



**OECD MEETING WITH BUSINESS COMMENTATORS  
ON THE SCOPING OF A NEW PROJECT  
ON THE TRANSFER PRICING ASPECTS OF INTANGIBLES**

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**Agenda, presentation material and list of participants**

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**9 November 2010**

**Paris**





**MEETING WITH A GROUP OF COMMENTATORS ON THE SCOPING OF A NEW  
PROJECT ON THE TRANSFER PRICING ASPECTS OF INTANGIBLES**

**9 NOVEMBER 2010 AT THE OECD CONFERENCE CENTRE IN PARIS**

1. The OECD will start in 2011 a new project on the Transfer Pricing Aspects of Intangibles. In July 2010, comments were invited from interested parties on the scoping of such a project. Almost 50 written contributions were received from the public, most of which are available on the OECD Internet site ([www.oecd.org/ctp/tp/intangibles](http://www.oecd.org/ctp/tp/intangibles)).

2. The OECD is grateful to the commentators for their input. Working Party No. 6 of the Committee on Fiscal Affairs (“WP6”), which is the body in charge of carrying out this project, will discuss the comments received at its November 2010 meeting and finalise its scoping exercise.

***Objectives of the consultation and proposed agenda***

3. The objectives of the consultation are for business commentators to be given the opportunity to orally explain some of their arguments in relation to the scoping of the project and for WP6 Delegates to obtain clarification of the arguments raised to the extent needed.

4. Given the number of issues raised by commentators in writing, it will not be possible to discuss all of them. The attached agenda was prepared with the objective of focussing the meeting on the issues that would most greatly benefit from a face-to-face discussion. The decision whether or not to include particular issues in the agenda for the 9 November meeting does not reflect any agreement or disagreement on the comments received in relation to those issues, or on whether or not to include them in the scope of the project.

5. The meeting will focus on the determination of the issues that should be addressed (or not) in the project. It will not be possible at this meeting to have a substantive discussion of the issues themselves.

6. For each agenda item, designated business commentators will be invited to explain their views as indicated in the attached agenda. Time will be kept for discussion with participants on each of the agenda items.

7. The consultation will be held in English with no interpretation provided.



**AGENDA FOR THE OECD MEETING ON THE SCOPING OF A NEW PROJECT ON THE  
TRANSFER PRICING ASPECTS OF INTANGIBLES  
ORGANISED BY WORKING PARTY No. 6 OF THE COMMITTEE ON FISCAL AFFAIRS**

**9 November 2010 at the OECD Headquarters  
OECD Conference Centre - 2, rue André Pascal, 75016 Paris, France**

*Chair: Ms. Michelle Levac, Chair of Working Party 6 and of its Special Session on the TP Aspects of Intangibles*

8:30 – 9:00	<b>Registration</b>
9:00 – 9:30	<p><b>Welcome, Overview and Ground Rules. The OECD project on the TP Aspects of Intangibles and the consultation process.</b></p> <ul style="list-style-type: none"> <li>• Michelle Levac, Chair of Working Party 6 and of its Special Session on the TP Aspects of Intangibles</li> <li>• Chris Lenon, Chair of the BIAC Tax Committee</li> <li>• Caroline Silberztein, Head of the Transfer Pricing Unit, OECD</li> </ul>
9:30 – 10:30	<p><b>General comments on the scope of the new project on the TP Aspects of Intangibles.</b></p> <p><b>Should the project be broad and inclusive or have a narrow focus?</b></p> <p><b>What are the issues for which existing guidance is adequate and that should not be re-opened?</b></p> <ul style="list-style-type: none"> <li>• Designated commentators: <a href="#">Carol Dunahoo (Treaty Policy Working Group)</a>, <a href="#">Robert Green (Skadden)</a>, <a href="#">Chris Lenon (BIAC)</a></li> <li>• Questions and answers</li> </ul>
10:30 – 11:30	<p><b>Definitional issues: Should the OECD develop a framework for determining that an intangible exists (or does not exist)? That a compensable transaction took place? If so, what are the criteria to be considered?</b></p> <ul style="list-style-type: none"> <li>• Designated commentator: <a href="#">An Theeuwes (VNO-NCW)</a></li> </ul> <p><b>The notion of economic rent. Usefulness of the designations “routine” and “non-routine” intangibles.</b></p> <ul style="list-style-type: none"> <li>• Designated commentator: <a href="#">Isabel Verlinden (PwC)</a></li> <li>• Questions and answers</li> </ul>

11:30 – 12:15	<p><b>Definitional and economic ownership issues related to marketing intangibles. Is the existing guidance adequate? What critical issues arise in practice?</b></p> <ul style="list-style-type: none"> <li>• Designated commentators: <a href="#">Sheena Bassani (Barsalou Lawson)</a>, <a href="#">Andrew Cousins (Cadbury)</a></li> <li>• Questions and answers</li> </ul>
12:15 – 13:00	<p><b>What other “soft” intangibles or business attributes should be addressed in the project? (Irrespective of whether commentators think transactions involving such elements do or do not give rise to compensable transactions).</b></p> <ul style="list-style-type: none"> <li>• Designated commentators: <a href="#">Ronald van den Brekel (Ernst &amp; Young)</a>, Mr. Ryuichiro Seki (Japan Foreign Trade Council)</li> <li>• Questions and answers</li> </ul>
13:00 – 14:30	<i>Lunch break</i>
14:30 – 15:15	<p><b>Definitional and ownership issues related to intangibles developed through research and development. Cost plus or intangible return rewards of R&amp;D centres. At what point does the R&amp;D process produce an intangible? Is the distinction between “make - sell rights” and “further development rights” a useful distinction? Determination of legal and economic ownership of the intangible property outcome of the R&amp;D process.</b></p> <ul style="list-style-type: none"> <li>• Designated commentators: <a href="#">Johann Müller (Tax Executives Institute)</a></li> <li>• Questions and answers</li> </ul>
15:15 – 16:15	<p><b>Characterising / recharacterising an intangible transfer. Characterising transfers made in connection with a cost contribution arrangement.</b></p> <ul style="list-style-type: none"> <li>• Designated commentators: <a href="#">Alistair Collins (AstraZeneca)</a>, <a href="#">John Neighbour (KPMG)</a></li> <li>• Questions and answers</li> </ul>
16:15 – 17:45	<p><b>Valuation issues.</b></p> <p><b>Should the project consider adoption of methodologies for intangible transfers that go beyond the five OECD approved methodologies? Should the OECD provide further guidance on the determination of the parameters used in valuation methods? Should the OECD provide further guidance on comparability issues for intangibles? What is the relevance for transfer pricing purposes of standards developed for accounting and financial purposes?</b></p> <ul style="list-style-type: none"> <li>• Designated commentators: <a href="#">Pim Fris (NERA)</a>, <a href="#">Jean-Florent Rérolle (International Valuation Standards Council)</a>, <a href="#">Arwed Crüger (WTS)</a></li> <li>• Questions and answers</li> </ul>

	<p><b>Should the OECD address the impact of regulatory approvals and restrictions on the transfer pricing of intangibles?</b></p> <ul style="list-style-type: none"><li>• Designated commentator: <a href="#">Peter van Dijk (TD Bank Financial Group)</a></li><li>• Questions and answers</li></ul>
17:45- 18:00	<p><b>Closing remarks. Way forward</b></p> <ul style="list-style-type: none"><li>• Michelle Levac, Chair of Working Party 6</li></ul>

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on the Transfer Pricing Aspects of Intangibles**

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**9 November 2010**

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on the Transfer Pricing Aspects of Intangibles**

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**9 November 2010**

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