

11 April 2014

CBI RESPONSE TO THE OECD DISCUSSION DRAFT ON TRANSFER PRICING COMPARABILITY AND DEVELOPING COUNTRIES

The CBI is pleased to comment on the OECD's discussion draft on Transfer Pricing Comparability and Developing Countries ('the discussion draft') published on 11 March 2014.

As the UK's leading business organisation, the CBI speaks for some 240,000 businesses that together employ around a third of the private sector workforce, covering the full spectrum of business interests both by sector and by size.

Our comments

The CBI notes that our members have contributed to the BIAC comments on the discussion draft and fully endorse them. In addition, below we make some points of emphasis on matters which are of particular concern to businesses active in the UK. These are as follows:

- The CBI commends the goal expressed in the discussion draft, to address concerns over the lack of comparability data in developing countries. We also support initiatives which make the application of the arm's length principle easier to apply in a consistent fashion. We therefore support the development of practical tools to achieve this.
- However, we are concerned that the discussion draft risks introducing practices that are damaging to the primary principles of comparability and we endorse concerns set out in the BIAC's submission. In particular, our concerns relate to the following:
 - The use secret comparables: these do not satisfy any principle of transparency, and therefore their use cannot in any way be seen to be acceptable.
 - Widening the source of data for comparables: there is a risk that this will become widely applied outside the context described in the discussion draft and make such practice difficult to roll back once a more widespread and consistent set of comparables is available to individual developing countries.
 - Profit splits should not be endorsed: simply because comparables are difficult to find, we do not think that the profit splits should be endorsed as this risks substituting poor comparability with no comparability. Instead, the current practice of using regional comparables with appropriate adjustment should be further considered. Such regional comparables could be used to establish workable safe harbours.

