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EU JOINT TRANSFER PRICING FORUM

BUSINESS CONTRIBUTION ON

CRITERIA FOR SELECTING INDEPENDENT PERSONS OF

STANDING ELIGIBLE TO BECOME A MEMBER OF AN

ADVISORY COMMISSION

Meeting of 21st February 2008

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**CRITERIA FOR SELECTING INDEPENDENT PERSONS ELIGIBLE TO BECOME A MEMBER OF
THE ADVISORY COMMISSION – PROPOSAL FROM BUSINESS MEMBERS**

At the meeting held on 23 October 2007 the Forum discussed the criteria for choosing the persons of standing eligible to become members of the advisory commission.

In particular, the Dutch delegation manifested its concern as regards the interpretation of the criteria to be applied to consider a person as (i) independent and (ii) competent. The Dutch delegation invited the members of the Forum to make attempts to agree on a common interpretation of these criteria.

With reference to **independence** it was agreed that the Secretariat will enquire into the experience gained by international organizations or bodies in charge of (commercial) disputes resolution – as regards declarations of independence and absence of conflict of interests – with the understanding that they could be used by the JTPF in its recommendation.

With reference to **competence**, it was agreed that the members of the Forum would have made recommendations to be discussed at its next meeting. In this context, the business members of the Forum reviewed the profiles of the persons of standing selected by the Member States and wish to formulate the following comments:

(i) several persons have no experience in the tax field; (ii) other members have experience in tax subjects other than transfer pricing and frequently those subjects are unrelated to corporate taxation; (iii) several persons have no practical experience; (iv) in a number of circumstances, experience in taxation of the person dates back to several years as the person is either retired or no longer involved in the tax field; (v) for members who have no tax knowledge it is not clear the extent to which members have some international experience; (vi) the command of foreign languages is also unknown (it is noted however that some persons included in the list have no written or speaking command of any language other than their mother tongue which may limit considerably the efficiency of the work of the commission).

The results of the review thus indicate in several countries a lack of focus on the specific skills of the persons of standing. Some profiles of the persons of standing make it unlikely they may properly perform the task of member of the advisory commission. For this reason, the business members suggest that the Forum adopts a standard form CV to be filled by each candidate person. The CV should specifically include information on TP experience and a few other features, which are relevant to assess the competence of the person. The Forum should also agree minimum standards that should be satisfied – for recent years – by each person of standing, which should include:

- specific knowledge in transfer pricing;
- international experience;
- command of one or more foreign languages to include either English or French or German.
- as to the specific transfer pricing knowledge and experience the following should be considered:

1. (i) publications (books or/and articles) on transfer pricing issues;
2. (ii) practice and experience in transfer pricing (either in the capacity of tax advisor or tax official);
3. (iv) participation to the OECD works on transfer pricing or to the works of other international organizations (for examples, also former or current members of the JTPF could be included);
4. (v) academic activity on transfer pricing (for example lecturer at transfer pricing University courses).