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EU JOINT TRANSFER PRICING FORUM

RULES OF PROCEDURE OF THE JTPF

Meeting of 9 June 2011

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RULES OF PROCEDURE OF THE EU JOINT TRANSFER PRICING FORUM EXPERT GROUP

THE EU JOINT TRANSFER PRICING FORUM,

Having regard to the Commission Decision of 25 January 2011 setting up the EU Joint Transfer Pricing Forum expert group¹,

Having regard to the standard rules of procedure of expert groups²,

HAS ADOPTED THE FOLLOWING RULES OF PROCEDURE:

Article 1

Convening a meeting

1. Meetings of the group are convened by the Chair, either on its own initiative, or at the request of a simple majority of members after the Commission's services have given their agreement.
2. Joint meetings of the group with other groups may be convened to discuss matters falling within their respective areas of responsibility.
3. Meetings of the group shall be held, in principle, on Commission's premises.

Article 2

Agenda

1. The Secretariat shall draw up the agenda under the responsibility of the Chair and send it to the members of the group.
2. The agenda shall be adopted by the group at the start of the meeting.

Article 3

Documentation to be sent to group members

1. The Secretariat shall send the invitation to the meeting and the draft agenda to the group members no later than twenty calendar days before the date of the meeting.

¹ Decision C(2011) 175 of 25.01.2011

² SEC(2010) 1360 final

2. The Secretariat shall send documents on which the group is consulted to the group members no later than fourteen calendar days before the date of the meeting.
3. In urgent or exceptional cases, the time limits for sending the documentation mentioned in 1 and 2 may be reduced to five calendar days before the date of the meeting.

Article 4

Opinions of the group

1. As far as possible, the group shall adopt its opinions, recommendations or reports by consensus.
2. Where complete agreement cannot be reached the range of opinions should be reflected and the majority opinion indicated.

Article 5

Vice-Chairs and assistants

1. The JTPF is composed of private sector members and tax administration members. Members representing Member States' tax administrations and members representing the private sector shall designate their respective Vice-Chairs whose tasks will be to assist the Chair and the Secretariat in the preparation of the meetings' agenda and to co-operate with the Secretariat in the preparation of JTPF documents. Together with the Chair, the two Vice Chairs will form "the Bureau".
2. If the Chair is unable to attend a meeting, the Vice-Chairs will chair the meetings of the Forum by alternation, starting with the Vice-Chair from the private sector.
3. Each member may be accompanied by an assistant. The assistant may speak with the agreement of the member and the Chair. Assistants are governed by the same rules on conduct and independence as members.

Article 6

Sub-groups

1. In agreement with the Commission's services, the group may set up sub-groups to examine specific questions on the basis of terms of reference defined by the group; such sub-groups shall be disbanded as soon as their mandate is fulfilled.
2. The sub-groups shall report to the group.

Article 7

Admission of third parties

The Commission's services may invite on an ad hoc basis experts from outside the group with specific competence in a subject on the agenda to participate in the work of the group or sub-groups. In addition, the Commission's services may give observer status to individuals, organisations as defined in Rule 8(3) of the horizontal rules on expert groups³, EU agencies and candidate countries. In particular, representatives of candidate countries and from the OECD Secretariat may be invited as observers.

Article 8

Written procedure

If necessary, the group's opinion or recommendation on a specific question may be delivered via a written procedure. To this end, the Secretariat sends the group members the document(s) on which the group is being consulted.

Article 9

Secretariat

The Commission's services shall provide secretarial support for the group and any sub-groups created under Article 6(1) above.

Article 10

Working procedure

1. All documents produced by the secretariat shall be sent to the Bureau for comment and onward distribution to the members. All documents shall be released to the members with the approval of the Chair.
2. Structure of a project:
 - 2.1 In general each project will have two phases:

Initial phase. A *discussion paper* shall be produced by the Secretariat which contains brief descriptions of the main subject areas to be discussed. During this phase discussions shall focus on the substance of the paper rather than drafting.

Subsequent phase. A *draft report* shall be produced by the Secretariat for discussion. All subsequent versions shall include marked and annotated versions unless the volume of revisions materially affects the clarity of the document.

³ C (2010) 7649 final

- 2.2 An indicative timetable shall be established by the Secretariat and the Bureau at the beginning of each project.
- 2.3 In general, the meetings of the forum are not the right place to discuss pure drafting issues. Written procedures shall therefore be used as often as possible.
- 2.4 Approval of documents: if all of a document cannot be agreed during one session it should be stated clearly by the Chair whether the issues already discussed are closed, except for any need to make later changes for consistency or later events materially effect what has been agreed.

Article 11

Summary minutes of the meetings

Summary minutes on the discussion on each point on the agenda and the opinions delivered by the group shall be drafted by the Secretariat under the responsibility of the Chair. The minutes shall not mention the individual position of the members during the group's deliberations. The minutes shall be adopted by the group on the basis of a written procedure and shall be published on the Commission's website. The Secretariat shall circulate the draft minutes allowing thirty calendar days for submission of comments. The Secretariat shall work with the Bureau to reach an agreed version, re-consulting with members as necessary.

Article 12

Reports

1. A report on the JTPF's activities shall be produced on a regular basis under the responsibility of the Secretariat and the Chair and in close co-operation with the Vice-Chairs. This report shall reflect where possible the consensus view of the members or else the various views expressed in the meetings.
2. Each member may make a reservation which should be explicit and concise and specifically state their objection. Any reservation cannot feature the opinion or position of any other member without that other member's consent.

Article 13

Publication of working documents

Without prejudice to Article 17, working documents shall be published on the Commission's website unless decided otherwise by consensus by the group or unless the member presenting the document wishes to withdraw it.

Article 14

Attendance list

At each meeting, the Secretariat shall draw up, under the responsibility of the Chair, an attendance list specifying, where appropriate, the authorities, organisations or bodies to which the participants belong.

Article 15

Conflicts of interest

1. Should a conflict of interest in relation to an expert arise, the Commission's services may exclude this expert from the group or a particular meeting thereof or they may decide that the expert in question shall abstain from discussing the items on the agenda concerned and from any vote on these items.
2. At the start of each meeting, any expert whose participation in the group's work would raise a conflict of interest shall inform the Chair.
3. Conflicts of interest shall be reported in writing, e.g. in the summary minutes of the group's meeting.
4. Paragraphs 1, 2 and 3 shall also apply to deliberations taken by the group in written procedure.

Article 16

Correspondence

1. Correspondence relating to the group shall be addressed to the Commission (e-mail: taxud-joint-transfer-pricing-forum@ec.europa.eu), for the attention of the Chair.
2. Correspondence for group members shall be sent to the e-mail address which they provide for that purpose.

Article 17

Access to documents

Applications for access to documents held by the expert group will be handled in accordance with Regulation (EC) No 1049/2001⁴ and detailed rules for its application⁵.

⁴ Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents (OJ L 145, 31.5.2001, p. 43).

Article 18

Confidentiality of deliberations

1. The group's deliberations shall be confidential.
2. In agreement with the Commission's services, the group may, by a simple majority of its members, decide to open its deliberations to the public.

Article 19

Protection of personal data

All processing of personal data for the purposes of these rules of procedure shall be in accordance with Regulation (EC) No 45/2001⁶.

⁵ Commission Decision 2001/937 of 5.12.2001. OJ L 345 of 29.12.2001, p. 94.

⁶ Regulation (EC) 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data. (OJ L 8, 12.1.2001, p. 1).