

**COMMISSION DECISION**  
**of 25 January 2011**  
**setting up the EU Joint Transfer Pricing Forum expert group**  
(2011/C 24/03)

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Whereas:

- (1) Commission Decision 2007/75/EC of 22 December 2006 setting up an expert group on transfer pricing <sup>(1)</sup> set up an expert group called the EU Joint Transfer Pricing Forum. That decision expires on 31 March 2011.
- (2) The EU Joint Transfer Pricing Forum had been informally set up in 2002. Since then, it has provided for a useful discussion forum between Member States and the private sector which has led the Commission to propose three Codes of Conduct which have been subsequently adopted by Member States in the Council. In addition, the Commission has adopted several documents based on the work of the EU Joint Transfer Pricing Forum.
- (3) Given the importance of transfer pricing tax matters as an Internal Market issue, the positive experience with the EU Joint Transfer Pricing Forum in assisting and advising the Commission, and the Commission's continuous need for such a body, it is necessary to set up a new expert group EU Joint Transfer Pricing Forum for the continuation of the work of the forum and to define its tasks and its structure.
- (4) The EU Joint Transfer Pricing Forum should assist and advise the Commission in transfer pricing tax issues.
- (5) The EU Joint Transfer Pricing Forum should be composed of governmental and private sector experts in the field of transfer pricing. It is also desirable to introduce the possibility to replace Members in order to maintain a balanced representation of relevant areas of expertise and areas of interest.
- (6) Rules on disclosure of information by members of the group should be provided for, without prejudice to the Commission's rules on security as set out in the Annex to Commission Decision 2001/844/EC, ECSC, Euratom <sup>(2)</sup>.
- (7) Personal data should be processed in accordance with Regulation (EC) No 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 <sup>(3)</sup>.

(8) Decision 2007/75/EC should be repealed.

(9) It is appropriate to fix a period for the application of this Decision. The Commission will in due time consider the advisability of an extension,

HAS DECIDED AS FOLLOWS:

*Article 1*

**Subject matter**

The group of experts called the EU Joint Transfer Pricing Forum, hereinafter referred to as 'the group', is hereby set up.

*Article 2*

**Task**

The group's task shall be:

1. to create a platform where business and national tax administration experts can discuss transfer pricing problems which constitute obstacles to cross-border business activities within the Union;
2. to advise the Commission on transfer pricing tax issues;
3. to assist the Commission in finding practical solutions, compatible with the OECD Transfer Pricing Guidelines for Multinational Enterprises and Tax Administrations, in order to achieve a more uniform application of transfer pricing rules within the Union.

*Article 3*

**Consultation**

1. The Commission may consult the group on any matter relating to transfer pricing.
2. The Chairperson of the group may advise the Commission to consult the group on a specific question.

*Article 4*

**Membership — Appointment**

1. The group shall comprise:
  - (a) one representative from each Member State;
  - (b) 16 representatives from the private sector;
  - (c) a Chairperson.

<sup>(1)</sup> OJ L 32, 6.2.2007, p. 189.

<sup>(2)</sup> OJ L 317, 3.12.2001, p. 1.

<sup>(3)</sup> OJ L 8, 12.1.2001, p. 1.

2. Members representing the Member States shall be appointed by the national authorities concerned. Those members shall be civil servants dealing with transfer pricing matters.

3. Private sector members shall be appointed by the Director-General of the Directorate-General for Taxation and Customs Union from specialists with experience and competence in the areas referred to in Article 2 and Article 3(1) and who have responded to the call for applications.

4. Applicants deemed suitable for membership but not appointed may be placed on a reserve list, which the Commission may use for the appointment of replacements.

5. Members are appointed for two years. They shall remain in office until such time as they are replaced or their term of office ends. Their term of office may be renewed.

6. Members may be replaced for the remainder of their term of office in any of the following cases:

- (a) where the member resigns;
- (b) where the member is no longer capable of contributing effectively to the group's deliberations;
- (c) where the member does not comply with the conditions set out in Article 339 of the Treaty;
- (d) where the member is not independent of any outside influence;
- (e) where the member has failed to inform the Commission in good time of a conflict of interest;
- (f) where it is desirable in order to maintain a balanced representation of relevant areas of expertise and areas of interest.

7. Private sector members shall be appointed in a personal capacity, and shall act independently and in the public interest.

8. The names of individuals appointed in a personal capacity shall be published in the Register of Commission expert groups and other similar entities, hereinafter referred to as 'Register', as well as on a dedicated website;

9. Personal data shall be collected, processed and published in accordance with Regulation (EC) No 45/2001.

#### Article 5

### Operation

1. The Director-General of the Directorate-General for Taxation and Customs Union shall appoint the Chairperson of the group.

2. In agreement with the services of the Commission, the group may set up subgroups to examine specific questions on the basis of the terms of reference defined by the group. Such subgroups shall be disbanded as soon as their mandate is fulfilled.

3. The Commission's representative 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 subgroup. In addition, the Commission's representative may give observer status to individuals, organisations as defined in rule 8(3) of the horizontal rules on expert groups, EU agencies and accession countries. In particular, representatives of accession countries and from the OECD Secretariat may be invited as observers.

4. Members of expert groups and their representatives, as well as invited experts and observers, shall comply with the obligations of professional secrecy laid down by the Treaties and their implementing rules, as well as with the Commission's rules on security regarding the protection of EU classified information, laid down in the Annex to Decision 2001/844/EC, ECSC, Euratom. Should they fail to respect these obligations, the Commission may take all appropriate measures.

5. The meetings of the group and its subgroups shall be held normally on Commission premises. The Commission shall provide secretarial services. Other Commission officials with an interest in the proceedings may attend the meetings of the group or its subgroups.

6. The group shall adopt its rules of procedure on the basis of the standard rules of procedure for expert groups.

7. The Commission publishes relevant information on the activities carried out by the group either by including it in the Register or by placing it on a dedicated website.

#### Article 6

### Meeting expenses

1. Participants in the activities of the group shall not be remunerated for the services they render.

2. Travel and, where appropriate, subsistence expenses incurred by participants in the activities of the group shall be reimbursed by the Commission in accordance with the provisions in force within the Commission.

3. Those expenses shall be reimbursed within the limits of the available appropriations allocated under the annual procedure for the allocation of resources.

#### Article 7

### Repeal

Decision 2007/75/EC is repealed.

#### Article 8

### Applicability

This Decision shall apply until 31 March 2015.

Done at Brussels, 25 January 2011.

For the Commission

Algirdas ŠEMETA

Member of the Commission