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**COMMUNICATION FROM THE COMMISSION TO THE COUNCIL, THE  
EUROPEAN PARLIAMENT AND THE EUROPEAN ECONOMIC AND SOCIAL  
COMMITTEE**

**Implementing the Community Lisbon Programme:  
Progress to date and next steps towards a Common Consolidated Corporate Tax Base  
(CCCTB)**

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## 1. BACKGROUND

The Lisbon Strategy is intended to play a key role in achieving competitiveness, growth and jobs in the EU. Eliminating tax obstacles such as high compliance costs for cross-border operations and transfer pricing and the lack of cross-border loss compensation in the internal market can contribute to these goals. The Common Consolidated Corporate Tax Base (CCCTB) would significantly reduce the compliance costs of companies operating across the internal market, resolve existing transfer pricing problems, allow for the consolidation of profits and losses, simplify many international restructuring operations, reduce some of the complexities arising from the co-existence of the classical and exemption approaches to international taxation (without extending into the personal tax field), avoid many situations of double taxation and remove many discriminatory situations and restrictions. The CCCTB would contribute to greater efficiency, effectiveness, simplicity and transparency in company tax systems and remove the hiatuses between national systems.

Since 2001, when the Communication 'Towards an internal market without tax obstacles: A strategy for providing companies with a consolidated corporate tax base for their EU-wide activities' (COM(2001) 582) was issued, it has been European Commission policy to work towards providing companies who operate in more than one EU Member State with a CCCTB. This policy was confirmed in 2003 in the Communication 'An internal market without company tax obstacles: achievements, ongoing initiatives and remaining challenges' (COM(2003) 726).

In 2004, following an encouraging discussion at the informal meeting of the ECOFIN Council in September under the Dutch Presidency, where a Commission Non-Paper 'A Common Consolidated EU Corporate Tax Base' was presented, the Common Consolidated Corporate Tax Base Working Group (CCCTB WG) was established.

In October 2005 in the Communication 'Implementation of the Community Lisbon Programme – The contribution of taxation and customs policies to the Lisbon Strategy' (COM(2005)532) the Commission drew attention to the link between its work on the CCCTB and the Lisbon Programme and committed itself to the political objective of presenting a legislative measure in 2008.

In December 2005 the European Parliament adopted a resolution<sup>1</sup> (the 'Bersani Report') on 'The taxation of undertakings in the European Union: a common consolidated corporate tax base' and in February 2006 the European Economic and Social Committee issued an opinion<sup>2</sup> on the 'Creation of a common consolidated corporate tax base'. Both of these were supportive of the Commission's work in this area.

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<sup>1</sup> European Parliament resolution on taxation of undertakings in the European Union: a common consolidated corporate tax base (2005/2121(INI)) 13 December 2005

<sup>2</sup> Opinion of the European Economic and Social Committee on the Creation of a common consolidated corporate tax base in the EU (Explanatory Opinion) ECO/165 14 February 2006

In December 2005 the Commission outlined a method of addressing some of the specific tax problems of small and medium-sized enterprises in the short term. The Communication 'Tackling the corporation tax obstacles of small and medium-sized enterprises in the Internal Market - outline of a possible Home State Taxation pilot scheme' (COM(2005) 702) contains full details of the scheme and encourages Member States to consider this pragmatic and modest initiative in a constructive and open spirit.

This Communication has the dual purpose of reporting on progress to date and of drawing attention to those areas where further political support and direction is desirable without seeking commitments from Member States to the legislative proposal.

## **2. PROGRESS TO DATE**

### **2.1. Objectives of the work in the Working Group**

In line with the Lisbon objectives and the establishment of the CCCTB WG in 2004, the guiding objectives of the work are:

- to find ways to remove corporation tax obstacles to the efficiency and smooth functioning of the internal market,
- to reduce administrative burdens on companies and tax administrations alike, and introduce simple and transparent rules,
- to identify possible elements of a common consolidated tax base which improve the international competitiveness of European companies and which meet the economic requirements of the 21st century, and
- to ensure that Member States are able to preserve their legitimate financial interests, notably by curtailing the scope for tax evasion and fraud.

The overall approach to the work since its formation has been in line with that discussed in the original Non-Paper which was presented to the informal ECOFIN meeting in September 2004 and which led to the creation of the Working Group. Specifically:

- the purpose is not to change the current level of taxation,
- all Member States should be encouraged to participate in the process,
- International Accounting Standards and International Financial Reporting Standards (IAS/IFRS) should be used as a tool for defining the base,
- the work should be guided by an established set of tax principles, to reflect the Lisbon objectives.

The level of taxation has not, and will not, form part of the discussions since this would involve discussion of the tax rate and the Commission does not intend to extend the work on the base to include the rate. If the new base is broader or

narrower than some Member States' existing tax bases then the existing level of taxation could be maintained by Member States amending their tax rates. Nevertheless, the Commission will study from a qualitative and quantitative standpoint the possible impact of the CCCTB on tax revenues and their predictability. Participation by Member States in the WG has so far been encouraging. All Member States have participated in the WG meetings, although it is acknowledged that participation does not necessarily imply support for the concept of a CCCTB. Nevertheless, the technical input received from all experts has been appreciated and taken into account.

## 2.2. Organisation of the Working Group

The CCCTB WG meets quarterly, chaired by an official from the Taxation and Customs Union Directorate-General of the European Commission, and is composed principally of experts from Member State administrations, but is extended on an ad hoc basis to include experts from business and academia. The work of the CCCTB WG is fully transparent and can be followed via a series of dedicated web pages<sup>3</sup> which contain details of the WG meetings and the working documents.

At the first meeting of the CCCTB Working Group a tentative work programme was agreed. As shown on the chart in Annex 1, four main categories of work were identified:

- General issues,
- Structural technical elements of the tax base,
- Structural legal aspects, and
- Consolidation at group level and allocation of the tax base.

The first two categories are common to any tax base – the relation (if any) to financial accounts and the principles, and the structural 'building blocks' are found in all tax systems. The second two categories concern aspects which are not found in all tax bases and are therefore new to some, if not all, Member States – the legal aspects of a consolidated base, and the actual consolidation technique and allocation mechanism to share the base between the Member States. The final items on the chart are self explanatory – the legislation itself and the associated impact assessment.

The approach taken has been for Commission staff to introduce at each Working Group meeting at least one new subject for discussion by preparing a working document. Depending on the complexity of the issue a sub-group of experts from a number of Member States may then be formed to meet separately to deepen the analysis, chaired by an expert from a Member State. The sub-group reports back periodically to the Working Group so that all experts are kept informed of progress. This working method allows for maximum technical input from Member State experts. In the course of 2004 and 2005 four sub-groups were set up.

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<sup>3</sup> Available on the following web-page:  
[http://europa.eu.int/comm/taxation\\_customs/taxation/company\\_tax/common\\_tax\\_base/index\\_en.htm](http://europa.eu.int/comm/taxation_customs/taxation/company_tax/common_tax_base/index_en.htm).

### 2.3. Achievements of the Working Group

At the first meeting of the Working Group, the tax principles that should guide the work were discussed and these preliminary discussions have provided a framework for the ongoing work on the structural elements. No sub-group was deemed necessary but the tax principles were re-visited at a subsequent meeting and are likely to be discussed again in future meetings.

Regarding the structural technical elements of the tax base, four main blocks of issues have been discussed so far: (1) Assets and their depreciation, (2) Reserves, provisions and liabilities, (3) Taxable income and (4) the International aspects of the CCCTB. For each of these structural elements a dedicated sub-group has been set up, most of which have already met on several occasions.

Each sub-group has been (or in the case of the second two sub-groups, are expected to be) able to identify some areas of the structural elements it is examining where there is likely to be broad agreement on how it should be taxed or relieved from taxation. Each has also identified areas where there is clearly more than one possibility, and experts are currently divided over which one is preferable. Early indications from the latest sub-group, concerning international aspects, suggest these issues are particularly wide-ranging as they concern relations with third countries and potential implications for existing bilateral double tax conventions.

Issues specific to the CCCTB, such as the consolidation and the allocation method, have not yet been addressed in the Working Group but, because these are closely linked to the base, the Commission considers that the Working Group should begin work on these issues later this year. It should be noted that although there may appear to be fewer of these issues they are extremely complex, and will require significant work, not least because they represent areas beyond the traditional elements of a tax base. The format of the CCCTB WG and the Work Programme seem robust and the output will be useful to the Commission when work starts on the Impact Assessment and the legislative proposal itself.

## 3. THE NEXT STEPS

### 3.1. General approach

It is often stated that company tax bases across the EU have become broader in recent years as special tax incentives have been reduced. This makes the tax base simpler and more transparent, and hence efficient and neutral (in the sense that the fewer special regimes and incentives there are the more neutral the base is) and also allows the same amount of revenue to be raised with a lower statutory tax rate. As work progresses on the CCCTB it is becoming evident that the new base will work best if it maintains this momentum, i.e. **it should be uniform and represent an overall simplification and broadening of the corporate tax base.**

Overall the initial Work Programme provisionally agreed at the first Working Group meeting remains valid. **It is the intention of the Commission that the work of the first four sub-groups** (on Assets and Depreciation; Provisions, Reserves and

Liabilities; Taxable Income; and International Aspects) **should be broadly completed by the end of 2006.**

It is also planned to start work on three further elements in 2006: first, consolidation; second, the mechanism for sharing the common consolidated tax base; and third, the structural and legal framework which covers the administrative framework, audit arrangements, legal interpretation and court procedures. The work will take into account the specific situation of small and medium-sized enterprises.

### **3.2. The link between international accounting standards and the tax base**

Although work on the CCCTB might be more straightforward if all companies, in all Member States, were permitted to use IAS/IFRS and therefore there were a single starting point for all companies, the Commission accepts that currently this is not the case. Given the importance of the CCCTB for the Lisbon Programme, the Commission cannot delay work on the CCCTB pending any future harmonisation of company accounting. Furthermore, the CCCTB WG is a technical group of tax experts and its role is limited to technical tax matters. The rules governing the content of the CCCTB will be applicable whether, at the national level, the starting point for companies preparing their tax accounts is accounts prepared in accordance with IAS/IFRS or national accounting standards. **IAS/IFRS will therefore be used only as a tool in designing the base because they provide a common language and some common definitions. In particular, elements of these international standards which do not suit the CCCTB will not be imported into the CCCTB and there will be no direct formal link to the constantly changing standards (IAS/IFRS).**

### **3.3. Consolidation**

**The Commission, the European Parliament and the European Economic and Social Committee are convinced that the base should be introduced from the beginning as a consolidated tax base** and accordingly, as outlined in the original CCCTB WG work plan, work will commence on consolidation during 2006. Although ambitious, **this approach will bring the greatest benefits to the Internal Market and contribute most to the Lisbon goals.** The alternative of a two-stage process, first a common base without consolidation and second a consolidated base, does not address the problems associated with a lack of cross-border loss relief, nor does it simplify the existing difficulties of transfer pricing. Additionally, unless work is directed towards a consolidated base there is a danger that consolidation may be made more difficult in the long term if, for example, a lower level of common treatment of certain structural elements, or methodologies, is accepted. Indeed, it is difficult to identify many advantages from simply introducing a 'common' base to operate independently in each Member State which might, over time, revert to twenty five different bases as national interests prevail over the interests of the internal market as a whole.

Work on the mechanism to share the consolidated base between Member States will also be necessary. This can be carried out concurrently as the technical issues are relatively independent, and from a resources point of view will demand different expertise and skills. Indeed some preliminary work has already been carried out

internally by Commission staff on possible mechanisms such as formula apportionment.

### 3.4. **Optional versus compulsory tax base**

**The Commission, together with the European Parliament, also continues to believe that the CCCTB should initially be proposed as optional for companies given that the primary goal is to improve the operation of the internal market rather than Member State domestic economies.** Not all companies operate in more than one Member State and there is no need for such companies to change their tax base. While the simultaneous operation of two corporate tax bases – the CCCTB and the national tax base – admittedly may raise specific issues for tax administrations, it is also the Commission's view that an optional CCCTB is more likely to gain the support of all Member States and of business than a compulsory CCCTB. For enterprises, using only one tax base rather than up to twenty five will be much simpler. Designing the CCCTB as optional also creates an incentive for its design to be as competitive as possible, simple and uniform across the EU, although care will be needed to ensure that State Aid rules are not infringed and that appropriate anti-abuse rules are introduced.

### 3.5. **Work Programme beyond 2006**

Beyond 2006, planning is subject to the rate of progress achieved in the CCCTB WG. At the beginning of 2007 a further 'progress report' is planned. At the same time, work on tax incentives and anti-avoidance could start with a view to work being broadly completed by the end of 2007. During the year, work on consolidation and the sharing mechanism could be broadly completed and the process of 're-visiting' the elements already discussed could be started. **This would enable the Commission to complete the work and present a comprehensive Community legislative measure at the end of 2008.**

It should be noted that the term 'broadly completed' is deliberately used: no final agreement will be sought until work on all the structural elements has been completed. Even then, as the CCCTB WG is a technical expert group it will take no formal decisions. However, a 'second round' of discussions on the structural elements will need to take place within the WG before legislative drafting begins to ensure that the work on individual elements fits together in a coherent and satisfactory overall approach.

## 4. **CONCLUSIONS**

Internally, the Commission is committing the necessary resources to meet the ambitious work programme set out in this Communication with a view to being able to present a legislative proposal in 2008. Externally, the CCCTB Working Group has been established and provides the necessary mechanisms for discussions with experts from Member State administrations, business and academia.

However, **it is a challenging exercise and, if it is to be achieved, more commitment, from more Member States, will be required.** Although good initial progress has been made in a number of areas, there are three possible areas of



concern. First, there is a tendency for some experts to primarily defend aspects of their current tax system, rather than to seek a solution which could be applicable across the whole EU. Second, there is a tendency to either postpone discussions on more 'difficult' elements or to seek to maintain two different solutions for each issue by suggesting that an element of choice may be maintained. Third, there is a growing discrepancy in the amount of resources which Member States are committing to the work which, given the ambitious timetable, may lead to delays in implementing what is a fundamental part of the strategy for achieving the Lisbon goals.

Whereas it may be understandable that experts prefer 'what they already know', and argue that since it has worked domestically for many years there is no reason to change, this hampers progress in designing a common tax base. **It is precisely because there are so many differences between the existing national rules that there is a need for a single common solution. If each Member State were to insist on retaining its own existing rules then there could be no common base** – in brief adopting a common base necessarily means changes to the existing domestic computational rules. In this context, it is essential to use the development of a new common tax base as an opportunity for economic reform by striving for a modernisation and simplification of tax rules.

Similarly, the need to make some initial progress has understandably led to the postponement of discussion of some issues, in order not to delay matters. However, this cannot continue indefinitely. More importantly, **it is not desirable to 'compromise' by permitting for each issue two quite different technical solutions to co-exist as national options as this will not lead to the full benefits of simplification.** When a group of companies operates in several Member States it is important that they are able to adopt a common approach to complying with tax requirements – it will not be very helpful if they still have to comply with different requirements depending on where they operate. Should such 'options' extend beyond computational methodologies into the actual tax treatment of certain transactions then not only is simplicity sacrificed but in addition difficulties will arise in the consolidation process as mentioned above.

As the work on the CCCTB accelerates, the demands on staff resources increase. The political priority given to achieving the Lisbon objectives, to which the CCCTB will make an important contribution, should be reflected in the allocation of staff resources. The Commission has responded by allocating additional staff to the project and some Member States have done the same. The advantages of a specialised team are clear and providing adequate resources will enable everyone to fully participate in the project. The early work on each structural element of the tax base necessarily involves a degree of 'information gathering' but there is a risk that those who devote insufficient resources to the project will be less satisfied with the eventual Commission proposal than those who have been more actively involved. The choice of individual experts who attend each Working Group and sub-group meeting has deliberately been left to Member States to enable them to call on a range of experts with expertise in the particular aspect of the tax base under discussion at any given meeting.

The Commission recognises that on some issues technical experts are not in a position to support work on a particular element without further higher level or political support. This Communication therefore has the dual purpose of reporting on

progress to date and of drawing attention to those areas where further political support and direction is desirable. It is recognised that Member States will not be able to make a final decision on whether or not to support the CCCTB until a formal proposal has been presented by the Commission but clear support for the general concept and work programme is essential for progress to continue.

To conclude:

- Although the definition of the CCCTB can be conceptually inspired by corresponding international accounting standards (IAS/IFRS), no formal link between the two should be established, because not all companies are able to use IAS/IFRS and the standards change frequently. The CCCTB legislation should therefore be a self-standing document containing all the necessary definitions for determining taxable profits.
- The initial work programme for the CCCTB, which envisaged a tax base optional for companies, with consolidation, and shared between Member States, remains the best approach to achieving the implementation of the CCCTB and the consequent contribution to the Lisbon goals. Without prejudging future political decisions, technical work should therefore progress along these lines.
- The current approach of working in close cooperation with Member State experts is the best way of ensuring that the Commission's eventual legislative proposal will be acceptable to Member States. In this way Member States can participate in the work without making a premature or final commitment to the CCCTB. Cooperation with business and academics, as illustrated by the 'extended format' meeting of the CCCTB Working Group in December, is also useful.
- Reasonable progress towards the CCCTB has been made with good input from Member State experts in the CCCTB Working Group. The quality of further work will depend on the active involvement of Member States and Commission alike.
- The introduction of a simple, modern and transparent common consolidated tax base will necessarily involve each Member State making some changes otherwise the benefits of a common base will not be realised, hence the importance of open-mindedness and flexibility by all participants in this process.

The Commission would welcome political support and direction from Member States for the above conclusions.

## ANNEXES

### ANNEX 1

#### SUMMARY WORK PROGRAMME OF THE CCCTB WORKING GROUP

##### CCCTB – summary of work programme and progress to date

<b>General</b>		
Implications and use of IAS/IFRS(1) Tax Balance Sheet/Dependency Tax Principles	→	Initial discussions in Working Group
<b>Structural, technical elements of the tax base</b>		
Assets & tax depreciation – tangible and intangible Capital Gains – tangible and intangible Leasing/Economic Ownership	→	Initial discussions in Working Group Further discussions in Sub-Group
Reserves/Provisions/Liabilities	→	Initial discussions in Working Group Further discussions in Sub-Group
Taxable Income Deductions Loss carry back, carry forward	→	Initial discussions in Working Group Further discussions in Sub-Group
Financial Assets Financial Activities	→	Initial discussions in Working Group
International Aspects Waters edge – EU/non EU Double taxation relief	→	Initial discussions in Working Group Further discussions in Sub-Group
Business Combinations/Mergers Dividends/distributions	→	Not yet started
Incentive Measures, including R&D	→	Not yet started
<b>Structural – legal</b>		
Administrative framework Audit Interpretation/courts etc	→	Not yet started
Anti-avoidance	→	Not yet started
Compulsory/optional application for companies Restriction – size/sector	→	To be discussed outside the technical Working Group

<b>Consolidation &amp; allocation</b>		
Consolidation method, rules etc Allocation Method	→	Internal Commission work started Not yet started in Working Group
Overall discussions to link structural elements Additional issues identified during work	→	Not yet started
<b>Impact Assessment – of CCCTB Drafting of legislative proposal</b>	→	Not yet started

(1) International Accounting Standards/International Financial Reporting Standards

## ANNEX 2

### SUMMARY DETAILS OF TECHNICAL PROGRESS TO DATE IN THE CCCTB WG

#### **Accounting standards and financial and tax accounting dependency**

The degree of linkage between financial accounts and tax accounts or the tax base is a perennial issue. Even though many companies now prepare their financial accounts in accordance with International Accounting Standards and International Financial Reporting Standards (IAS/IFRS)<sup>4</sup> many are still required to use national accounting standards instead of IAS/IFRS.

As not all companies use the same accounting rules, the continuation of 'dependency' of tax accounts on financial accounts and/or 'reversed dependency' is conceptually impossible. Currently there are 25 different sets of national financial accounting rules. Accordingly, financial accounts prepared in accordance with these 25 different sets of rules cannot be directly linked with a single identical common tax base. Some form of reconciliation will be necessary at national level. It follows that the CCCTB legislation will have to explicitly contain definitions which in many Member States are currently simply taken from their national accounting rules and regulations for the purposes of their national tax base.

#### **Tax principles**

Any newly developed tax base should be firmly based on established tax principles and at the first meeting of the WG a series of possible principles were discussed. This should form a useful 'checklist' against which to evaluate possible solutions which emerge during discussions on individual elements. However, it was not considered desirable or necessary, at the beginning of the exercise, either to formally agree on a final set of principles, or to prioritise individual principles which may conflict in certain instances. Nor was any decision taken on whether or not a formal statement of principles should be adopted as part of the CCCTB, although it was noted that no Member State currently has such a statement in its legislation. There seems to be a wide consensus that the current flexible approach is the most appropriate and there are no plans to propose formalising a statement on tax principles at this stage.

During the discussions on principles it was noted that they are generally discussed in the context of an overall tax system, i.e. including the base and the rate; the company and the individual shareholder. They are therefore not automatically transferable to the current exercise, which concerns the corporate tax base. However, certain elements are clearly relevant, notably the principles of efficiency (also described as neutrality, particularly in relation to different types of investments) simplicity, transparency and certainty. The design of a new tax base creates a 'golden'

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<sup>4</sup> IAS – International Accounting Standards: accounting standards issued by the International Accounting Standards Board, now issued as IFRS – International Financial Reporting Standards.

opportunity to satisfy these principles and the Commission wishes to underline in particular the importance of simplicity.

### **Structural elements of the tax base**

As outlined in the main text, work has already started on four main structural elements: (i) fixed assets and depreciation (including capital gains), (ii) reserves, provisions and liabilities, (iii) net taxable income and (iv) international aspects.

#### **Fixed assets and depreciation (including capital gains)**

In general, discussions on assets and tax depreciation and on capital gains and losses have been fruitful and the sub-group dedicated to this issue has identified common approaches in several areas. These include the definition of a depreciable asset, the need for a uniform definition of when to recognise an asset and the approach to intangible assets, in particular the distinction between purchased and self-created intangibles. A number of relatively detailed issues have also been covered such as assets of very low value, and an approach to legal as opposed to economic ownership. There remain varying views in other areas such as how to deal with major repairs to damaged assets. The discussion and analysis made by the sub-group and main WG will represent valuable input and a starting point for the Commission's eventual proposal but input from outside the WG will also have to be taken into consideration.

The main issue on which there are varying views concerns the choice between individual asset depreciation and pooling. Individual asset depreciation requires that the useful life of every asset be estimated when purchased, and depreciated individually over its useful life. In practice, detailed tables of assets and their useful lives are maintained by the tax administrations that follow this practice. Depreciation by pooling assumes that all assets in a pool have a common 'life' and it is the pool that is depreciated, rather than individual assets. It is much simpler since administrations do not need to maintain detailed lists of individual assets and their estimated useful lives, although it may be less accurate. The possibility of a series of pools deserves further examination, in the Commission's view, as a possible compromise solution.

**The Commission is convinced that pooling is preferable for the CCCTB as it is simple and efficient and believes that a compromise based on a small number of pools should be possible. Simplicity and efficiency are fundamental goals of the CCCTB** and the necessary harmonisation of the several existing national tables indicating the useful lives of several thousand individual depreciable assets would represent a very demanding, time-consuming task which, even if it were possible to achieve in a timely fashion, would contribute to neither simplicity nor efficiency. Pooling furthermore has the added advantage that it also addresses a number of linked issues such as the provision of tax relief on the sale of certain assets ('rollover relief'), which under an individual asset approach remain to be resolved.

## Reserves, provisions and liabilities

Granting a tax deduction when a provision is created rather than waiting for the actual expenditure to be incurred 'only' advances the deduction, so the potential loss of revenue to a tax administration is 'only' the time value of recognising a deduction early. However, there is currently a wide range of practices in Member States, and some of the potential provisions, for example those relating to environmental clean-up costs, could be large in relation to the tax base of an individual entity.

As regards definitions, good progress has been made, relying heavily on the existing definitions available in IAS/IFRS, such as the definitions that 'provisions are liabilities of uncertain timing or amount' and 'liabilities are present obligations of enterprises arising from past events'. However, reconciling the different methodologies for granting tax deductions currently used by Member States has proved difficult. The Commission believes that the two main approaches discussed (provisions generally tax non-deductible with a list of tax deductible exceptions, or, provisions generally tax deductible with a list of tax non-deductible exceptions) are not as opposed as they may appear. Both techniques should lead to the same results providing the underlying defined principles of what should be tax deductible are the same. **The Commission prefers the concept of preparing a general definition of tax deductible provisions supported by a list of non-deductible exceptions as this seems to be the most efficient way of proceeding.**

More specifically, discussions on provisions for environmental clean-up costs have highlighted one of the situations where a company may be legally required by national 'non-tax' legislation to create certain provisions. There now seems to be general acknowledgement at the technical level that a degree of mutual recognition of national legal requirements will be necessary, which has important implications beyond environmental policy, for example where certain expenses are incurred as a result of national legislation. As regards provisions this also seems to satisfy the principle of 'ability to pay' in the sense that deferring the recognition of a provision for clean-up costs until they are incurred – which may be when the operations have ceased – may leave the company with no profits with which to 'pay' for the clean-up.

Other non-tax considerations have also influenced the discussions on this subject. For example, where financial accounts and tax accounts are closely linked and these 'dual purpose' accounts are also used for other purposes, such as defining what amounts can be distributed as dividends to shareholders, changes to existing practices may appear to cause problems in some Member States. **However, it is not the aim of the CCCTB to harmonise legislation beyond that related to the calculation of the tax base. Care therefore needs to be taken to ensure that these 'non-tax' considerations do not take on too much significance.** For example, it should be possible to define distributable reserves at the national level in such a way that the tax treatment in the CCCTB is either recognised or not recognised, depending on an individual Member State's approach to which reserves may be distributed.

## **Taxable income**

Work on defining the structural element 'taxable income' began in September 2005. Three main factors have been identified: the definition of income, the definition of expenses and the methodological issue of how the calculations should be carried out.

As regards income, one of the initial questions concerned whether or not a distinction should be made between business and non-business income. Although no firm conclusions have been reached there is comparatively little support in the WG for creating such a distinction. In general terms there are clear similarities between national tax bases but when detailed transactions are considered the issue is more complicated. For example, the question of timing, as regards the point when a transaction should be recognised as having taken place, is particularly complex. Currently, national civil law generally provides the solution but within the CCCTB it will not necessarily be possible to rely on national civil law as this could result in differences: the fine details of civil law are not harmonised across the EU. Work done on capital expenditure and depreciation will provide a useful reference point for taking discussions further.

Similar issues arise in relation to expenditure and it will be important to ensure that the definitions of income and expenditure are consistent, as clearly one company's expenditure generally represents an item of income in another company. In this context the treatment of long-term contracts requires special attention. The provision and use of services, as opposed to goods, represents another 'sub-set' of transactions for which suitable definitions need to be finalised.

Lastly, the methodological issue of how the calculations should be carried out will have to be resolved. Here, the issue is to what extent formal reference to the opening and closing balance sheets should be made and whether this should be the main focus of computing income or whether it should be the profit and loss account, which is the primary source of information. In this regard, the concept of the tax balance sheet and whether this should form part of the CCCTB will be addressed. This is linked to a certain extent to the issue of tax and accounting dependency. With no common set of rules for the preparation of financial accounts, if the balance sheet forms a primary part of the tax calculation the CCCTB may have to include specific rules defining elements of the 'tax' balance sheet.

## **International aspects**

National tax systems include rules for the tax treatment of income earned by their residents in third countries, and also for the tax treatment of income earned by non-residents (companies resident in third countries) which arises within their territory. In order to avoid double taxation, Member States traditionally conclude bilateral double taxation conventions with third countries to provide a set of rules for determining taxation rights. Currently such conventions are also in place between EU Member States. The latter will assume less importance when the CCCTB is implemented but if not all Member States implement the CCCTB a number of issues will arise between these States and 'CCCTB' States. However, at this stage work is concentrating on examining the issues assuming all Member States implement the CCCTB.



The territorial scope of the CCCTB is being examined closely. As the consolidated base will be 'shared out' between Member States it is particularly important to ensure that a robust definition of the limits of the CCCTB – the 'water's edge' – be established that can apply across the EU, and that can be adopted with minimal impact on existing double tax conventions with third countries. Some improvements to conventions may be desirable in the long term but the Commission is keen to ensure that the CCCTB can work within existing conventions as far as possible.

Work is still at the stage of identifying the main issues but it is clear that this area is of fundamental importance for the success of the CCCTB. For example, it will be particularly important to ensure that Member States can continue to protect their share of the tax base against potential erosion and avoid the situation where third country losses can be imported into the CCCTB area but profits remain outside. At the same time, if the CCCTB is to bring the expected benefits, some adaptations to existing national approaches will be required in order to provide a uniform base for 'sharing out' between Member States.