions they carry out during the tax period with any other member of the group, is described in article 19 of the RIS, the new wording for which is in full compliance with in

	<p>the provisions of Section 1.4 of the Annex to the EU TPD Code of Conduct.</p> <p>Similarly, Article 20 of the RIS, as amended, regulates the specific documentation in respect of the taxable person who has carried out the related-party transaction, and is in full compliance with in the provisions of Section 1.5 of the Annex to the EU TPD Code of Conduct.</p> <p>Consequently, we understand that this new regulation is in full compliance with the provisions of the EU TPD.</p>
Sweden	<p>The legislation contains general requirements for documentation, and does not only focus on implementation of the Code of Conduct. The national provisions are assessed as being in line with the Code of Conduct, but the Tax Agency has expressly stated in its regulations and in the communication that documentation drawn up in accordance with the Code of Conduct complies with Swedish documentation rules.</p>
United Kingdom	<p>The UK does not have any specific national transfer pricing documentation rules set out in its legislation. Guidance on documentation requirements is available to business in the International Manual, which is published on the web at: <a href="http://www.hmrc.gov.uk/manuals/intmanual/index.htm">http://www.hmrc.gov.uk/manuals/intmanual/index.htm</a>.</p> <p>INTM433010, 433020 and, in particular, 433030 set out general principles to be followed. The UK transfer pricing legislation requires that the rules are construed in a manner that secures consistency with the OECD Transfer Pricing Guidelines. Therefore Chapter 5 of the Guidelines (Documentation) underpins the UK's documentation requirements.</p>

**Answers to question 1C:**

**Did your tax administration use "publicity" or other incentives to promote the use of the EUTPD ?**

Member State	Question 1C
Austria	NO
Belgium	<p>The administrative circular in question was disseminated via the appropriate channels to taxpayers and tax officials. This included publication in the Finance Ministry's public tax database (fisconet), which is consulted on such matters by those involved. The administrative circular was also favourably reviewed in international specialist publications (see example attached).            Point 2 of the Code of Conduct states:            The use of the EU TPD will be optional for a MNE group.            Belgium takes the view that the tax authorities cannot influence the direction taken by the multinational enterprise with regard to drawing up documentation since the use or otherwise of EU TPD is a matter for the company to decide. It goes without saying that Belgium respects the decision of any taxpayer who opts for the EU TPD.</p>
Bulgaria	<p>Promoting the use of the EU TPD in Bulgaria is an on-going process. On account of the great interest shown by Bulgarian business regarding the problems of transfer pricing and the related documentation, a working group was set up under the Advisory Board of the Bulgarian Revenue Administration, whose members include representatives of that Administration, business and various professional associations. Measures will be taken within the framework of the Advisory Board to promote the Code of Conduct on transfer pricing documentation for associated enterprises in the EU amongst taxpayers and to encourage its use. As already mentioned, the upcoming instructions regarding the transfer pricing documentation requirements will also include the entire package of documents provided for in the EU TPD, or will refer directly to the Code.</p>
Cyprus	<p>No. However, multinational undertakings are generally aware of the issue owing to information provided by the accountants and auditors they work with.</p>
Czech Republic	<p>All D-series guidelines are available on the website of the Czech tax administration and guideline No D-293 in particular (among other guidelines relating to transfer pricing) is available in both Czech and English. In addition, other relevant information is continuously made available and updated on this website. MF ČR also provides regular training for representatives of local financial authorities, organises seminars jointly with foreign tax administrations and holds various meetings and discussions between the competent employees of MF ČR and taxpayers; for example, an expert group comprising representatives of the tax administration and tax consultancies has been set up for the purposes of applying transfer prices.</p>
Denmark	<p>We do not use specific "publicity" to promote the EUTPD, but the fact that the transfer pricing documentation can be drawn up in accordance with the EUTPD is explicitly stated in the above mentioned Statutory Order no. 42 of</p>



	the 24 January 2006 and in the Danish Transfer Pricing Documentation Guidelines.
Estonia	The EU TPD is a mandatory form of documentation in Estonia. The content of the master file and country-specific documentation is fully set out in Regulation No 53 of the Minister for Finance of 10 November 2006 and is based on the EU TPD.
Finland	Finnish Tax Administration is promoting EUTPD in our tax guides
France	
Germany	The statutory transfer pricing documentation rules are compulsory. There does not appear to be any need to introduce any other measures to promote the use of the EUTPD.
Greece	See Q1 A
Hungary	No
Italy	
Ireland	See answer to Q1.A.
Latvia	
Lithuania	
Luxembourg	
Malta	Since Malta has no specific national rules relating to the documentation of price transfers (see reply to M2B) it was not necessary to implement systems that analyse to what extent the EU TPD is being used.
Netherlands	No.
Poland	No measures to promote TPD for associated enterprises in the European Union have been organised in Poland
Portugal	The Code of Conduct has been made available to the Tax Administration officers and to the public in general through its publication in the Boletim Ciência e Técnica Fiscal N.º 418, July-December 2006
Romania	Order no. 222/2008 of the President of the National Agency of Fiscal Administration on the content of the transfer pricing file was published in the National Official Journal (Monitorul Oficial) no. 129/2008. Its application is compulsory and, as per art. 6 of the above-mentioned order, its provisions are supplemented by EU Code of conduct on transfer pricing documentation, as published in the Official Journal no. C176/1 from July 2006.
Slovak Republic	In the Slovak Republic it is customary for the Tax Directorate to publish the necessary information and guidance for taxable persons. These are made available on the Directorate's website.
Slovenia	The Tax Administration of the Republic of Slovenia ("Tax Administration") held free information sessions to familiarise taxable persons with the preparation of transfer pricing documentation.
Spain	The new documentation obligations, based on the EU TPD Code of Conduct, have been written into legal and regulatory instruments and published in the Official State Gazette (Boletín Oficial del Estado), thereby ensuring their full dissemination.
Sweden	When the legislation concerning documentation requirements was being introduced, the Tax Agency invited the relevant enterprises to information sessions. Information on the new rules was also sent to 22 000 companies.

	The requirements of the Code of Conduct and the fact that documentation can be supplied in accordance with the Code were described in the Tax Agency's information material and at the information sessions. Additionally, the Tax Agency has provided corresponding information at a large number of external meetings with enterprises.
United Kingdom	UK did not use publicity or any other incentive to promote the use of EUTPD.

**Answers to question 2:**

**Do you have systems in place to assess the extent to which the EUTPD option has been adopted by MNEs? 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? ( Member States may find it useful to refer to any notifications received by MNEs under paragraph 12 of the Code in responding to this question)**

Member State	Question 2
Austria	No. Currently, Austria does not have any system in place to assess the extent to which EUTPD has been adopted by the MNEs.
Belgium	<p>The corporate tax declaration does not at present contain a heading allowing companies that have opted for the EU TPD to be identified.</p> <p>However, a survey carried out at the Special Audit Unit into transfer pricing seems to indicate that only minimal use is currently being made of the EU TPD. The fact that the EU TPD may also go some way towards explaining this (see the earlier comments in the third indent above).</p> <p>The reaction from business is that the EU TPD approach is a rather expensive exercise (and perhaps a typically Anglo-Saxon product), which may explain why it is still not widely used. Businesses are, however, more aware of the risks. The business sector acknowledges that we are in a transitional phase.</p> <p>This addendum completes the reply to question 2 in the original Report on the implementation of the Code of Conduct on transfer pricing documentation for associated enterprises in the European Union (EU TPD).</p> <p>Question 2</p> <p>The declaration for corporation tax does not at the moment contain any heading which makes it possible to identify companies that have adopted the EU TPD option.</p> <p>However, enquiries to the specialised audit unit for transfer pricing suggest, on the basis of the years investigated, that the EU TPD option is being used only to a very limited extent at the moment. This may be due to the fact that the option is still new (in this connection see also the third indent of the previous comment).</p> <p>Companies remark that the EU TPD approach is a costly exercise (and possibly also a typically Anglo-Saxon product), which may explain why take-up has so far remained low. However, firms are more aware of the risks. They recognise that we are in a transition phase.</p> <p>On the basis of a brief survey of members of the Federation of Enterprises in Belgium (FEB), companies also note that transfer pricing has become much more professional, partly as a result of EU TPD:</p> <ul style="list-style-type: none"> <li>– Companies are aware of EU TPD.</li> <li>– Companies have a transfer pricing policy.</li> </ul>

	<ul style="list-style-type: none"> <li>– Companies that have not developed standard documentation have adapted their policy on the basis of the EU TPD approach.</li> <li>– Companies that have developed their own documentation have adapted this on the basis of the EU TPD approach.</li> <li>– Half of the companies surveyed – both Belgian and foreign groups - use the EU TPD approach (sometimes introduced gradually into the group, e.g. per business unit).</li> </ul> <p>This is an evolving field (partly as a function of the internal possibilities of each group), but change is clearly discernible.</p> <p>Companies also cite the constructive approach of the Belgian administration and the constructive atmosphere in with the EU TPD approach is being introduced. The only negative point remains the pressure that consultants are putting on companies and the sometimes conflicting interests at stake</p> <p>Consultants comment that a significant number of the big players opt for a global documentation approach; some of these draw on the EU TPD approach but are not fully in line with it. They have the following criticisms:</p> <ul style="list-style-type: none"> <li>– the obligation to publish all rulings on transfer prices;</li> <li>– the obligation to disclose all information about changes in company strategies;</li> <li>– proactive information provision deters many companies.</li> </ul> <p>This criticism is, however, contrary to the principle of the blueprint for the multinational enterprise, which is relevant and available to all EU Member States involved, and the transfer pricing method described in the EU TPD master file concept (points 4.1 and 4.2 a) and h) of the code of conduct).</p>
Bulgaria	<p>Currently Bulgaria does not have an operational system for assessing the extent to which the EU TPD has been adopted by multinational companies. In the absence of such a system we would estimate that the up-take of the EU TPD is fairly low. The experience of the Bulgarian Revenue Administration, despite being limited, shows that most Bulgarian companies do not apply a systematic and detailed transfer pricing policy. In many cases when taxpayers require this kind of documentation, it either does not exist at all or is just being drawn up. Even when a transfer pricing policy (and all the relevant accompanying documentation) is drawn up within the multinational group, this policy is not always made available to the Bulgarian companies.</p>
Cyprus	Not yet.
Czech Republic	<p>The Czech tax administration is currently considering the introduction of a uniform system which would make it possible to assess the extent to which the EU TPD option has been adopted by MNEs. On the basis of the information available so far, it can be concluded that the EU TPD option is applied to a medium extent.</p>
Denmark	<p>We do not have any specific systems in place. It is our impression that the EUTPD until now has only been adopted by the MNE's at a minimal level</p>

Estonia	Estonia has not set up any formal EU TPD take-up recording system, but the EU TPD is a mandatory form of documentation in Estonia.
Finland	No
France	
Germany	Germany does not have a system of assessing the take-up by MNEs. In the experience of auditors and according to some business representatives, this is already widespread practice in large multinationals owing to national documentation obligations. It is impossible to give any accurate information concerning the take-up by SMEs but this is probably on the same scale as that of MNEs.
Greece	NA
Hungary	There is no record on the extent of EU TPD application, however, we assume that the level of take-up is minimal
Italy	
Ireland	We have no system in place.
Latvia	
Lithuania	
Luxembourg	
Malta	This question is not relevant to Malta since the adoption of the EU TPD cannot materialise in Malta.
Netherlands	-
Poland	Poland has not set up a system to assess the extent to which the TPD option is used by MNEs. As such, we do not have the necessary information to carry out this assessment.
Portugal	We don't have any specific assessing system in place in order to know if the EUTPD has been adopted or not by any enterprise
Romania	There is no specific system in place to assess the extent to which the EUTDP option has been adopted by MNEs. It is our impression that the EUTPD has been adopted by the MNE's only at a minimal level.
Slovak Republic	No, for the moment the tax authorities only monitor and summarise this information.
Slovenia	There are no formal systems in place in Slovenia to assess the extent to which the EU TPD option has been adopted by companies. To date neither the Ministry of Finance nor the Tax Administration, which implements tax regulations, has received any written response from taxable persons regarding the use of EU TPD. During tax inspection procedures inspectors have found that few taxable persons of that kind have prepared transfer pricing documentation that is entirely suitable.
Spain	As mentioned above, the new documentation obligations will not come into effect until 19 February 2009. Nevertheless, it should be noted that according to the new regulation contained in the TRLIS and the RIS, compliance with the documentation obligations is mandatory, not optional, for enterprises liable to Spanish corporate income tax that engage in related-party transactions.
Sweden	Sweden has no system for assessing whether MNEs have taken up the Code of Conduct. The Tax Agency has no personal experience of take-up of the Code of Conduct.
United Kingdom	UK does not have systems in place to assess the extent to which the EUTPD has been adopted by MNEs.

**Answers to question 3:**

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

- (i) What in your view could be done to improve take up levels?**
- (ii) What in your view has contributed to the extensive level of take up?**

<b>Member State</b>	<b>Question 3</b>
Austria	An improvement of taking up could be achieved by promoting the advantages of the EUTPD among MNEs.
Belgium	<ul style="list-style-type: none"> <li>i) Possible measures to boost the number of firms opting for the EU TPD(in no particular order) <ul style="list-style-type: none"> <li>- Making use of the EU TPD mandatory. A possible counter-argument, however, is that the EU TPD is not appropriate for all businesses. In view of the greater autonomy of companies within decentralised groups, use of the EU TPD is less suitable in the case of such groups in particular.</li> <li>- Identifying highly centralised or integrated multinational groups and pointing out the advantages of the EU TPD.</li> <li>- Introducing a “light” EU TPD for SMEs.</li> <li>- Creating a European “safe harbour” for firms that opt for the EU TPD.</li> </ul> </li> <li>ii) What has contributed to substantial take-up of the EU TPD concept?</li> </ul> <p>Not applicable since Belgium considers that take-up is minimal at present.</p>
Bulgaria	In order to increase the extent to which the EU TPD is used, it is first necessary to promote it among concerned groups of international companies by highlighting the advantages of using it. Naturally, the results of using the EU TPD that are of most interest to taxpayers are connected with the introduction of clearer and less complicated requirements for drawing up transfer pricing documentation and cutting down on unnecessary expenditure, as well as with administrative penalties due to missing transfer pricing documentation. It should also be pointed out here that it is generally not up to the Bulgarian companies whether or not the EU TPD is used. Due to the fact that it is mainly subsidiaries of multinational companies have been set up in Bulgaria, it would never be possible to take decisions on using the EU TPD at national level. For this reason, it would not be easy for the Bulgarian Revenue Administration to access information on why the multinational group does or does not adopt

	the EU TPD.
Cyprus	i No past experience./ ii Not applicable.
Czech Republic	(The answer only concerns part (i) owing to the fact that the extent of take-up of the EU TPD has been assessed as medium – see Question 2.) In our view the measures that have been taken so far were efficient; however, MNEs need to be given sufficient scope to adopt the EU TPD option. If take-up of the EU TPD is to be increased, the current efforts will have to continue, in particular to enhance cooperation with taxpayers.
Denmark	More information about the advantages of the EUTPD could improve the level of utilization
Estonia	Everything possible has been done in Estonia. The same requirements are laid down in both the EU TPD and Estonian legislation.
Finland	
France	
Germany	National documentation obligations, which correspond in content to the EUTPD, have contributed to the extensive level of take up. Companies' awareness of the importance of standard transfer pricing documentation in group taxation and the fact that documented transfer pricing can be defended internationally have also played a role.
Greece	NA
Hungary	The level of take-up will certainly increase once the Decree is amended and taxpayers are given appropriate information.
Italy	
Ireland	(i) In our view MNEs will adopt the EUTPD if they believe it is of advantage to them. Publicising the document to enable them to make that decision is the key. (ii) We are not aware that there has been extensive take-up of the Code.
Latvia	
Lithuania	
Luxembourg	
Malta	This question is not relevant to Malta since the adoption of EUTPD cannot materialise in Malta
Netherlands	-
Poland	
Portugal	NA
Romania	More information on the advantages of using standardised transfer pricing documentation between Member States can play an important role for improving the take up level of EUTDP.
Slovak Republic	Rules in place since 1 January 2009 lay down a requirement to have EU TPD at company level only for those taxable persons that report trading income in accordance with IAS/IFRS, that is, those that are required to produce and to submit to the tax administration within 60 days of the start of the tax audit a TPD with general and specific documentation for controlled transactions of a significant nature. So as not to overburden taxable persons with administrative tasks, other taxpayers are required to

	keep only simplified documentation in accordance with requirements laid down in accounting rules, if they can demonstrate the principle of independence and are maintaining prices normal for controlled transactions.
Slovenia	(i) We believe that to increase the level of take-up of the EU TPD, more emphasis needs to be placed on training and informing both taxable persons and tax inspectors. Up to now the Tax Administration has been familiarising taxable persons with the preparation of transfer pricing documentation by holding free information sessions. It is also planning to increase the level of take-up of the EU TPD by taking preventive action. Tax inspectors visit newly registered multinational enterprises and inform them of Slovenian tax legislation with emphasis on the fulfilment of obligations concerning transfer pricing documentation.
Spain	For the reasons discussed in the preceding point, the information needed to reply to these questions is not yet available.
Sweden	i) It is still too early to say. ii) We have no information that there has been extensive take-up of the Code.
United Kingdom	Please see the response to Q1.A above.



**Answers to question 4:**

**Based on your national overview to what extent do you consider 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?**

Member State	Question 4
Austria	Since in Austria the MNEs using EUTPD have not been audited in this regard, we do not have sufficient experience to answer this question.
Belgium	<p>i) Content quality</p> <p>In view of the minimal experience gained, no definitive answer can be given.</p> <p>ii) Harmonisation between the Member States</p> <p>In view of the minimal experience gained, no definitive answer can be given.</p> <p>iii) Initial evaluation of the transfer pricing policy of a multinational enterprise</p> <p>In view of the minimal experience gained, no definitive answer can be given. Belgium takes the view that it is still too early and there is too little experience to go into the strengths and weaknesses of the EU TPD in greater depth.</p>
Bulgaria	We are not able at the moment to carry out an assessment of the contribution of the Code with regard to any of the points indicated, since we do not have any data for Bulgarian companies belonging to multinational groups that apply the EU TPD.
Cyprus	Not applicable.
Czech Republic	The publication of the Code and methodological guideline No D-293 constituted a breakthrough in the area of transfer pricing documentation since until then only the general recommendation contained in the OECD Transfer Pricing Guidelines had been used. Undoubtedly, this has had a positive impact on the quality of the content of transfer pricing documentation provided. The Code has certainly contributed to standardisation among Member States, despite taking the form of a recommendation and the fact that its content allows derogations from the standards set out in the Code. It can also be noted that MNEs take account of the EU TPD option when reviewing their transfer pricing policy.
Denmark	At this stage we do not yet have sufficient experience with the EUTPD to determine the code of Conduct contribution.
Estonia	i)-iii) Applying similar requirements in different countries helps standardise national practices and reduce administrative costs for tax payers and tax authorities. Confusion arises, however, from differing definitions of associated persons in each country and differing groups of persons for whom each country has made documentation mandatory.

Finland	<p>i) Quality is better because a common standard make documentation to be clearer.</p> <p>ii) Standardisation has obviously been improved.</p> <p>MNEs group's transfer prices policy is better and information is broader</p>
France	
Germany	The introduction of statutory transfer pricing documentation obligations (see answer to question 1. A) has been the main factor in significantly raising the standard of documentation in Germany. The EU Code of Conduct is unlikely to have had any direct influence in view of timing. It has, however, certainly contributed to the acceptance of national rules.
Greece	NA
Hungary	To date we have no experience in this regard. The Codex plays a significant role in facilitating standardisation between the Member States and reducing administrative burdens. To date we have no experience in this regard.
Italy	
Ireland	See answer to Q1.A.
Latvia	
Lithuania	
Luxembourg	
Malta	This question is not relevant to Malta since the adoption of EUTPD cannot materialise in Malta
Netherlands	-
Poland	
Portugal	NA
Romania	Insufficient experience with the EUTPD as to be able to assess the contribution of the Code of Conduct.
Slovak Republic	We believe that the introduction of the TPD requirements contributed to better understanding of the issue and increased certainty of taxpayers and tax administration. Before 2009, Slovak tax legislation did not specify what the TP documentation should contain for TP purposes. Therefore there was some uncertainty about what Slovak taxpayers should in their TP documentation to show that prices were set at arm's length.
Slovenia	We would point out that more detailed rules on the documentation of transactions with associated entities were first applied only in 2005 and that the Code could not be applied until 2007. For that reason in particular it is not possible to give a reliable assessment of any possible improvement in the standard of documentation.
Spain	For the reasons discussed in the preceding point, the information needed to reply to these questions is not yet available.
Sweden	We do not currently have enough detailed information to be able to answer the sub-questions.
United Kingdom	UK has no direct evidence that the Code has contributed to a better standard of documentation. That is not to say that the Code has not had a positive effect, only that UK has not sought evidence of it.

**Answers to question 5:**

**If you feel the Code has not significantly contributed to a better standard of documentation in terms of achieving i) quality of content ii) standardisation between Member States iii) the initial assessment of an MNEs group's transfer prices policy please explain the key factors that in your view still prevent the Code from working efficiently**

<b>Member State</b>	<b>Question 5</b>
Austria	
Belgium	See answer question 4
Bulgaria	We are not in a position to comment on the reasons why the Code has not contributed towards improving the standards of documentation.
Cyprus	Not applicable.
Czech Republic	We believe that the Code has contributed to a better standard of documentation – see Question 4.
Denmark	See answer to Q4
Estonia	See previous answer.
Finland	
France	
Germany	N/A (see answer to question 4)
Greece	NA
Hungary	
Italy	
Ireland	We have insufficient information to answer this question.
Latvia	
Lithuania	
Luxembourg	
Malta	This question is not relevant to Malta since the adoption of EUTPD cannot materialise in Malta
Netherlands	-
Poland	
Portugal	NA
Romania	See answer to Q4.
Slovak Republic	It is premature to make this evaluation, but even in previous periods, without the TPD requirement, the criteria listed were checked during tax audits.
Slovenia	On the entry into force of the legislation laying down transfer pricing documentation in 2005, the Tax Administration already noted that some taxable persons were not expert in the preparation of the appropriate or necessary documentation. Tax inspectors know that improperly and inadequately prepared documentation is also caused by the unwillingness of parent companies to help prepare documentation and disclose information about their subsidiaries.
Spain	For the reasons discussed in the preceding point, the information needed to reply to these questions is not yet available.
Sweden	We do not currently have enough detailed information to be able to answer the sub-questions.

United Kingdom	UK is unable to give key factors as to why the Code does not work efficiently because it has no evidence on which to base an opinion.
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**Answers to question 6A:**

*Paragraph 5: 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.*

**How have you sought to differentiate between the documentation requirements of SMEs and MNEs?**

<b>Member State</b>	<b>Question 6A</b>
Austria	According to the basic concept as explained under Q1.B the documentation requirements are flexible enough to avoid unreasonable documentation obligations for SMEs
Belgium	<p>Point 25 of the administrative circular explicitly takes over the wording of point 5 of the Code of Conduct, providing that Member States should not require smaller and less complex enterprises (including SMEs) to produce the amount or complexity of documentation that might be expected from larger and more complex enterprises.</p> <p>This provision has to be read in conjunction with the principle set out in point 2 of the administrative circular that the information required in order to examine transfer pricing depends on the facts and circumstances of the case. Point 4 of the administrative circular is also highly relevant. It refers, among other things, to the need to assess whether it is appropriate to request certain information in the light of the factual circumstances of each individual case. Without question, the status of SMEs must be taken into account.</p>

Bulgaria	<p>No concrete measures have been taken in Bulgaria to differentiate between the documentation requirements for SMEs and those for multinational enterprises. In many cases, the very purpose of the transfer pricing audit process is really to ensure that SMEs are safeguarded against excessive and complicated documentation requirements. Transfer pricing will, of course, be monitored more often in the case of multinational companies, and more infrequently in the case of SMEs.</p> <p>For this reason, it is the multinational companies that are most often monitored with regard to the fulfilment of certain requirements concerning observance of/adherence to the arm's length principle in their commercial and financial relations, which should be substantiated by means of the relevant documentation.</p> <p>As already mentioned, no special rules apply in Bulgaria with regard to the form and substance of transfer pricing documentation. Thus, every taxpayer is free to prepare and submit to the Revenue Administration whatever documentation he/she finds most suitable in view of the actual transactions and market conditions; provided that this documentation demonstrates that the prices fixed are in line with the market. If the Revenue Administration is not satisfied with the documentation submitted, the revenue bodies are entitled by law to set the market prices themselves.</p> <p>In other cases, the very fact that a company has a simpler structure, also means that its transfer pricing documentation is shorter and less complex. It should naturally follow in these cases, without having to be stipulated explicitly, that such taxpayers should not be required to submit the same information as a complex, integrated multinational group.</p> <p>In light of the above, we think that SMEs are not put under excessive administrative pressure from having to observe documentation requirements that include the drawing up of complex, detailed and comprehensive documents.</p>
Cyprus	The issue is under consideration.
Czech Republic	<p>In accordance with the Code, guideline No D-293 stipulates that the use of the EU TPD option is voluntary and in justified cases enterprises can submit documentation in simplified form. The submission of simplified or less complex documentation concerns in particular smaller enterprises in cases where the creation of full-scale documentation would be too burdensome. However, the guideline has laid down minimum documentation requirements to demonstrate that transfer prices have been set up correctly.</p>
Denmark	According to the Danish legislation SME's are under no obligation to prepare the transfer pricing documentation.

Estonia	<p>In Estonia, determining the market value of transfer prices is documented following general financial transaction documentation requirements (i.e. those set out in the Accounting Act and the Taxation Act).</p> <p>The additional documentation requirements laid down in the Regulation of the Minister for Finance are mandatory for those companies whose operations are of greater public interest (resident credit institutions, insurers and companies listed on the stock exchange).</p> <p>Detailed documentation requirements are also mandatory in respect of transactions with associated persons carried out by resident companies and non-residents operating out of a permanent place of business in Estonia, except SMEs. The definition of SMEs is based on Commission Recommendation 2003/361/EC of 6 May 2003<sup>2</sup>. The Recommendation uses staff, turnover and balance sheet total criteria to distinguish SMEs. The Regulation also gives a workforce of 250 or more, annual turnover of €50 million or more, and a balance sheet total of €43 million or more as criteria for making detailed documentation mandatory. Workforce, turnover and balance sheet total are therefore taken into account in consolidated form and each criterion can be considered separately, meaning that if just one of the criteria is met, this is enough to make detailed documentation mandatory for transactions with associated individuals.</p> <p>Detailed rules for documenting transfer prices are not mandatory for SMEs, except for transactions between associated individuals where the other party is located in a low tax rate territory. The circumstances surrounding transactions with parties located in a low tax rate territory must be documented in detail, irrespective of the activities, workforce, turnover or balance sheet total of the Estonian party.</p> <p>Tax-payers (for whom the Regulation does not make detailed documentation mandatory) must document transactions with associated persons on the basis of the general principles of the Taxation Act and the Accounting Act.</p>
Finland	<p>According to Finnish law, for small and medium-sized enterprises, transfer pricing documentation obligations are waived. The European Commission's Recommendation on the definition of micro, small and medium-sized enterprises 2003/361/EC has been taken into account. The reason for this limitation is to avoid excessive costs for SMEs to carry, especially because these costs would probably be out of proportion considering the fiscal interest</p>
France	
Germany	<p>Article 6(2) of the GAufzV differentiates between small and multinational enterprises according to the number of transactions with related persons. The limit is €5 million in the case of the consideration for supplies of goods and €500 000 in the case of that for all other supplies</p>
Greece	<p>The new Article 39A foresees that Medium and Small enterprises shall keep simpler and limited documentation.</p>
Hungary	<p>National regulations also distinguish between the documentation</p>

<sup>2</sup> Commission Recommendation concerning the definition of micro, small and medium-sized enterprises.

	requirements of SMEs and MNEs. According to the Decree the documentation requirement does not refer to SMEs in Hungary.
Italy	
Ireland	See answer to Q1.A.
Latvia	
Lithuania	
Luxembourg	
Malta	This question is not relevant to Malta since the adoption of EUTPD cannot materialise in Malta
Netherlands	It's flexible depending on the facts, circumstances and complexity.
Poland	The documentation requirement applies in Poland above a given transaction threshold in a given year. In other words, SMEs are not caught by the requirement to produce TPD if they do not exceed the thresholds indicated in the rules.
Portugal	SMEs whose annual turnover in the previous year not exceeds € 3 000 000 are fully exempted from the TP documentation requirements
Romania	National regulations do not distinguish between transfer pricing documentation requirements for SMEs and MNEs.
Slovak Republic	For the purposes of determining the requirements and scope of TPD in the Slovak Republic, taxpayers are divided into two groups. Accounting units (taxpayers) that report a trading income and tax base in accordance with the Accounting Act, based on IAS/IFRS, that is, accounting units with overall assets and annual turnover greater than SKK 5 000 000, 000, or, from 1 January 2009, greater than EUR 165 969 594.40, must keep so-called "general documentation" for the whole group of dependent persons, and, alongside this, "specific documentation" only for individual taxpayers. Other taxpayers must keep only so-called "simplified documentation" whose purpose is to provide documentary evidence of adherence to the principle of independence in the controlled transactions that are carried out. This documentation must be produced only to the extent required by accounting regulations: specifically, as footnotes to the annual accounts.
Slovenia	Enterprises whose cumulative turnover with an individual associated entity over the reference period does not exceed EUR 50 000 have fewer obligations when it comes to filling in the forms for calculating corporate income tax. In examining transfer pricing the tax inspector must ensure that the requests for the supply or production of specific documentation, the costs incurred and the administrative restrictions encountered by enterprises in obtaining data on transactions with non-associated entities are proportionate.
Spain	The regulations described above establish a differentiated treatment depending on whether the undertaking is a small and medium-sized enterprise (SME) or a multinational enterprise. According to the provisions of article 19.2 of the RIS, as now amended, compliance with the group-related documentation (masterfile) will not be required of groups with a net turnover (aggregate of all group members) of less than 8 million euros. This is the limit established in article 108 of the TRLIS as cut-off for consideration as a smaller undertaking. Also, article 20 of the RIS, in the new wording, in relation to the specific



	documentation of the taxable person, requires that simplified documents be kept when one of the parties involved in the transaction is a smaller undertaking, within the meaning of article 108 of the TRLIS, and the transactions do not involve persons or entities with residence in countries or territories considered tax havens.
Sweden	The Tax Agency makes a distinction in its regulations: companies with transactions below certain given limits can supply simplified documentation.
United Kingdom	<p>Legislation was enacted in 2004 (FA 2004, s31(4)) to exempt micro, small and medium enterprises, (“SMEs”), from the UK’s transfer pricing legislation (Schedule 28AA ICTA 88). The definition of small and medium enterprises is that set out in the Commission Recommendation 2003/361/EC of 6th May 2003. There are exceptions to the exemptions:</p> <ul style="list-style-type: none"> <li>a) Where the enterprise elects for the transfer pricing legislation to apply. Such an election is irrevocable.</li> <li>b) Where the UK enterprise has transactions with a related enterprise in a territory with which the UK does not have a double taxation with an appropriate non-discrimination article. A list of countries where the UK considers there is such an appropriate non-discrimination article is at INTM 432112.</li> <li>c) For medium-sized enterprises only, (not micro or small-sized enterprises), UK may give a “transfer pricing notice” that the transfer pricing legislation applies for a specified period. The notice can only be authorised by a designated officer, who is very senior within the UK tax authority, HMRC. It is rare for such a notice to be given.</li> </ul> <p>It therefore follows that the transfer pricing legislation does not apply to the vast majority of SMEs and therefore they are not required to keep any documentation for transfer pricing purposes.</p> <p>The UK applies the OECD TPG at 5.4 which says that the demonstration of an “arm’s length” result should be “in accordance with the same prudent business management principles that would govern the process of evaluating a business decision of a similar level of complexity and importance”. We would expect the documentation to reflect this.</p>

**Answers to question 6B:**

*Paragraph 6 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.*

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

Member State	Question 6B
Austria	Under the Austrian concept as described under Q1.B unreasonable compliance burdens are avoided.
Belgium	<p>Point 6 of the Code of Conduct states that The Member States should:</p> <ul style="list-style-type: none"> <li>(a) not impose unreasonable compliance costs or administrative burden on enterprises in requesting documentation to be created or obtained;</li> <li>(b) not request documentation that has no bearing on the transactions under review;</li> <li>(c) ensure that there is no public disclosure of confidential information contained in documentation.</li> </ul> <p>Balancing the need for substantial and detailed documentation and the need to limit the cost of supplying this documentation and the administrative burden is indeed a sensitive issue.</p> <p>The administrative circular reiterated that excessive documentation requests must be avoided. Furthermore the information requested must be confined to what is relevant having regard for the specific features of the enterprise and the group it belongs to. Similarly, the tax service must first gather any information that is already available within the various branches of the administration before asking the taxpayer concerned for such information.</p> <p>As already indicated in the reply to question 6. A, the information required in order to examine transfer pricing depends on the facts and circumstances of the case.</p> <p>Precisely because it is very difficult to find a balance between adequate and full information on the one hand and the administrative burden on the other, the Belgian tax administration has introduced the approach of holding a pre-audit meeting. As stated in point 3 of the administrative circular, the pre-audit meeting is designed to give the inspection services an insight into the working, structure and organisation of the enterprise and gives them an opportunity to discuss the information and documentation. The pre-audit meeting is also aimed at</p> <ul style="list-style-type: none"> <li>- minimising the cost to firms;</li> <li>- ensuring the taxpayer knows clearly what (additional) information</li> </ul>

	<p>and documentation is required.</p> <p>Another point to bear in mind is that, from the management point of view, producing adequate transfer pricing documentation can be a valuable instrument in terms of the firm's positioning on the market, profitability, value chain analysis, product chain analysis and supply chain analysis, value added, etc.</p> <p>Business regards this pre-audit meeting as very useful. It makes it possible to filter out pointless or less important questions.</p>
Bulgaria	<p>The Revenue Administration aims, in its audit activities, to comply with the recommendations under points A, B and C. Currently, due to the limited fiscal practice in the area of transfer pricing, the fact that the taxpayer does not have any documentation at all is more often a problem than a request for documentation by the Revenue Administration that is excessive and has no bearing on expenditure. Nevertheless, this question was submitted for discussion at the level of the Advisory Board of the Bulgarian Revenue Administration, where that Administration agreed to make the activities of the revenue bodies subject to the principles laid down in paragraph 6.</p>
Cyprus	<p>On the whole, yes</p>
Czech Republic	<p>As stated above in our answer to Question 6 A, it is possible to submit simplified or less complex documentation. When determining the extent of documentation, enterprises can consider the complexity involved in the creation of documentation, taking into account the requirement that the administrative burden is proportionate and compliance costs adequate. The tax administration does not request documentation which is not relevant for the case at issue. The prohibition on publicly disclosing confidential information in documentation is governed by national legislation, namely Act No 337/1992 on the Administration of Taxes and Charges (Section 24 – Confidentiality obligation), under which all persons involved in tax proceedings are subject to a confidentiality obligation regarding all facts ascertained during the tax proceedings.</p>
Denmark	<p>An enterprise will always have a time limit of 60 days to prepare its transfer pricing documentation from the date of the request being made.</p> <p>Transfer pricing documentation is only made available for the tax administration. In our opinion the compliance costs have been kept at a reasonable level.</p>
Estonia	<p>Regulation No 53 of the Minister for Finance of 10 November 2006 lays down that the amount and degree of detail of documentation required to prove the market value of transfer prices should correspond to the circumstances surrounding the actual transaction and to the price of the transaction while being sufficient to prove said market value.</p> <p>As well as the types of document listed in the Regulation, tax-payers may submit any additional material which may help prove that the transfer price does indeed correspond to market value.</p> <p>The Taxation Act obliges tax authorities and officials and other employees thereof to keep information on taxable persons confidential; this includes all</p>

	media (decisions, acts, notices and other documents) concerning a taxable person, information on the existence of such media, and any business and bank secrets of which they have knowledge by virtue of having been involved in checking the accuracy of tax payments, establishing tax, recovering tax debts, processing cases of infringement of tax legislation or performing any other service obligations. This confidentiality obligation remains even upon termination of service.
Finland	Yes we have avoided that. For example if dealings with associated entities are small in scale, less extensive documentation is required. The Finnish legal provision in law is similar to the corresponding stipulation of the Code of Conduct governing supplementary explanation
France	
Germany	National rules require enterprises to provide timely documentation solely for exceptional transactions. In all other cases documentation has to be provided only if requested by auditors but enterprises are required to demonstrate due diligence. Transfer pricing documentation is required on a routine basis solely for audits (the sixth subparagraph of Article 90(3) of the AO).
Greece	The new Article 39A foresees obligation to uphold and maintain the confidentiality of the documentation data
Hungary	Our experience shows that one of the most difficult questions is to decide for a given case what is meant by necessary and sufficient documents that do not entail unreasonable costs or administrative burdens in order to justify transfer pricing and the applied method.
Italy	
Ireland	See answer to Q1.A.
Latvia	
Lithuania	
Luxembourg	
Malta	
Netherlands	-
Poland	The Polish rules do not indicate the form in which TPD is to be drawn up, merely its content; as such, they do not impose an undue burden on companies.
Portugal	Enterprises generally find the TP documentation rules very burdensome but Tax Administration is making ongoing efforts in order to reduce compliance costs
Romania	An enterprise has a time limit of maximum 3 months to prepare its transfer pricing documentation from the date of the request. We consider that the compliance costs are at an acceptable level.
Slovak Republic	Yes, it was with this aim in mind that Section 18 of Act No 595/2003 Coll. on income tax, as amended, and Ministry of Finance guidance was conceived.
Slovenia	In examining transfer pricing the tax inspector must ensure that the requests for the supply or production of specific documentation, the costs incurred and the administrative restrictions encountered by enterprises in obtaining data on transactions with non-associated entities are proportionate.

Spain	<p>According to the terms of articles 19 and 20 of the RIS, as now amended, when the documentation prepared for a tax period remains valid for subsequent periods; new documentation will not have to be prepared, without prejudice to such adaptations as may be necessary. The obligation to complete the masterfile will only refer to the tax period in which the taxable person has carried out related-party transactions with group members. In addition, the information to be provided must be directly or indirectly related to the operations carried out by the taxable person. In the case of a group, the parent company may choose to prepare and maintain the documentation for the entire group. If the parent company is not based in Spain, it must designate a Spain-resident member of the group Spain to maintain the documentation.</p> <p>Similarly, the obligation to submit specific documentation will refer to the tax period in which the taxable person has carried out the related-party transaction.</p> <p>From the above, the Spanish regulation may be said to have achieved a balance between the full documentation requirement and the compliance costs or administrative burden.</p>
Sweden	<p>In its regulations, the Tax Agency has stated that the documentation need only contain the information required to enable a reasonable assessment of prices and conditions, and during its investigations the Tax Agency does not request more documentation than is necessary for the transactions being examined.</p>
United Kingdom	<p>The UK seeks to minimise compliance costs and administrative burdens on business.</p>

## Answers to question 6C:

*Paragraph 7. 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.*

**Have you found it necessary to apply documentation-related penalties to a case in which EUTPD was applied? If so to how many cases and for what reasons?**

<b>Member State</b>	<b>Question 6C</b>
Austria	No penalties will be charged solely because the tax authorities want additional documentation which has not been provided by the taxpayer (except in obvious tax avoidance cases with almost no documentation at all). However, if the taxpayer fails to supply the necessary documentation the taxpayer is at risk that the tax authority makes profit adjustments on the basis of rough estimates.
Belgium	According to point 7 of the Code of Conduct the 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 [...] or with a Member State's domestic documentation requirements, and apply their documentation properly to determine their arm's length transfer prices. Belgian tax law makes no provision for specific sanctions in connection with documentation requirements relating to transfer pricing. So far Belgium has not imposed administrative sanctions in any instance of a taxpayer using the EU TPD.
Bulgaria	There is no provision in Bulgarian tax legislation for special administrative penalties as a result of transfer pricing documentation not being drawn up or submitted, or being incomplete, also in cases even where the EU TPD is used.
Cyprus	No
Czech Republic	If penalties are imposed in connection with documentation on transfer pricing, they are not and cannot be imposed solely on the grounds of non-compliance with the EU TPD, because compliance with this option is voluntary. Penalties are imposed where taxpayers have not provided evidence for the amount of their tax obligation as required by law (see our answer to Question 1 B) despite having been invited to submit the relevant documents by the tax administrator
Denmark	No
Estonia	The tax authorities give tax-payers a deadline of at least 60 days to submit the necessary documentation proving the market value of transfer prices. Legal persons who fail to submit tax declarations, documentation, items or other information by the deadline, knowingly provide the tax authorities with false information or inaccurate documentation, fail to follow accounting

	<p>requirements or tax authority instructions or in any other way hinder the work of the tax authorities are fined up to EEK 50 000.</p> <p>Legal persons may also be fined up to EEK 250 million for the criminal offence of failing to submit information or knowingly supplying false information.</p> <p>If it is clear that the taxpayer has documented their transactions in good faith, in a reasonable manner and within the time-frame set and that the transfer price has been determined on the basis of market-value principles, there is no reason to impose a fine.</p> <p>Estonia has very little experience in this, but it has hitherto been necessary to ask for additional information mainly where the documentation provided has been too general or superficial. Master files are usually properly made up while country-specific documentation is scarce.</p>
Finland	If taxpayer has failed to submit, within the deadline specified in law, sufficient documentation regarding taxpayer's transfer pricing, or alternatively, has submitted documentation, explanation or enclosures that contain insufficient information or errors of content, surtax can be charged of the taxpayer. However, the Finnish Tax Administration has not applied the penalty regime so far in any cases
France	
Germany	Under national rules tax penalties are imposed only if documentation obligations are not met or if documents are not submitted on time (Article 162(4) of the AO). Divergent tax results purposes are in themselves not sufficient grounds for imposing penalties.
Greece	NA
Hungary	The national tax authority's checks did not find any case of MNEs exclusively using the provisions of the Codex, therefore we cannot mention any example when sanctions were imposed as a result.
Italy	
Ireland	No
Latvia	
Lithuania	
Luxembourg	
Malta	This question is not relevant to Malta since the adoption of EUTPD cannot materialise in Malta
Netherlands	No.
Poland	
Portugal	There are not specific documentation penalties . In case of non-compliance with the TP documentation rules, the tax authorities can apply the standard tax penalties
Romania	Under national rules penalties are applied only if the transfer pricing file is not presented at the request of tax auditors or if the file is not submitted on time. The penalty is between 12,000 RON and 14,000 RON.
Slovak Republic	So far the Tax Administration has not imposed any penalties in relation to the transfer pricing documentation. Generally, if the Slovak taxpayer does not provide the Slovak tax authorities with the obligatory TP documentation

	within the required deadline, the tax authorities can impose a penalty for this.
Slovenia	To date the Tax Administration has not imposed any penalties in connection with transfer pricing documentation.
Spain	<p>Article 16.10 of the TRLIS defines failure to submit or incomplete, inaccurate or false submissions of the documents which the RIS requires be kept available for the tax administration as a very serious infringement. Declaring a figure other than the normal market value obtained from the prescribed documentation in the corporate income tax, personal income tax or non-residents income tax declarations is also classified as a very serious infringement.</p> <p>Consequently, there will be no documentation-related penalty if the requirements laid down there are fulfilled. There are not data on the need to levy these penalties because the regulation has not yet come into effect.</p>
Sweden	Sweden has no documentation-related penalties.
United Kingdom	The UK has not applied a document-related penalty to a case where EUTPD was applied.



**Answers to question 6D:**

*Paragraph 18 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.*

**Have you had to ask for supplementary information: rarely, occasionally routinely? What would you say were the main reasons for supplementary information request for example failure omissions from content template or as clarification of information submitted?**

Member State	Question 6D
Austria	No such cases had been reported to the Ministry of Finance yet.
Belgium	<p>Under paragraph 18 of the Annex to the Code of Conduct on transfer pricing documentation for associated undertakings in the European Union, the EU TPD is a basic set of information for assessing a multinational group's transfer prices. A Member State is entitled, in its national law, to require more and different information and documents, by request or during a tax audit, than would be contained in the EU TPD.</p> <p>To date Belgium has not requested any more documentation than would be contained in the EU TPD in connection with any specific audit dossier involving the EU TPD. However, this approach should be seen in the light of the minimal experience gained so far and cannot be taken to mean that Belgium might not have occasion to request additional information where the EU TPD is used. Adequate documentation is, after all, dependent on the facts and circumstances of the case. Given the tax administration's right to conduct examinations, it is entitled to request any documentation that may be <u>relevant</u> for determining the taxable amount, even if it is not part of the EU TPD.</p>
Bulgaria	We have no practical experience in this area, since we do not have any data on Bulgarian companies belonging to multinational groups that apply the EU TPD.
Cyprus	No
Czech Republic	<p>In general, national legislation (Act on the Administration of Taxes and Charges) makes it possible for a tax administrator to request the taxpayer to submit missing information necessary for the correct assessment of a tax obligation.</p> <p>In practice it is common for our tax administration to request additional information in connection with checks on the correctness of transfer prices. In the area of transfer prices, this information is usually requested because the documentation is incomplete (the method for setting transfer prices has not been properly substantiated by the taxpayer or no evidence has been provided to justify the difference with the prices agreed between independent entities) or, where appropriate, because there is a need to clarify information in the documentation.</p>
Denmark	We do not yet have sufficient experience to appraise this.
Estonia	
Finland	Finnish Tax Administration has asked for supplementary information in most

	cases. The main reason for requests is that the audited cases are usually so complicated that it is impossible to document all the necessary aspects of the transactions
France	
Germany	Supplementary information is requested in particular circumstances. It is only requested routinely by auditors. It is impossible to quantify such requests. Such information is requested primarily when auditors require further clarification.
Greece	NA
Hungary	To date we have no experience in this regard. We presume that it may reduce costs for MNE groups if they can fulfil the documentation requirement in a central standardised form, although we believe that compliance with national legislation cannot be overlooked, or the production of detailed and in certain cases special contracts for certain linked transactions.
Italy	
Ireland	We have no practical experience to draw on to answer this question.
Latvia	
Lithuania	
Luxembourg	
Malta	This question is not relevant to Malta since the adoption of EUTPD cannot materialise in Malta
Netherlands	No.
Poland	
Portugal	For the reason describe above (Q1), we are not able to answer this question
Romania	Supplementary information is requested routinely by tax auditors in particular circumstances. It is impossible to quantify such requests. Information is requested mainly when further clarifications are needed.
Slovak Republic	There is a lack of sufficient experience in the field when TPD was applied. Generally, the tax administration may request the taxpayer to submit missing information necessary for the correct assessment of a tax.
Slovenia	The Tax Administration occasionally requests additional information for the two reasons mentioned above (inexperience in the preparation of documentation and unwillingness of parent companies to help prepare documentation and disclose information about subsidiaries). The main reason for requesting additional information is that the taxable person has failed - both in the transfer pricing documentation and in the inspection procedure - to submit documentation that shows how its profits were calculated.
Spain	For the reasons described above, the information for being able to answer this question does not yet exist.
Sweden	In Sweden, TPD may only be requested during a tax audit. There are no special rules covering requests for supplementary information from documentation during an investigation of transfer pricing. This means that supplementary information and explanations about the basis of documentation may be requested under the audit rules in the Tax Assessment Act, in the same way as for bookkeeping, tax return documents, etc.

United Kingdom	The UK does not have systems in place to monitor whether additional documentation has been sought.
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### Answers to question 6E:

**Do you wish to make any other comments on General application Rules and requirements contained in Section 2, 3 and 4 of the code?**

<b>Member State</b>	<b>Question 6E</b>
Austria	
Belgium	
Bulgaria	
Cyprus	No
Czech Republic	We have no comments to make on the substance of the General Application Rules and the requirements contained in Sections 2, 3 and 4 of the Code.
Denmark	No
Estonia	No
Finland	
France	
Germany	No other comments
Greece	NA
Hungary	.
Italy	
Ireland	No
Latvia	
Lithuania	
Luxembourg	
Malta	In view of the fact that Malta lacks relevant experience, it has no comments to make
Netherlands	-
Poland	The Ministry of Finance has no comments to make on the rules contained in Sections 2, 3 and 4 of the Code.
Portugal	NO
Romania	No
Slovak Republic	No
Slovenia	Neither the Ministry of Finance nor the Tax Administration has any comments to make on the rules and requirements contained in Section 2, 3 and 4 of the Code.
Spain	As indicated above, the Code's application has been postponed until 19 February 2009, so no observations can be made in this regard.
Sweden	We have no other comments.
United Kingdom	The UK does not wish to make any other comments on General application rules and requirements in Sections 2- 4 of the code.

**Answers to question 7:**

**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?**

<b>Member State</b>	<b>Question 7</b>
Austria	At the moment we don't see any need to go beyond the current status of an optional instrument to satisfy the needs of the tax administration to examine international transfer pricing.
Belgium	
Bulgaria	We are not able to answer these questions, since Bulgaria does not have any practical experience regarding the application of the Code of Conduct on transfer pricing documentation for associated enterprises in the EU, or regarding its effectiveness. Nevertheless, in the context of the Advisory Board of the Bulgarian Revenue Administration, the representatives of Bulgarian business expressed their wish that the EU TPD be reflected in the upcoming instructions to revenue bodies regarding the content of the transfer pricing documentation. These instructions will also be made available to Bulgarian taxpayers.
Cyprus	To date such experience has been limited.
Czech Republic	Based on our experience, we believe that the adoption of the EU TPD would be improved by enhancing communication with taxpayers, also at international level. Harmonisation of the Member States' approach would be achieved by mutual communication and exchanges of experience between representatives of the Member States' tax administrations, for example in the form of seminars.
Denmark	We do not yet have sufficient experience of EUTPD to provide concrete suggestions
Estonia	Estonia has little practical experience of this. It may be useful to develop Europe-wide electronic forms. Cooperation and the exchange of information between tax boards should be improved and made faster (e.g. by means of a joint online information system).
Finland	
France	
Germany	In Germany's view, the adoption, functioning and efficiency of the EU Code of Conduct could be improved by persuading business representatives on the EU JTPF to inform tax administrations how the Code and the masterfile concept are applied.
Greece	NA
Hungary	The recommendation and guidelines aiming at reducing administrative burdens and concerning the optimal proportion of appropriate documentation requirement may facilitate the work of both taxpayers and the tax authorities.
Italy	
Ireland	We have no practical experience to draw on to answer this question.
Latvia	
Lithuania	

Luxembourg	
Malta	In view of the fact that Malta lacks relevant experience, it has no comments to make
Netherlands	By keeping it optional.
Poland	
Portugal	No experience until now
Romania	We do not have sufficient experience with EUTPD as to provide concrete suggestions.
Slovak Republic	It is not possible to evaluate this area yet because the Slovak Republic is, as of 2009, in the process of introducing the requirement to keep TPD.
Slovenia	Having found that some taxable persons do not have fully prepared transfer pricing documentation or that the quality of the documentation prepared is worse than expected, the Tax Administration decided to gear its activities on transfer pricing more towards preventive action. In November 2008 it began obtaining data from newly registered multinational enterprises, whereby tax inspectors visit taxable persons, after prior agreement, to inform them of Slovenian transfer-pricing legislation, with special emphasis on the rules governing their obligations with regard to transfer pricing documentation.
Spain	Once again, as these questions deal with the practical application of the EU TPD Code of Conduct, no observations on its practical implementation can be made.
Sweden	See question 3 i)
United Kingdom	Please see the answer to Q1A above.

**Answers to question 8:**

What feed back, if any, both positive and negative have you received from MNEs about the introduction of EUTPD?

<b>Member State</b>	<b>Question 8</b>
Austria	Informal reactions have shown that the EUTPD has been welcome by the large MNEs as a helpful indication on how a transfer pricing documentation can be established which has the advantage of being recognised by all EU-Member States.
Belgium	
Bulgaria	We are not able to answer these questions, since Bulgaria does not have any practical experience regarding the application of the Code of Conduct on transfer pricing documentation for associated enterprises in the EU, or regarding its effectiveness. Nevertheless, in the context of the Advisory Board of the Bulgarian Revenue Administration, the representatives of Bulgarian business expressed their wish that the EU TPD be reflected in the upcoming instructions to revenue bodies regarding the content of the transfer pricing documentation. These instructions will also be made available to Bulgarian taxpayers.
Cyprus	None
Czech Republic	According to the information received from representatives of MNEs, the introduction and application of the EU TPD tends to be a matter for the largest companies with a well-developed organisation structure. Smaller groups of enterprises have so far adopted a reserved approach owing to the amount of work and costs involved.
Denmark	We do not yet gained sufficient experience of MNE's response to EUTPD to be able to pass on any feedback.
Estonia	Estonian companies generally find the documentation rules excessively burdensome, in particular when it comes to documenting the circumstances surrounding domestic transactions.
Finland	We have received some positive feedback from MNEs about the EUTPD. The positive feedback is based on fact that MNEs are able to adopt a standardised documentation in all European countries. This is helpful especially for those MNEs that are preparing their first documentation packages
France	
Germany	The EUTPD has received a positive reception from MNEs as transfer pricing documentation plays a significant role in defending transfer pricing internationally and is also useful in group taxation. The introduction of such a system can also reduce compliance costs and the administrative burden.
Greece	NA
Hungary	To date we have no experience in this regard.
Italy	
Ireland	No feedback has been received to date

Latvia	
Lithuania	
Luxembourg	
Malta	Malta has not yet received the comments of the introduction of EUTPD in Europe
Netherlands	-
Poland	The Ministry has not received any feedback from MNEs.
Portugal	The Tax Administration hasn't received any positive or negative feed back from MNEs about the EU TPD
Romania	No feedback was received.
Slovak Republic	MNEs have welcomed the legislative amendment of the Act No 595/2003 Coll. on income tax concerning TPD and the Guideline concerning the content and scope of TPD.
Slovenia	Neither the Ministry of Finance nor the Tax Administration has received any positive or negative feedback about the introduction of EU TPD.
Spain	Once again, as these questions deal with the practical application of the EU TPD Code of Conduct, no observations on its practical implementation can be made.
Sweden	We have not received any feedback from MNEs about the Code of Conduct
United Kingdom	Please see the answer to Q1A above.