



**EUROPEAN COMMISSION**  
DIRECTORATE-GENERAL  
TAXATION AND CUSTOMS UNION  
Analyses and tax policies  
**Analysis and coordination of tax policies**

Brussels, October 2007  
Taxud/E1/

**DOC: JTPF/003/2007/REV1/EN**

# **EU JOINT TRANSFER PRICING FORUM**

## **RULES OF PROCEDURE OF THE JTPF**

**Centre de Conférences Albert Borschette  
Rue Froissart 36 - 1040 Brussels**

Contact:

Edward Morris, Telephone (32-2) 295.15.67 [Edward.Morris@cec.eu.int](mailto:Edward.Morris@cec.eu.int)

Jean-Marc Van Leeuw, Telephone (32-2) 295.89.36 E-mail: [Jean-Marc.Van-Leeuw@cec.eu.int](mailto:Jean-Marc.Van-Leeuw@cec.eu.int)

**RULES OF PROCEDURE OF THE EU JOINT TRANSFER PRICING FORUM, GROUP  
OF EXPERTS ON TRANSFER PRICING**

THE EU JOINT TRANSFER PRICING FORUM,

Having regard to Decision C(2006) 2826 of 22/12/2006<sup>1</sup>, and in particular Article 1,

Having regard to the standard rules of procedure published by the Commission<sup>2</sup>,

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 has given its consent.
2. Joint meetings of the group with other groups may be convened to discuss matters falling within their respective areas of responsibility.

*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 group will be asked to adopt the agenda at the start of the meeting.

*Article 3*

**Forwarding of documents 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.
2. The secretariat shall send drafts on which the group is consulted and all other working documents 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.
4. Where the secretariat receives comments from members regarding documents after the agreed dates have passed, these will also be distributed as far as possible.

---

<sup>1</sup> OJ L32 of 6/02/2007, p. 189

<sup>2</sup> See Annex III of SEC(2005) 1004 of 27.7.2005

#### *Article 4*

##### **Opinions of the group**

The Group shall aim to adopt its opinions on the basis of a consensus. Where complete agreement cannot be reached the range of opinions should be reflected and the majority opinion indicated.

#### *Article 5*

##### **Vice-Chair and assistants**

1. The JTPF is composed of Business members and tax administration members. Both groups shall designate a Vice-Chair 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 the 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 Business.
3. Each member may be accompanied by an assistant, who for Business members must be from the same company. The assistant may speak with the agreement of the full member and the chair. Assistants are governed by the same rules on conduct and independence as full members

#### *Article 6*

##### **Sub-groups**

1. With the consent of the Commission, the group may set up sub-groups to examine specific questions on the basis of terms of reference defined by the group; they shall be disbanded as soon as they have fulfilled those terms of reference.
2. The sub-groups shall report to the group.

#### *Article 7*

##### **Admission of third parties**

1. The Commission may, if it thinks fit, invite experts or observers<sup>3</sup> with special expertise on a matter on the draft agenda to participate in the group's or sub-groups' work.
2. Experts are not present when the group adopts an opinion or report.

#### *Article 8*

##### **Written procedure**

If the group decides, the group's opinion on a specific question may be delivered by written procedure. To this end, the secretariat shall send the group members the drafts on which the group is being consulted and any other working documents.

#### *Article 9*

---

<sup>3</sup> The status of an observer can be used to invite representatives of other European or international institutions to participate in the group's deliberations.

## **Secretariat**

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

### *Article 10*

#### **Summary record of the meetings**

Summary records on the discussion on each point on the agenda and the opinions delivered by the group are drafted by the Secretariat and are distributed after agreement of the Chair. The summary records will not mention the individual position of the members during the group's deliberations. These summary records will be adopted by the group on the basis of a written procedure wherever possible. The procedure will be as follows: the Secretariat will distribute an initial draft to the Bureau. The Bureau and the Secretariat will then agree a document which will be released for comment to the members. The members will be given at least 30 days to suggest changes. Any changes received after the date given will not be incorporated into the next draft. If necessary, a further version will be distributed to all members listing any previous amendments requested together with a Bureau recommendation. All members will be given at least 30 days to comment on these new amendments only. If no comments are received then the summary record will be considered as adopted in line with the Bureau recommendation. Where conflicting comments are received then the Secretariat will work with the Bureau to suggest a solution. Any subsequent version will be distributed for information to the members. Any member has the right to raise an issue on any of the changes in the final Bureau version of the summary record at the next plenary session if they so wish.

### *Article 11*

#### **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 request 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 12*

#### **Attendance list**

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

### *Article 13*

### **Prevention of conflicts of interest**

1. At the start of each meeting, any member whose participation in the group's deliberations would raise a conflict of interest on a specific item on the agenda shall inform the Chair.
2. Members appointed in a personal capacity shall sign a declaration certifying that their participation will not result in conflicts of interest.
3. In the event of such a conflict of interest, the member shall abstain from discussing the items on the agenda concerned and from any vote on these items.

#### *Article 14*

### **Correspondence**

1. Correspondence relating to the group shall be addressed to the Commission, 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 15*

### **Transparency**

1. The principles and conditions concerning public access to the group's documents are the same as those laid down in Regulation (EC) No 1049/2001<sup>4</sup>. It is for the Commission to take a decision on requests for access to those documents.
2. The group's deliberations are confidential.
3. In agreement with the Commission, the group may, by a simple majority of its members, decide to open its deliberations to the public.
4. Working documents and summary records will be published on the Commission website unless decided otherwise by consensus or unless a member explicitly states that a contribution from that member should not be so published. It is the responsibility of any member to clearly state that any information provided by that member should not be so published. Members should however keep in mind that the Forum should be completely transparent wherever possible.

#### *Article 16*

### **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 45/2001<sup>5</sup>.

---

<sup>4</sup> 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, 31.5.2002, p. 43).

<sup>5</sup> 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).

*Article 17*  
**Working procedure**

1. The working procedure of the Forum should allow for a balance between maximum efficiency in the use of members' time at the formal meetings and the legitimate wish of members to be able to study and discuss draft reports in detail. All members have a joint responsibility to help the whole Forum reach a timely conclusion.
2. All documents produced by the secretariat shall be sent to the Bureau for comment and onward distribution to the full members. All documents shall be released to the members with the approval of the Chair. Where appropriate, to aid the process the Chair will make a recommendation between any conflicting previously expressed comments of the members. Any choice will be made on grounds of consistency with previously agreed drafting.
3. Structure of a project:
  - 3.1 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. The annotations shall contain all comments not otherwise taken on board received before any agreed deadline.
  - 3.2 Members interested in a particular project may assist the Secretariat by making contributions from the beginning.
  - 3.3 An indicative timetable shall be established by the Secretariat and the Bureau at the beginning of each project.
  - 3.4 In general, the plenary meetings of the forum are not the right place to discuss pure drafting issues. Written procedures shall therefore be used as often as possible.
  - 3.5 Members shall endeavour to meet deadlines and, where exceptionally this is not possible, shall inform the Secretariat. For comments received in time, the Secretariat shall produce annotated texts unless this does not aid the understanding of a document.
  - 3.6 Written comments should include reasoning unless obvious and be presented with an idea of how important the comment is to the member making the comment. Members should not raise pure drafting issues at the plenary sessions unless essential.
  - 3.7 Wherever necessary a drafting group shall be set up to assist the Secretariat in drafting.

- 3.8 Members should exercise self-restraint in making interventions during the plenary sessions to ensure the smooth operation of the meetings.
- 3.9 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 18*

**Relationship between the JTPF work and OECD work.**

The transfer pricing work of the JTPF will not conflict with the outcome of any OECD work in the same area. The work of the JTPF can however supplement and improve upon the OECD work and this includes the OECD transfer pricing guidelines. The specific focus of the work of the JTPF is to find pragmatic solutions to the problems raised by transfer pricing in the internal market and where necessary this means that OECD work, which does not have this specific aim, can be augmented.

*Article 19*

**Enforcement**

The Chairman is responsible for the implementation of these rules of procedure

\*\*\*