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Dear Sir/Madam,

We appreciate the opportunity to provide comments to the OECD on the White paper published on 30 July 2013 regarding Transfer Pricing Documentation.

BASF is a multinational group operating in more than 80 countries and with business activities comprising 14 operating divisions with high volumes of complex transaction flows within the group. We therefore welcome the initiative to provide more detailed guidance on transfer pricing in order to achieve a better common understanding between countries and therefore reduce the risk of double taxation.

We support the OECD in its initiative to increase transparency towards tax authorities with the objective to provide governments with the right level of information in order to conduct a transfer pricing risk assessment and to perform a thorough transfer pricing audit. At the same time the compliance burden and the practicability for business should be taken into account. To reconcile both objectives at a reasonable level is essential for multinational enterprises. In this regard we appreciate the attempt of the OECD to strive for harmonization and simplification of Transfer Pricing Documentation and we urge governments not to unilaterally implement additional compliance and reporting demands without full consultation and engagement with business and a robust cost-benefit analysis.

Due to time constraints we will provide only our preliminary non-exhaustive view on the White Paper on Transfer Pricing Documentation as follows:

We appreciate the idea of a masterfile documentation containing overall and very general information on the MNE's global business including an overview of the transfer pricing policies and practices of the Group. However, the information requested in the masterfile is very detailed and (i) we don't believe it can be easily produced and (ii) it might not be helpful to allow a transfer pricing risk assessment or to perform a thorough transfer pricing audit. On the contrary, too much detailed information might create uncertainty among the countries involved and might result in the need of further explanations especially if

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it comes to information contained in the masterfile that will be shared with a country that the MNE is engaged in but might not be relevant to a particular transaction with that very country.

For example it is proposed that the masterfile includes a functional analysis showing the principal contributions to value creation by all individual entities within the Group. We consider this information would not be necessary to review the transfer pricing position of a company in a certain country as a tested party.

The selected transfer pricing method and the related profitability should be consistent with the functional analysis of the controlled transaction and linked to the business model of the tested party. We are concerned that providing additional information on value creation will not be easy to be produced by the MNE and moreover not deliver greater understanding of the correct transfer pricing regarding the tested party. Instead it might create a potential discussion and need for explanation. For example we see no benefit in providing the value creation chain of a product flow from Brazil to the US also to tax authorities in e.g. Korea. We already observe the trend of tax authorities to also benchmark not only the tested parties but also the non tested parties, challenging the appropriateness of the residual profit. The proposed masterfile concept might foster such approach urging MNEs to explain different profitability levels in different regional markets.

The same applies as regards the description of APAs and rulings. We do not see any benefit in sharing this information with countries that have not agreed on the APA or ruling and are not involved in the relevant transaction as the APAs or rulings are very individual agreements that cannot be generalized and easily applied elsewhere.

Therefore we would recommend to limit the content of the masterfile only to a very general and generic description of the MNEs business including only that level of information that is relevant for all countries involved.

Moreover, all the information requested in the masterfile are sensitive and the OECD should require tax authorities to respect the confidentiality standards before requiring tax payers to provide the mentioned information.

Please do not hesitate to contact us if you have any questions on the above.

Yours sincerely,

BASF SE

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