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A Lamassoure MEP,  
Chair of TAXE Committee on Tax Rulings &  
Other Measures Similar in Nature or Effect,  
European Parliament,  
Bât. Altiero Spinelli  
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Our ref **jm/jb**

16 June 2015

Dear Mr Lamassoure

### **Responses to Special Committee's questions from 5 May 2015**

I would like to thank you and the members of the committee for the opportunity to present further views on tax rulings and state aid in the EU and engage with you in the wider discussions on business taxation and the role of tax advisers.

I am the Senior Tax Partner of KPMG LLP, the UK member firm of KPMG<sup>1</sup> and the Head of Tax for KPMG EMA<sup>2</sup>.

I welcome the current debate on tax and the seriousness with which the European Parliament is looking at this. The tax system is a fundamental element of the economy and wider civil society. I support Parliament's commitment to fairness and transparency on tax and to ensuring that the EU remains competitive on the global stage.

I concur with many themes discussed to date. In particular that:

- Tax systems are complex and more simplification would be beneficial;
- International tax laws needs updating to deal with developments in modern business practice; and

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<sup>1</sup> KPMG is a global network of professional firms providing Audit, Tax and Advisory services. We operate in 155 countries and have more than 155,000 people working in member firms around the world. The independent member firms of the KPMG network are affiliated with KPMG International Cooperative ("KPMG International"), a Swiss entity. Each KPMG firm is a legally distinct and separate entity and describes itself as such.

<sup>2</sup> KPMG EMA is the grouping of KPMG member firms located broadly in Europe, the Middle East and Africa.

- Greater transparency over companies' tax affairs would go a long way to assuage the public concerns but this information must be presented in a way which is relevant and useful.

My written response to the questions, which were not covered in the meeting due to time constraints, are included in Appendix 1.

Although I have consulted widely with KPMG member firms, this is a complex and ongoing debate and, whilst I believe that my responses reflect the locally held views in KPMG's Tax practices, there will inevitably be some differences of opinion in a network of our size and structure. My answers are, to the best of my belief and understanding, as complete as possible but there may be facts/views I am not aware of and therefore have not been included.

If you, or any of your fellow Members of the TAXE Special Committee require further information or explanations please let me know. I am happy to engage in further discussions as the Committee continues with its work programme.

Yours sincerely



Jane McCormick  
Senior Tax Partner, KPMG UK and Head of KPMG EMA Tax

## **Appendix 1: KPMG Response**

### **The Chair – Alain Lamassoure**

- 1. Have you found that the tax authorities of certain countries have room for negotiation on the amount of tax owed by your customer, while in other countries the administration strictly enforces the legislation? Has it happened to you that you get in contact with tax administrations of several countries to help your client to optimize its tax, thus taking advantage of the different possibilities in different countries regarding exemptions or deductions?**

Businesses and tax authorities sometimes disagree on the interpretation of tax law and these disputes are usually settled by the courts. In some areas of tax law, however, even if there is agreement on what the law provides there may be a need for discussion in relation to the amount of tax due. For example, in the area of transfer pricing there may be a range of acceptable outcomes and the final agreed position will be reached based on full disclosure of the facts and circumstances. As I commented during the hearing on 5 May, it would be contrary to KPMG's Global Principles for a Responsible Tax Practice<sup>3</sup> for any member firm to sanction any agreements which are not in accordance with the legislation.

On the second point many countries both within and outside the EU use their domestic tax system to encourage investment and economic activity. KPMG member firms advise clients on the alternatives available to them but ultimately clients will make a commercial decision on how to organise their business, driven by a number of factors of which tax is just one.

- 2. How do you optimize the tax treatment of your own group? Is full fiscal transparency, including a CBCR, actually part or could it be part of the code of conduct of your group or profession?**

KPMG, like many professional services organisations, operates as a network of independent member firms. Each member firm is affiliated to KPMG International Cooperative ("KPMGI"). KPMG is not a global partnership. KPMGI does not provide professional services but establishes and facilitates the implementation and maintenance of uniform policies and standards of work and conduct by member firms. Each member firm has a licence to provide professional services which is usually restricted to a particular country. The legal structure of each member firm depends on local law, regulation and business practice. In many countries the member firms are partnerships which means that tax is paid by the partners and not the firm itself.

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<sup>3</sup> <http://www.kpmg.com/Global/en/services/Tax/Pages/principles-for-kpmg-tax.aspx>

Consolidated financial reports are not prepared but global aggregated revenues<sup>4</sup> are reported annually, analysed by service line and region. A transparency report<sup>5</sup> is also prepared setting out our governance structure and system of internal controls.

Some member firms produce a detailed Annual Report and Transparency Statement, the existence and content of which vary depending on local laws and regulations. In some countries, such as the UK<sup>6</sup>, this includes an analysis of the tax contribution to the UK Exchequer.

**3. If the EU was to establish a CCTB, how could we ensure that the same tax basis is interpreted (so to rulings) identically in all the Member States concerned?**

The CCTB would be implemented as a Directive. Any uncertainties over interpretation and application of the CCTB could be referred to the EU Court of Justice for a judicial decision. This process should result in consistency of interpretation and is how the VAT Directive is currently enforced. The current transparency initiative relating to tax rulings will further ensure consistency of application across Member States.

**4. Can the digital economy be treated for tax purposes in the same way as other activities? The OECD thinks so, but in parliamentary hearings leaders of large digital groups have said that, given the nature of their business, they had no real tax residence. Given your experience, what is your analysis of this assertion?**

The current system of international taxation is outdated and does not appropriately address the features of the new digital economy. Given digital activity is a key feature of new and traditional business models I agree with the OECD position that they should not be treated differently. In my view, the changes proposed as part of the OECD BEPS project<sup>7</sup>, and in particular, Action 7 on redefining what constitutes a Permanent Establishment for tax purposes, alongside other activities around ensuring profits arise and are taxed in the locations where the economic activity takes place, go a significant way to remedying this position. However, further discussion will be needed as in a globalised, digital business it can be difficult in practice to identify where the economic activity is taking place.

**5. Which lessons do you draw from your experience on how federal states settle their internal tax competition issues (USA, Canada, Switzerland ...)?**

Taking the United States as an example, KPMG's experience is that competition between states is not a significant issue and that disputes between states on tax competition are very rare. Differences in regimes (including both the basis of taxation and the rates) are accepted

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<sup>4</sup> <http://www.kpmg.com/global/en/about/international-annual-review/financials-organization/pages/default.aspx>

<sup>5</sup> <http://www.kpmg.com/global/en/about/governance/pages/transparency-report.aspx>

<sup>6</sup> <http://www.kpmg.com/uk/en/about/pages/annual-review.aspx>

<sup>7</sup> <http://www.oecd.org/ctp/BEPSActionPlan.pdf>

practice - taxation is only one factor to consider in investment decisions. For example, Texas does not impose corporate income tax or individual tax which combined with relatively low labour and housing costs, makes it a business friendly state which attracts investment. Other states do not try to compete on taxation but on other attributes they may have such as quality of life (California) or sophisticated capital markets (New York).

That said, to prevent entities trying to take advantage of more favourable state tax regimes in inappropriate ways, most states also have targeted and effective measures which limit the ability to shift earnings into lower tax states.

Applying this to international taxation, if the BEPS project is successful this should lead to activities being taxed where the economic value is created, reducing the scope for earnings to be shifted. A Member State may still choose to have a low headline rate or other tax based incentives or reliefs but ultimately will need to raise sufficient taxes to fund its spending requirements.

**6. You work in all Member States. What is your assessment of the capacity of tax administrations of our European States? Have you participated in one way or another, in the FISCALIS program or other community programs to improving the training and information of tax administrations in the Union?**

There are varying levels of sophistication, resources and capabilities across the tax authorities within the EU. However it is very difficult to compare and contrast as most of our member firms only deal directly with their own domestic tax authority. I am not aware of any KPMG network firms having participated in the FISCALIS program. When requested KPMG member firms do participate in training for tax authorities. For example, I am aware that our EU Tax Centre provided training to Croatian tax personnel when they joined the EU and I have participated in training sessions for the UK tax authority and the UK Treasury.

The Forum of Tax Administrators and the Intra-European Organisation of Tax Administrators are organisations whose aims include the sharing of information and experience to identify good practice for resolving tax administration issues.

**Elisa Ferreira – co-rapporteur**

**7. Can you explain in detail the role of offshores - including in special territories like the UK Crown Dependencies of Jersey, Guernsey and the Isle of Man, and Gibraltar - in European tax optimization? Concretely, which are the offshore jurisdictions that are useful for the tax optimization practices of European based companies?**

Jersey, Guernsey and the Isle of Man (collectively the Crown Dependencies “CDs”) operate a similar tax system based upon the “zero-ten” concept. Basically, other than a small number of entities (see below), the system provides for companies incorporated in the Crown Dependencies and certain foreign incorporated companies administered and managed in the

Islands to be subject to a general rate of tax of 0%. Those companies may, of course, be subject to taxation in another jurisdiction.

Only a few entities that have substance in the Islands and are regulated to carry out certain financial service activities (such as banks) are subject to the 10% rate. The scope of financial services activities that is subject to tax at 10% in Jersey is slightly wider than in Guernsey and the Isle of Man.

The “zero-ten” regimes were introduced in response to the EU Code of Conduct Working Group’s review on the EU Code of Conduct of Business Taxation on harmful tax measures in the EU and their dependent territories which found that certain measure in the CDs were viewed to be harmful. The introduction of the “zero ten” regime enabled the CDs to abolish their harmful tax measures without damaging their competitive position. The “zero-ten” regime was approved by the Council of Ministers of the European Union in Brussels on 19 December 2011.

The CDs compete globally with other international financial centres and tax neutrality, particularly for highly mobile capital such as investment funds, is an important feature of these jurisdictions. All international finance centres offer a form of tax neutrality that is a regime that does not subject companies to additional taxation, recognising that underlying profits should be subject to tax where the assets that give rise to those profits are located and investors in the CDs entities are taxed on their returns in their home jurisdiction.

The scope of avoidance of EU tax by multi-national corporates using the Crown Dependencies is restricted by the Crown Dependencies lack of double tax treaty protection.

In my experience, as set out above, the use of such locations in business structuring is generally to achieve tax neutrality. For example, if multiple investors join together to invest in assets via a fund and the fund itself is subject to tax then this is an additional cost that would not have been borne if the investment was made directly. It makes sense for such funds to be located in jurisdictions where they are not taxed.

**8. How do you guarantee internally, in your organisations, that there are no conflicts of interest when on the same tax matters, you give advice to companies that want to minimize the tax bill, and to Members States that want to guarantee a certain tax income, to the European Commission or to the European Central Bank?**

It would be very rare for KPMG to be engaged by a Member State, the European Commission or the European Central Bank to provide advice on formulating tax policy. I am not aware of any such engagements provided by KPMG member firms to EU Member States or Institutions.

If such advice were to be provided the firm would be engaged in an advisory capacity; the policy, decision making and drafting of the legislation would be the responsibility of the tax

and legal professionals within the public entity and the firm would be bound by our usual standards of professional conduct and client confidentiality. The final legislation would also be publically available.

KPMG member firms, along with other accountancy and law firms as well as professional and industry bodies, participate in consultations on legislative change but again the ultimate decision as to the form and content of the rules is that of the local Member State or EU Institution.

Please see Question 14 and 16 for related comments.

**9. How much of your business represents the advice you give to private firms, on the one hand, and to European institutions – the European Commission, the European Central Bank and EU Governments, on the other?**

As mentioned in the response to Question 8 KPMG member firms do very little, if any, tax work for any European Institutions. The majority of our business is providing services to multi-nationals, privately owned companies and individuals. KPMG member firms do provide services to domestic and EU Institutions but this relates to their own tax affairs, not the formulation of tax policy and legislation.

**10. Under which precise conditions do you consider that tax rulings that confer special advantages to specific firms should not be considered as state aid by the European Commission?**

If the tax ruling meets the definition of state aid, and in particular applies benefits selectively which result in a distortion of competition in the EU, then it is prohibited unless it is proven to be compatible with the common market. I cannot think of any instances where tax rulings should not be tested for state aid purposes.

**11. What kind of adjustments have your institutions made in the follow up of the recent revelations – better known as LuxLeaks, SwissLeaks, OffshoreLeaks, etc.?**

As a network, we are committed to strong internal governance structures and to only providing appropriate and relevant tax advice. Our Tax Principles for a Responsible Tax Practice are central to helping our tax professionals operate in a manner and spirit that reflects our commitment to this. These Principles are regularly reviewed to ensure that they stay relevant. Our response has been to reinforce to the network the importance of these principles.

See Question 15 response for further details on the Principles.

**12. As you have not answered the question I've addressed you during the hearing on the 5th of May, I take it that you confirm the figures and practices that were described in the revelations better known as LuxLeaks I and LuxLeaks II? If you diverge with their conclusions, can you explain?**

I acknowledge that it is common practice to seek tax rulings in Luxembourg but cannot comment on the accuracy of any figures relating to the clients cited in LuxLeaks as I am not party to such information.

**13. What kind of recommendations would you address to the European Union and the Euro Zone in order to ensure a fair, just and transparent tax system that would prevent Members States from dodging tax revenues from neighbours through the creation of artificial tax administrative advantages?**

As I set out in my opening statement I agree that a stable, just and transparent system is essential for economic stability and growth both within the EU and on a global basis. CCCTB would address many of the issues but is a long term solution given the political and practical obstacles to implementation. In the short term I believe that a combination of the changes currently under consideration within the BEPS project, a CCTB (i.e. without consolidation and therefore with significantly less budgetary consequences for the Member States) and the proposals on transparency both on country-by-country reporting and rulings would reduce the opportunities for arbitrage between competing tax systems.

**Peter Simon**

**14. Please describe past incidents - in as much detail as possible - when your company advised public entities such as national or regional governments, tax authorities or even the European Commission on the improvement of taxation systems regarding corporate taxation whilst - simultaneously or at a later point in time - advising companies on these or related issues, possibly advising them on how to structure their companies in order to achieve lower levels of taxation. At these occasions, did you use the knowledge you obtained while working for public entities, also to the advantage of your private-sector clients?**

As set out in our response to Question 8 KPMG member firms very rarely, if ever, are engaged to advise a public entity on how to improve their tax systems.

Occasionally a firm may be asked to provide a secondee to work with the public authority. For example, the response to a recent Freedom of Information request in the UK<sup>8</sup> on the number of secondees to Treasury/HMRC revealed that over the last 4 years the Big 4 each provided between 1 – 4 secondees in that period. KPMG provided a senior tax manager to the Office of Tax Simplification<sup>9</sup> for 2 days a week over a six month period in 2012/13.

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<sup>8</sup>

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/427131/Secondments\\_to\\_HM\\_Treasury.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/427131/Secondments_to_HM_Treasury.pdf)

<sup>9</sup> <https://www.gov.uk/government/organisations/office-of-tax-simplification>



Most secondees and any recruits from public authorities would be bound by specific confidentiality agreements signed whilst at the public authority as well as professional ethical standards under which the individual has a responsibility to maintain client confidentiality.

The ultimate decision and responsibility for drafting the legislation remains with the public entity. As the legislation enters the public domain the scope for any unfair competitive advantage to be provided for the benefit of private-sector clients is mitigated.

**15. Please provide us with the rules/procedures or code(s) of conduct, that your company adheres to and that are designed to**

- a) keep you from advising clients on aggressive tax planning**
- b) avoid conflicts of interest including of the nature mentioned in the previous question**

**If such rules do not exist in writing or cannot be shared, please provide us with a detailed description. If such rules do not exist at all, please explain the reason for their absence and whether their introduction was ever considered.**

KPMG is committed to ensuring its work is consistent with its understanding of the law at the time the advice is given, whilst respecting the rights of tax payers to arrange their affairs tax efficiently if they wish to do so and to undertake responsible and appropriate planning.

However, the tax environment has changed significantly over the last few years and some issues have prompted public concern. I recognise this and KPMG remains constantly vigilant that we – as a network of Tax practices and as individuals – reflect the values and principles that stand as the cornerstone of our reputation. Clients, KPMG's people and tax authorities rely upon these values in each and every community in which we operate.

In addition to complying with the International Ethical Standards Board for Accountants<sup>10</sup> and local professional standards (such as the PCRT in the UK<sup>11</sup>), KPMG has a core set of Principles<sup>12</sup> for a Responsible Tax Practice which are mandatory for all member firm partners and professional staff:

- We act lawfully and with integrity and expect the same from our people, member firm clients, tax authorities and other parties with whom we interact.
- We provide tax advice to member firm clients to allow them to pursue their commercial objectives, respecting the needs of our people and the communities in which we operate.
- We maintain objectivity by seeking the facts and providing insight, consistent with our professional duties, in providing tax services to member firm clients.
- We support a relationship with tax authorities, based upon mutual trust and respect, which enables constructive dialogue and responsiveness by all parties, in order to fulfil our responsibilities to member firm clients.

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<sup>10</sup> <http://www.ethicsboard.org/>

<sup>11</sup> <http://www.ion.icaew.com/taxfaculty/post/tax-professional-conduct-guidance-updated>

<sup>12</sup> <http://www.kpmg.com/Global/en/services/Tax/Pages/principles-for-kpmg-tax.aspx>

These Principles build upon a foundation of a long history of standards and conduct for member firms all over the world in all areas of service. Our Principles are founded in KPMG Values<sup>13</sup> and our Global Code of Conduct<sup>14</sup>.

**16. As you know, the recently revised 'audit regulation' (Nr. 537/2014) foresees that auditors are limited in offering certain services to certain clients in order to avoid conflicts of interest. For example, in accordance with Article 5 of this Regulation auditing companies cannot simultaneously audit a company of public interest and offer tax advice. Where do you see advantages and disadvantages, if the legislators of the European Union would enact legislative proposals, which address the avoidance of conflicts of interests arising from advice provided to companies and public authorities on tax matters?**

As mentioned in responses to Questions 8 and 14 KPMG member firms provide very little advice to public authorities on tax policy other than in providing comments during public consultations. In my view any proposal to restrict the provision of tax advice or secondees to public authorities to assist on tax policy matters would have limited application due to their rare occurrence in practice.

I can understand how this would help manage the perception of a conflict of interest. However, it is important that any such legislation does not prevent active and open consultation between public authorities, business and advisers. To be effective a tax system has to be practical and operate in the real world. In my opinion the move towards a more co-operative, consultative approach has resulted in better outcomes than when tax policy is developed in isolation and it would be detrimental to all if this co-operative approach was curtailed. To manage perception the consultation process should be as transparent as possible including, for example, details of meetings and responses. The ultimate safeguard remains that the public authority makes the decisions about which proposals to enact and how.

**Ana Gomes**

**17. Could you put in a percentage point an estimative of the income your firm makes from selling tax consulting products?**

KPMG Tax practices provide a wide range of services, covering tax, pensions and legal, to clients. The majority of these services help our clients comply with their obligations (identifying and calculating tax liabilities, preparing tax returns, claims and elections etc). KPMG firms also provide tax advice to clients in connection with their commercial activities including transactions, growing their business and engaging with their employees. Such advice can cover a number of taxes and be at either domestic or international level. I estimate that on a global level around 8% of KPMG's global income (approximately 40% of global

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<sup>13</sup> <http://www.kpmg.com/global/en/careers/peopleculture/kpmg-values/pages/default.aspx>

<sup>14</sup> <http://www.kpmg.com/Global/en/about/governance/Pages/code-of-conduct.aspx>

tax income) is derived from providing tax advice, the vast majority of which is tailored to the client's particular needs. It is not possible to determine actual sales of "tax consulting products". However, I believe that this has always been a very minor part of our business and, even from this position, has diminished in recent years. Our internal quality standards, in addition to concrete actions by tax legislators, and the specific focus by tax authorities have dramatically reduced the effectiveness and the demand for "tax consulting products".

**18. Would you say that paying of democratically agreed taxes is included in your notion of corporate social responsibility, and what concrete measures have your firms taken to ensure that your compliance and corporate ethics departments have a say concerning the tax consulting services which you sell and in your own tax compliance policy? Do they reach the higher level, how does it work?**

In my response to Question 15 I set out our Principles for a Responsible Tax Practice which apply to both the services KPMG member firms provide to clients and to our own internal tax policy. These clearly reference that KPMG member firms' tax advice must take into account the needs of the communities in which we operate.

**19. What measures have you taken since past scandals to ensure transparency of your own corporate organisation, your lobbying activities, and the transparency of the products which you sell?**

Certainly the experience of the tax shelter matters of the late 1990s/early 2000s was an event that caused KPMG, particularly in the US, to critically examine our role and our ethics as professional advisors. The agreement with US authorities settling these matters put in place structural and operational controls, but more importantly helped to establish a healthy culture in a way that the entire network of KPMG member firms has learned from. One of the responses globally was the development and implementation of the Principles for a Responsible Tax Practice.

Details of KPMG's Annual Reporting and Transparency Statement are set out in our response to Question 2. The KPMG Global and individual country websites clearly set out the services which KPMG member firms offer to clients.

**20. What is your policy concerning political financing? Do you disclose your political donations and the goals of your lobbying activities?**

KPMG's policy is not to make political donations unless explicitly approved at the highest level within the member firm. However, KPMG member firms may sometimes second individuals to political parties. This provides personal development opportunities for secondees over and above what can be provided in their current role. At the same time the political parties have high calibre resources to be used at their discretion and under their direction. Secondees would not necessarily work on fiscal matters and would be subject to confidentiality restrictions.

Disclosure of donations and lobbying activities by member firms will be based on local laws, practice and regulation and will vary by jurisdiction.

**Alfred Sant**

- 21. Keeping in mind the significance of tax policy for different Member States and the fact that they are facing very different economic realities, tax policy is one such tool to partly compensate for the natural and permanent disadvantages of certain countries. In this regard, what exactly would you define as "harmful tax competition", given that the current Eurozone is far from being an optimal currency area and in fact economic divergences within it are increasing, not decreasing?**

There has been much debate, and relatively little political agreement, on what constitutes harmful tax competition. In the absence of a universally agreed definition my own view is that it is best described as a tax provision which aims to attract tax base without attracting real economic activity. The mechanism for addressing any potential or 'harmful tax practices' is by reference to the EU Code of Conduct Group who have played a significant role in identifying and withdrawing over 100 tax measures considered to be harmful.

There will always be a role for domestic tax policy in attracting investment and business but, as set out in my response to Question 5, tax is only one factor amongst many in making business decision and, provided that there are mechanisms to prevent income being shifted artificially, such differing policies will continue to be used.

**Pervenche Berès**

- 22. Why do you need to locate your compensation activities in tax havens? What kind of measures should we take to avoid such a situation?**

In my experience the use of such locations in business structuring is generally to achieve tax neutrality. For example, if multiple investors join together to invest in assets via a fund and the fund itself is subject to tax then this is an additional cost that would not have been borne if the investment was made directly. It may make sense for such funds to be located in jurisdictions where they are not taxed.

The location of member firms follows where clients are based. Most of the work of these offices, particularly those in low tax base countries, is audit rather than tax related. These offices employ very few tax professionals and any tax work is focussed on compliance (particularly reporting under the EU Savings Directive, US FATCA, etc).

- 23. Are you ready and how to ensure a swift and proper implementation of BEPS?**

In my opening statement to the Parliamentary Committee on 5 May I made reference to the OECD BEPS plan and that I had been impressed with the progress to date. It is for the benefit of business for there to be a more harmonised and stable international tax system which is

clear and transparent and in which economic value is taxed once where it arises. I am supportive of the aims of the BEPS project and KPMG has been actively involved in the consultation process, attending meetings and providing written comments which are available publically as part of the consultation process. The comments cover both technical and practical points and are intended to assist a quick and successful implementation of the recommendations. Businesses are making ready to deal with the outcome of BEPS. However, the success of this project will depend on the willingness of governments to work together to implement the BEPS recommendations.

### Molly Scot Cato

**24. As I am sure you are aware, precisely defining what we mean by a tax haven, and indeed developing a map of the precise roles and interconnections of the jurisdictions both within and outside the EU that derive a large proportion of their income from tax-related activities is part of the work of our special committee. However, we are already aware of some of the key players in this network and I would like to question you with respect to your activities there. I believe there are at least 60 jurisdictions involved in the network but I would like to focus on just three: the Hong Kong, Jersey and the Cayman Islands. For each of these jurisdictions I would like to ask each of you:**

- **Which are the key shore offshore jurisdictions which have extensive shared activities with the UK/Netherlands?**
- **What is your physical presence there in terms of offices and other infrastructure and how many people work from it?**
- **Could you give me details of the services you provide in each of these jurisdictions and let me know your annual turnover?**
- **Can you explain precisely why these services are better provided there than, say, in Brussels or London?**

#### **Jersey:**

- KPMG Jersey is part of the KPMG Channel Islands partnership, comprised of offices in Jersey and Guernsey. The Channel Islands profits are reported on a consolidated basis and there are shared resources in both islands. The Jersey practice has an 18,000 square foot office in St Helier, housing 110 individuals. Turnover in the Jersey office is approximately £13 million split between audit, advisory and tax by a ratio of 4:1:1. The vast majority of services are provided to Jersey incorporated entities, foreign incorporated entities with a Jersey permanent establishment and Jersey resident individuals.
- In the main, the Jersey office audits Jersey incorporated investment funds, Jersey based banks, financial service providers and some of the larger retail companies in the Island. The Jersey tax department provides local tax advice to the Jersey finance industry and a number of Jersey resident individuals. 60% of tax turnover is from compliance work with tax advisory work comprising mainly of advice to clients on their compliance with US FATCA reporting obligations. In relation to (non-tax) advisory, the Jersey office

provides a range of services including liquidation and corporate finance to Jersey resident entities.

- The services are provided in Jersey principally because the clients and their records are in these jurisdictions. Notwithstanding the above, both in Jersey and Guernsey, clients have a general requirement to deal with professionals that have local knowledge and experience. This is particularly relevant in relation to tax and advisory services.

**Cayman Islands:**

- KPMG Cayman Islands is a separate partnership principally located in the Cayman Islands but which also has an office in the British Virgin Islands. In relation to the Cayman office, KPMG has a 36,000 square foot office in George Town with approximately 275 individuals.
- Annual revenues in Cayman Islands is approximately US\$50 million (£32.5 million) split between audit 65%, advisory 20% and tax 15%. The vast majority of services are provided to Cayman Island entities or foreign entities that have a physical presence in the Cayman Islands. Audit services are provided predominantly to alternative investment funds and insurance entities together with banks, professional services firms and the local government. The tax department provides US tax compliance services to funds, insurance entities and local residents. The work is purely compliance and focused on providing compliance returns where entities have elected to be treated as US taxpayers or where shareholder tax forms are required for any US shareholders. In relation to advisory, the Cayman office provides a range of services including liquidation and corporate recovery mainly to alternative investment funds all of which will be incorporated in the Cayman Islands. In addition, the advisory department provides accounting support to Cayman entities as well as corporate finance, forensic investigation and regulatory review.
- Akin to KPMG Jersey, the Cayman Islands office provides services principally because the clients and their records are in these jurisdictions.
- In Cayman the Mutual Funds Law requires all Cayman Islands Monetary Authority ("CIMA") regulated funds and mutual fund administrators to have their accounts audited annually by "approved auditors". In accordance with the CIMA policy paper "The Approval of an Auditor for a Regulated Institution" dated October 2003, only firms, inter alia, with a physical presence in the Cayman Islands will qualify as an approved auditor.

**Hong Kong:**

- KPMG Hong Kong is an office of KPMG China. KPMG China has 16 offices throughout China, with the larger office locations in Beijing, Shanghai, Guangzhou, Shenzhen and Hong Kong. The Hong Kong office has over 2,000 employees providing Audit, Tax and

Advisory services to our clients in Hong Kong. KPMG Hong Kong's clients include a mixture of Hong Kong based corporates and multinationals, as well as other regional and multinational organisations with offices in Hong Kong.

- The office services their clients in the respective locations in accordance and compliance with local laws and regulations involving Audit, Tax and Advisory services. The turnover of KPMG Hong Kong is not reported separately from KPMG China.
- Hong Kong is a key hub for investment into and out of China. KPMG helps clients who operate in Hong Kong understand and comply with the local laws and regulations.

I can confirm that neither KPMG Cayman Islands nor KPMG Channel Islands has any extensive shared activities with the UK/Netherlands. This is also true for KPMG in Hong Kong.

**25. As a more general question, could you tell me in your judgement whether the world's multinational corporations would use these tax havens if you were not present there? Do you feel that this means you are colluding in the tax abuse that takes place there?**

Following on from my response to Q22, many multinational corporations have operations in such locations on the basis of tax neutrality and the benefits of established corporate law. However, as the services required to be provided locally are limited a Big 4 presence is not required as clients could use smaller local firms although for practical purposes a multinational may want to use the same entity to provide services throughout its worldwide business.

As I commented in the session on 5 May, there is a difference between tax neutrality and tax secrecy. It would be contrary to KPMG's principles for member firms knowingly to be involved in working with clients who seek the latter.

Countries and economies compete for foreign investment but where taxing jurisdictions allow for activities, which lack substance, to be subject to a low or no tax rate, I fully support international pressure being brought to bear to either encourage the offending jurisdiction to amend its legislation, or use other techniques to eliminate the result.