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***Follow up to the study of administrative practices - Final evaluation***

***Belgium***

***Measure aimed at determining the level of taxation of foreign companies operating in Belgium, without legal personality or probative accounts***

Whilst there are a couple of remaining questions about the application of this measure (What costs are included? How long are agreements made for?), no member of the Group has expressed particular concern about this measure.

Given the description agreed yesterday, the lack of use of this measure and the commitment that it will not be used in the future to replace other measures with a positive evaluation, there seems to be little reason to conclude that it may significantly affect the location of business within the EU.

Provided that Belgium would commit itself not to reactivate this measure, as proposed yesterday (respect the “standstill” irrespective of what will happen to other measures currently under consideration by the Code of Conduct Group), we would be inclined to accept a negative evaluation of this measure.

***Luxembourg***

***Finance Branches***

It has been acknowledged that these double taxation provisions are outdated and inappropriate. Given the formulaic split of profits, such a measure may significantly affect the location of business and we would conclude that this should receive a positive evaluation like the similar measure already considered (and indeed any measure of a similar nature).

***Netherlands***

***Non-standard rulings (including Greenfield-rulings)***

Concern has been expressed, to a lesser or greater degree, about each of the elements of the practices covered by the non-standard rulings. The Netherlands delegation has acknowledged that there is less transparency about these practices than about the standard rulings, which have received a positive evaluation. We therefore conclude that these provisions should receive a positive evaluation.

We welcome the fact that the Dutch delegation has already indicated that they will review these provisions.

***United Kingdom  
(Informal) cost-plus rulings***

A number of the members of the Group indicated yesterday that if the UK practices ensure a proper and consistent application of the OECD transfer pricing rules (case by case analysis, no formulaic approach, regular review) then they had no further concerns about this measure. On this basis, we are inclined to conclude the measure is not likely to significantly affect the location of business and it should receive a negative evaluation.

***Comparison of cost-plus arrangements***

(If necessary) we would distinguish those measures that, at one end of the scale, strictly apply elements of the OECD transfer pricing guidelines from those that provide formulaic safe harbours and those that, at the other end of the scale, also exclude some of the relevant costs.