

United States Senate

PERMANENT SUBCOMMITTEE ON INVESTIGATIONS

Committee on Homeland Security and Governmental Affairs

Carl Levin, Chairman

John McCain, Ranking Minority Member

E X H I B I T S

Part 2 of 2 (Exhibits 22-50)

Hearing On

Caterpillar's Offshore Tax Strategy

April 1, 2014

199 Russell Senate Office Building, Washington, D.C. 20510

EXHIBIT LIST

Hearing On

Caterpillar's Offshore Tax Strategy

April 1, 2014

1. a. *Caterpillar Ownership of CSARL*, chart prepared by the Permanent Subcommittee on Investigations.
- b. *CSARL Legal Structure*, chart prepared by PricewaterhouseCoopers.
- c. *Profit Split: CSARL's Parts Profit versus Caterpillar's Royalty Fee* from CSARL, chart prepared by the Permanent Subcommittee on Investigations.
- d. *Caterpillar Offshore Replacement Parts Sales*, chart prepared by the Permanent Subcommittee on Investigations.
- e. *The Caterpillar 797*, chart prepared by the Permanent Subcommittee on Investigations.
- f. *Caterpillar Replacement Parts*, chart prepared by the Permanent Subcommittee on Investigations.
- g. *Caterpillar Organizations, Performing Key Functions Related to Parts*, chart prepared by the Permanent Subcommittee on Investigations.
- h. *Corporate Income Tax as a Percent of Total Revenue*, chart prepared by the Permanent Subcommittee on Investigations.

Documents Related to Caterpillar Transfer Pricing:

2. PricewaterhouseCoopers tax consulting and audit fees. [PSI-PWC-22-000001-003]
3. *History of Significant Changes in International Operations (Not Inclusive of Financing Arrangements) 1997-2002*. [PSI-TWLF-02-000422-436]
4. a. Excerpts from *Caterpillar Inc. Evaluation of Arm's Length Pricing for Intercompany Transactions, Year Ended December 31, 1994, Prepared by Price Waterhouse LLP, Final Report, April 28, 1996. (P&SS sells the requisite replacement parts to the marketing company, which then sells to dealers, who in turn sell to the customer. *** Cat Inc. has the largest role with regard to market and dealer development.... *** The dealer network and parts distribution are the two keys to after-sales service. ... Cat Inc., as the designer of the system and owner of the Morton parts center, has the greatest strategic role. *** All companies with marketing responsibilities are actively involved in dealer administration. These include Cat Inc. and the three principal marketing companies.)*. [PwC_PSI_CAT_00008634, 672-674, 684-687, 698-699]

- b. Excerpts from *Caterpillar Inc. Evaluation of Arm's Length Pricing for Intercompany Transactions, Year Ended December 31, 1995, Prepared by Price Waterhouse LLP, Final Report, December 19, 1996* (Cat Inc. has the largest role with regard to market and dealer development.... *** The dealer network and parts distribution are the two keys to after-sales service. Cat Inc., as the designer of the system and owner of the Morton parts center, has the greatest strategic role. *** All companies with marketing responsibilities are actively involved in dealer administration. These include Cat Inc. and the three principal marketing companies. *** Prime Product Profit Centers – Motivate to create machine populations with high degree of proprietary components which have high parts margins; P&SS – Motivate to: Drive overall parts profit). [PwC_PSI_CAT_00008881, 929-932, 958-959, 963]
- c. Excerpts from *Caterpillar Inc. Evaluation of Arm's Length Pricing for Intercompany Transactions, Year Ended December 31, 1996, Final Draft Report, Prepared by Price Waterhouse LLP, January 26, 2998* (Cat Inc. has the largest role with regard to market and dealer development.... *** The dealer network and parts distribution are two keys to after-sales service. The marketing companies have responsibility for the dealer network, while P&SS performs the primary management activity for the parts distribution network. Cat Inc., as the designer of the system and owner of the Morton parts center, has the greatest strategic role.). [PwC_PSI_CAT_00009105, 155-156]
- d. Excerpts from *Caterpillar Inc. 1997 Document Report, Final Report, September 15, 1998, Prepared by PricewaterhouseCoopers LLP* (Cat Inc. has the largest role with regard to market and dealer development.... *** The dealer network and parts distribution are the two keys to after-sales service. ... Cat Inc., as the designer of the system and owner of the Morton parts center, has the greatest strategic role. *** All companies with marketing responsibilities are actively involved in dealer administration. These include Cat Inc. and the three principal marketing companies.). [PwC_PSI_CAT_00009339, 392-394]
5. Excerpts from *Caterpillar Fiscal Year 2000 U.S. Transfer Pricing Documentation Report, September 17, 2001*. (Cat Inc. is the parent company and is the most complex entity. Cat Inc. operates as an entrepreneur, a marketer and an intangible owner. Cat Inc. is the parent company of the global enterprise. Since Cat Inc. is the most complex Cat entity it was not selected as a tested party in this report. *** Although Cat SARL is a complex entity, it is a simpler entity that Cat Inc. ...we will test Cat SARL's results against the results of a set of independent European manufacturers.). [PwC_PSI_CAT_00004975, 5008-009, 027-033]

6. Excerpts from *Caterpillar Inc. Global Tax Optimization Case for Action*, September 1998 (*Negative Tax Rate Drivers: U.S. 'centric' profile ... U.S. ownership of intangibles ... Conformity of tax and management books. *** Migrate income from the U.S. to lower-tax jurisdictions; Obtain/maintain U.S. tax deferral *** Description of Idea: Remove Caterpillar Inc. from the chain of title passage for purchased finished parts (from U.S. or foreign sources) sold to foreign markets. The foreign marketers would then buy from and sell to unrelated parties. Benefits/Costs: Eliminates Subpart F character of foreign marketers profits on purchased finished parts sales. Relatively simple re-invoicing requirements.*) [PwC_PSI_CAT_00004632, 636, 640, 646, 674, 675]
7. Excerpts from *Caterpillar GTO Summary of Ideas - PricewaterhouseCoopers*, 1998 (*Cat Inc. Out of Chain, Recharacterize Marketing Company Income to Achieve U.S. Tax Deferral – Description of Idea: Remove Caterpillar Inc. from the chain of title passage for purchased finished parts (from U.S. or foreign sources) sold to foreign marketers. The foreign marketers would then buy from and sell to unrelated parties. Benefits/Costs: Eliminates subpart F character of foreign marketers profits on purchased finished parts sales. Relatively simple re-invoicing requirements.*). [PwC_PSI_CAT_00004566, 618-619]
8. *COSA as Entrepreneur: European Sold Parts, High-Level Target Design*, charts excerpted from *Caterpillar Inc. Operational Feasibility Analysis, High Level Target Designs: Migration/Deferral (This will cause the accumulation of parts profit in COSA that was previously accumulated in CAT Inc. ... In addition, the parts profit retained in COSA will be enhanced to better reflect the contributions of the functions, risks and dealer network intangibles controlled by COSA. *** Invoicing from suppliers will be changed from CAT HE and Morton HE to COSA "HE." Supply contracts will be changed to COSA.)*. [PwC_PSI_CAT_00004548, 550-552]
9. *Caterpillar Inc. Global Tax Optimization Risk Adjusted Benefit Analysis, Working Papers - Draft 1*, December 1998 (*Purpose: Increase shareholder value through tax optimization *** Solution Benefits and Costs: Migrate profits from Cat Inc to low-tax marketing companies . . . Risk: change from current Intercompany pricing method and documentation. *** We are effectively more than doubling the profit of parts.*). [PwC_PSI_CAT_00001336, 338, 341-342, 344-346, 348, 362, 386, 408-409, 411-415]
10. *Economic Analysis of Royalty Rates and Transfer Prices*, charts excerpted from *Caterpillar Inc. Global Value Enhancement Project, Economic Analysis of SARL, Intercompany Transactions with Cat Inc. in the COSA Territory*, Draft October 5, 1999. [PwC_PSI_CAT_00004483, 508-509]
11. *Parts: COSA - Cost Benefit Analysis*, chart excerpted from *Caterpillar Inc. - Global Value Enhancement - Develop Phase Status Report*, May 28, 1999. [PwC_PSI_CAT_00004349, 365]

Documents Related to Marketing Intangibles:

12. Caterpillar email, dated July 2007, re: *value of marketing intangibles (The point is that CSARL (or its predecessor COSA, or CFEL, or CACO) has spent decades building up the dealer network around the world. And has spent decades building the brand name through advertising. Caveat is that in 2001, we said in another transaction that there is no significant marketing intangibles other than workforce in place).*
[PwC_PSI_CAT_00122483-484]
13. Excerpts from *Caterpillar Inc. Economic Analysis of Intangible Assets Transferred by Caterpillar Americas CO. to Caterpillar Americas SARL (Based on our analysis of the Intangible Assets Transferred we conclude that they are routine and common to most distribution and marketing companies. These assets have only limited economic life, and could be effectively reproduced by a new start-up company with sufficient investment of time and resources).* [PwC_PSI_CAT_00142353-367]
14. Excerpt from *Caterpillar Inc. Summary Meeting Notes, Geneva, March 7-9, 2005. Delivering regarding CSARL Profitability and Royalty (Should we expand profit split analysis – additional income to CSARL for parts responsibility, dealer/marketing intangible (but consider agreement in LAD restructuring stating that dealer IP is not very valuable)?).* [PwC_PSI_CAT_00150469]

Documents Related to Swiss Tax Rate:

15. Charts from *Presentation to Caterpillar Inc. Audit Committee, June 2004:*
 - *Purchased Finished Parts Distribution - Prior to Establishing CSARL;*
 - *Purchased Finished Parts Distribution - Post CSARL;*
 - *Tax Exposures Reserved at end of 2003;*
 - *ETR - Causes of “Low-Taxed” Non-U.S. Earnings (Switzerland provides favorable tax rulings that many U.S. companies utilize.);*
 - *Background - Pre-2001 (Before Caterpillar S.A.R.L.); and*
 - *Background - 2002-2004 (Effect of Caterpillar S.A.R.L.).*
(The CAT S.A.R.L. initiative deferred the U.S. taxation of Purchased Finished Replacement Parts sales outside the U.S., but only if the earnings are not repatriated.).
[CAT-001899, 905, 906, 912, 920, 934, 935]
16. Excerpts from *Delivering Vision 2020, Value Transformation: An After-tax View (The single largest factor driving Caterpillar’s effective tax rate below the U.S. statutory rate is the ability to maintain deferral of earnings outside the U.S. Most of these deferred earnings are located within the Caterpillar S.A.R.L. (“CSARL”) organization. The two primary operational drivers of the CSARL deferral are (1) purchases of replacement parts from suppliers directly by CSARL for marketing regions outside the US and (2) product management benefits for assemblies at the Grenoble and Gosselies facilities (i.e., toll manufacturing).* [PwC_PSI_CAT_00058419, 429, 449-452]

17. Excerpt from *Caterpillar Global Finance and Strategic Support, Global Tax & Trade Update, Audit Committee, April 13, 2010 (Effective Tax Rate has dropped to lowest in the Dow 30 *** 2009 Effective Tax Rate - Drivers: Losses in high-tax rate countries, Profits in low)*. [PwC_PSI_CAT_00205974-979, 984-985]

Documents Related to Parts Business:

18. *Caterpillar Board of Directors Minutes Excerpts. (2/8/12: Mr. Gosselin began by explaining that the “seed, grow, harvest” business model ingrained in the organization was a catalyst to aftermarket parts sales and services, creating an annuity continuing long after original equipment sales and generating customer loyalty, PINS and profits. *** 4/7/08: Mr. Larson then noted that the key points regarding the Logistics Division are that it is driving transformational change in the Transportation, Manufacturing Logistics and the Cat parts business that will deliver significant value....).* [CAT-001855-858, 860, 863-864]
19. Caterpillar email, dated August 2007, re: *Caterpillar parts history (This showed that more than 50% of parts sales were for parts originally placed in service more than 10 years prior. And to capture 80% of parts sales, you had to go back 20 years. (ie, in a given year, Cat still sold 20% of replacement parts that were first placed in service more than 20 years prior....).* [PwC_PSI_CAT_00024439-440]
20. *Cat Parts Desired State*, excerpt from *Caterpillar February 2012 Board of Directors Meeting*, [CAT-001885- 889, 891-898]
21. *Caterpillar dealer push may drive some out, Levenick says*, Reuters, March 6, 2014.

Documents Related to Tax Risk Guardrails:

22. Caterpillar Audit Committee Presentation, December 13, 2005, *Global Tax Management (Audit Committee – Risk Guard Rails)*. [PSI-TWLF-16-000167-180]
23. Caterpillar email, dated February 2006, re: *Tax Risk Guardrails - audex (Dave, I have a solid draft of the guard rails done. I have not polished it into a presentation because it was not included on the agenda. I feel comfortable that if Gene demanded to see something today and you came and got me, I could present the draft and get the Aud Comm comfortable that we are meeting our commitments).* [PSI-TWLF-04-000078]
24. Caterpillar email, dated February 2006, re: *A/C meeting (We had a two day offsite last week to finalize the guardrails. We have two more days next week to plot the tax position on the guardrails. This will be done in April if the agenda changes.)* [PSI-TWLF-04-000089]

25.
 - a. Tax Risk Guardrails, 03/21/06. [PSI-TWLF-04-000382]
 - b. Tax Risk Guardrails, 10/15/07. [PSI-TWLF-04-000383]
 - c. Tax Risk Guardrails, 03/18/08. [PSI-TWLF-04-000384]
 - d. Tax Risk Guardrails Criteria (draft), 02/08/06. [PSI-TWLF-04-000381]

26. *Caterpillar Income Tax Update, June 13, 2006 (Audit Committee - Risk Guard Rails ... Escalation Triggers - Risk positions clearly outside the guardrails trigger communication to the Audit Committee for guidance and possible remediation).*
[CAT-001949-952, 954, 956-965]

27. Caterpillar email, dated July 2006, re: *fyi only - Update to Legal 6S team on regulatory compliance (Provided overview of Tax Risk Guard Rails yesterday to a 6S team from legal working specifically on a deep dive into regulatory compliance risks.... They encouraged us to continue with the process and explain our current tax risk profile to the audit committee to get their approval. *** Good work, Dan. ... Can discuss further, but current chart puts one area at high. Assuming guidance is to stay below high in all areas, how could we utilize?)* [PSI-TWLF-04-000368]

28. Caterpillar email, dated August 2006, re: *Tax Risk Guard Rails (FYI, Tax Council will be meeting in near future to update TRGRs. The pressure/question I am getting is focused on reducing the risk shown on the guard rails. ... I need to understand where you want to go with the TRGRs. Are we going to stop where we are at which is just informing the board about the process we went through to create the guard rails, or are we going to show the board the results and have a meaningful discussion explain our risk profile and to determine the board's comfort with it?).* [PSI-TWLF-04-000127]

29. *Caterpillar Global Finance and Strategic Support, Global Tax Update, April 8, 2008 (High risk areas are actively managed.; Higher Risk Areas; CSARL - Product Management - Operational; CSARL - Parts Distribution - Management & Reputation).*
[CAT-002087, 090-098, 102]

Documents Related to Economic Substance:

30. *P&SS Availability & Inventory Management (85% of worldwide parts inventory is managed from Morton-moving toward 100% *** Morton knows if Grimbergen sold a part, received part, scrapped a part-information goes into Morton global parts forecast calc)*
[PwC_PSI_CAT_00179037-038]

31. *Purchasing Transportation and Technical Support (P&SS has developed (over 12 years) network of suppliers for non current that is independent of current production suppliers).*
[PwC_PSI_CAT_00179035-036]

32. Excerpt from *The Deposition of Sally A. Stiles*, February 24, (Q: *It is fair to say that the driving force behind Glove and CSARL was the tax department and not any business unit? A: Yes.*) [PSI-TWLF-11-000008, 114-115]
33. Excerpt from *The Deposition of Robin Beran*, March 15, 2011, (Q: *Well, other than paper issues that were caused by the entities that became involved, were there any other changes to the physical flow of purchased finished replacement parts? A: Physical flow, probably not substantially.*) [PSI-TWLF-12-000008, 177-178]
34. Excerpt from *The Deposition of Rodney Perkins*, March 10, 2011, (Q: *Was there any business advantage to Caterpillar, Inc., to have this arrangement put in place other than the avoidance or deferral of income taxation at higher rates? A: No, there was not.*) [PSI-TWLF-10-000004, 113-115]
35. Excerpt from *The Deposition of Janie Copeland*, May 5, 2011, (Do you know if the accounting for purposes of the consolidated books and records of Caterpillar, Inc., is done that same way with respect to Swiss operations now as it was before CSARL? *** Q: *So would operating profit still be the same? A: Yes. Q: But earnings after taxes would be differently? A: Right.*) [PSI-TWLF-15-000007, 017, 018]
36. Caterpillar email, dated June 2005, re: *Authorization to proceed with planning and ABP cost adjustment (Due to the successful planning from prior years, significant low taxed earnings (over \$1.5 billion) have accumulated in CSarl. This cash is now increasing at about \$70 million per month at tax rates of about 10%. This is resulting in offshore cash balances that can no longer be managed through intercompany loans and purchases without triggering significant additional tax costs, and an increase in CAT's effective tax rate.)* [PSI-TWLF-12-000315-316]
37. *Caterpillar Sarl - Pop Quiz*, chart excerpted from *Caterpillar Sàrl Overview*, July 30, 2008. [PwC_PSI_CAT_00065585, 589]
38. Caterpillar Memorandum, dated May 2004, re: *Tax Concerns Raised by an Unnamed Source (Caterpillar's transfer pricing policy is the result of detailed analysis of the functional activities of the various entities in strict accordance with required Treasury Regulations. *** The basic operations of Caterpillar SARL are no different than any other valid and legal partnership operating anywhere in the world. *** I do not believe Caterpillar's transfer pricing practices (past and present) meet the IRS' test. The Officers and Board of Directors need to examine the transfer pricing issue before Caterpillar ends up in court and in the press.)* [PSI-TWLF-02-001393-396]
39. Caterpillar email, dated January 2007, re: *7th Cir. Cases (To my knowledge there is no one in CSARL managing the parts business or managing the sub-contracting of all the activity to Inc.)* [PSI-TWLF-02-000349-352]

40. Caterpillar email, dated April 2008, re: *Pls review again before we sent in AM (With all due respect, the business substance issue related to CSARL Parts Distribution is the pink elephant issue worth a Billion dollars on the balance sheet.)* [PSI-TWLF-07-000022]

Documents Related to Substance Added:

41. Caterpillar slides entitled *Product Management Alignment - Recommendation; Product Management Alignment - CSARL Benefits - Based on 2008 Results; Product Management Alignment - Enhance & Optimize (While technically appropriate, creates optics concerns - Taxation in CSARL with minimal business substance); Product Management Alignment - CSARL Benefits - Based on 2009 ATS.* [PwC_PSI_CAT_000063338-341]
42. Caterpillar email, dated November 2008, re: *Exec. Office Slides - Business Alignment* attaching slides entitled *Caterpillar Inc. Machine Business Alignment: Update Briefing, November 11, 2008, Purpose: Leverage business realignment to preserve and enhance CSARL benefits. (Risks & Challenges: Failure to take action weakens current CSARL structure).* [PwC_PSI_CAT_00033241-242]
43. *Caterpillar Inc CSARL 2009 activities, Report to Audit team, January 2010. (During 2009: ... "Worldwide Parts Manager": establish group in CSARL Geneva with worldwide parts responsibilities – Benefit: \$300m ("Preserve"))*. [PwC_PSI_CAT_00003830, 432-433, 448-449, 456, 472]
44. Caterpillar email, dated May 2010, re: *WW Parts Manager.* [PwC_PSI_CAT_00213059-064]
45. *Worldwide Parts Management Group Key Responsibilities, excerpt from Caterpillar Inc. Worldwide Parts Management, Final Closing Book, Draft Version as of March 15, 2010.* [PwC_PSI_CAT_00003876, 906-907]
46. Caterpillar email, dated November 2008, re: *is tomorrow really the only shot with DBB? (PMs in US will put some pressure on the parts profit model. These guys are really bought into the PM is king concept. We are going to have to create a story that will put some distance between them and parts (eg. all the parts that are noncurrent) to retain the benefit. Get ready to do some dancing. *** What the heck. We'll all be retired when this comes up on audit. Bodnam and chris Dunn will have to solve it. Baby boomers have their fun, and leave it to the kids to pay for it.)* [PwC_PSI_CAT_00033157-159]

Other Miscellaneous Documents:

47. *Summary of Caterpillar Operations and Restructuring of Caterpillar Sarl.* [PSI-Caterpillar-04-000002-009]
48. *CSARL Legal Structuring, CSARL 2009 activities, PricewaterhouseCoopers.* [PwC_PSI_CAT_00003411]

49. *Introduction of Caterpillar North America S.A.R.L. (CNAmsARL was created and implemented with the understanding that there be no impact on Caterpillar's accountable profit center reporting systems. While significant changes were made to our legal entity reporting systems, the objective of zero accountable impact was met.*
[PSI-TWLF-10-000172-174]
50.
 - a. November 26, 2013 responses from received from Caterpillar Inc. to question posed by the Permanent Subcommittee on Investigations. [CAT-000267-269]
 - b. Excerpts from December 3, 2013 responses from received from Caterpillar Inc. to question posed by the Permanent Subcommittee on Investigations. [CAT-000276-277, 279-298]
 - c. Excerpts from January 14, 2014 responses from received from Caterpillar Inc. to question posed by the Permanent Subcommittee on Investigations. [CAT-000300-302]
 - d. Excerpt from March 7, 2014 responses from received from Caterpillar Inc. to question posed by the Permanent Subcommittee on Investigations. [CAT-001866]
 - e. March 13, 2014 response from received from Caterpillar Inc. to question posed by the Permanent Subcommittee on Investigations. [CAT-00002265]
51. *License Agreement*, as of January 1, 2011, between Caterpillar, Inc. and CSARL.
[CAT-000306-318]
52. *Fifth Amended and Restated Services Agreement*, as of September , 1999, between Caterpillar Inc. and CAT SARL. [CAT-000653-663]
53. PricewaterhouseCoopers document discussing intangible assets transferred by Caterpillar Inc. to CSARL, undated but likely 1999 (*Scanning the list, it appears that the following items are relevant to the replacement parts license; Patents, designs, trademarks, contracts, systems, procedures, know-how, methods, forecasts, estimates, and technical data.*). [PwC PSI-CAT_ 00199858-862]

Global Tax Management

Purpose of Meeting

- To inform you why and how we are strengthening Tax Risk Management

Key Message Points

- We are taking Tax Risk Management to a new level
- Qualified people are the key to World-Class Tax Risk Management

December 13, 2005

Agenda

What we'll
cover today

- What is Tax Management ?
- State of the Tax Business at Caterpillar
- State of the Tax Business . . . , Current Headlines, Research & Data Points
- Path to World-Class Tax Risk Management
- People Risk = Tax Risk

Income Taxes

2

December 13, 2005

Agenda

What we'll cover today

- What is Tax Management ?
- State of the Tax Business at Caterpillar
- State of the Tax Business.....
- Path to World-Class Tax Risk Management
- People Risk = Tax Risk

Income Taxes
3
December 13, 2005

What is Tax Management?

Tax Management can appear complex, but the basic concepts are simple.

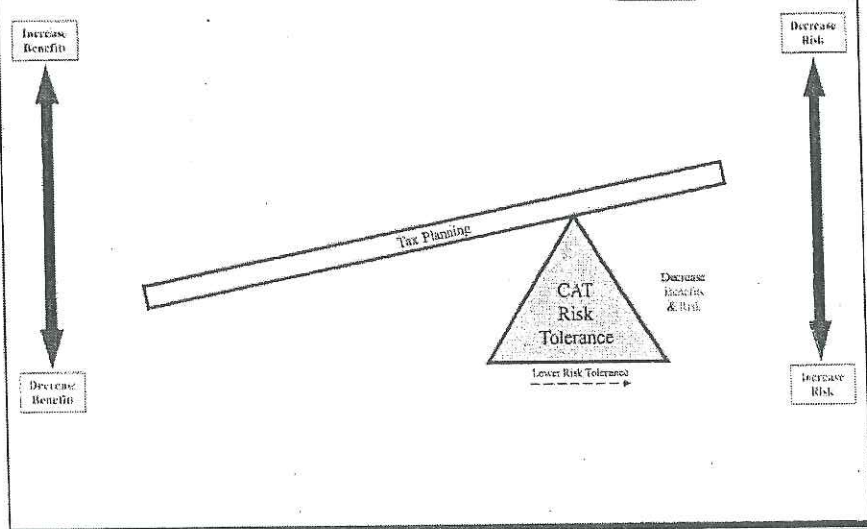
The image shows a 2003 U.S. Corporation Income Tax Return (Form 1120) for Caterpillar Inc. The form is annotated with three callouts:

- Income:** Points to line 28, "Total income, including capital gains and tax-exempt income."
- (Deductions):** Points to line 29, "Total deductions." A note next to it says "See instructions for limitations on deductions."
- Net Income:** Points to line 30, "Net income before net operating loss carryover."

Income Taxes
4
December 13, 2005

What is Tax Management?

It's a matter of risk & return...
...you can best manage risk with
a well communicated Risk
Tolerance.



Agenda

What we'll
cover today

- What is Tax Management ?
- State of the Tax Business at Caterpillar
- State of the Tax Business... Global Headlines, Growth of & Core Risks
- Path to World-Class Tax Risk Management
- People Risk = Tax Risk

State of Tax Business at Caterpillar

Cash benefits exceeding [REDACTED]

Cash Impact Since 1990
(excluding carry-forwards & benefits from use of cash)

**Redacted by the
Permanent Subcommittee on Investigations**

Income Taxes 7 December 13, 2005

State of Tax Business at Caterpillar

Significant risk, but managed well.

Risk Management

- ▶ [REDACTED] LIFO Reserve..... [REDACTED]
- ▶ Double Taxation of Income (70+% Effective Tax Rate) [REDACTED]
- ▶ Tax Reserves..... [REDACTED]
- ▶ Deferred Tax Assets..... [REDACTED]

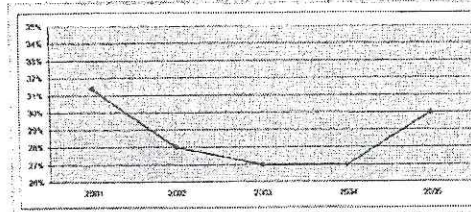
**[REDACTED] = Redacted by the Permanent
Subcommittee on Investigations**

Income Taxes 8 December 13, 2005

State of Tax Business at Caterpillar

Things are fine.
Where do we go from here?
Any changes?

No Sarbanes Oxley Material Weaknesses



Low Effective
Tax Rate

		2000	2001	2002	2003	2004
Significantly reduced cash tax paid	Taxes Paid To U.S. IRS	130	160	(97)	(176)	65
	Non-U.S. Taxes Paid	229	219	221	231	261
	Consolidated PBT	1,528	1,169	1,114	1,477	2,707

Agenda

What we'll
cover today

- ◆ What is Tax Management ?
- ◆ State of the Tax Business at Caterpillar
- ◆ State of the Tax Business.... Current Headlines, Research & Data Points
- ◆ Path to World-Class Tax Risk Management
- ◆ People Risk = Tax Risk

State of Tax Business – In General

Increasing Audit Committee responsibility for Risk Management, & increasing outside scrutiny

SOX

Sarbanes-Oxley Act of 2002, Section 404, Management Assessment of Internal Controls
"The Company must submit periodic (annual, quarterly and annual) reports, etc. contains an internal control report"

NYSE

The duties and responsibilities of the audit committees - which, upon demand, must report on risk management and risk management

FRC

Focus of the audit regulations: To ensure the company's financial statements are accurate and correct, especially if they are prepared and submitted to the board of directors and management.

Income Taxes

11

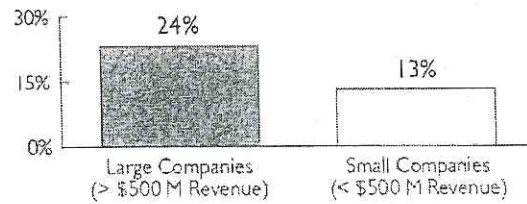
December 13, 2005

State of Tax Business – In General

Large co.'s disproportionately affected by material weaknesses related to tax

Percentage of Weakness-Disclosing Companies with Tax Accounting Issues

2005



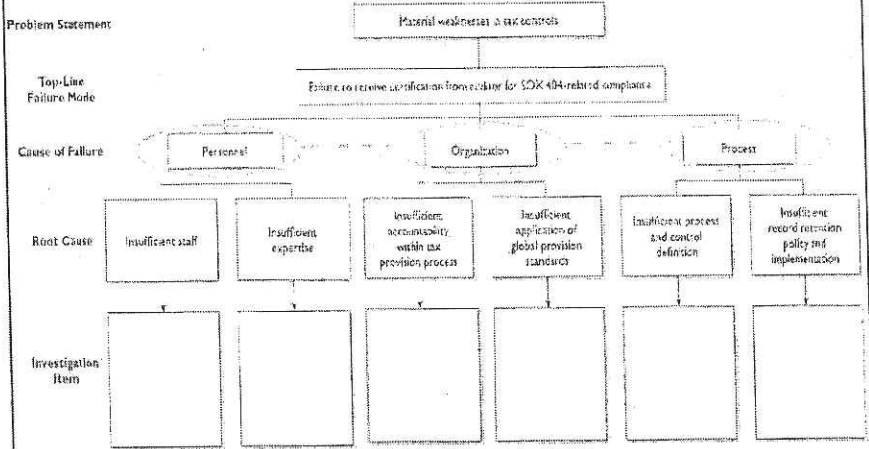
Income Taxes

12

December 13, 2005

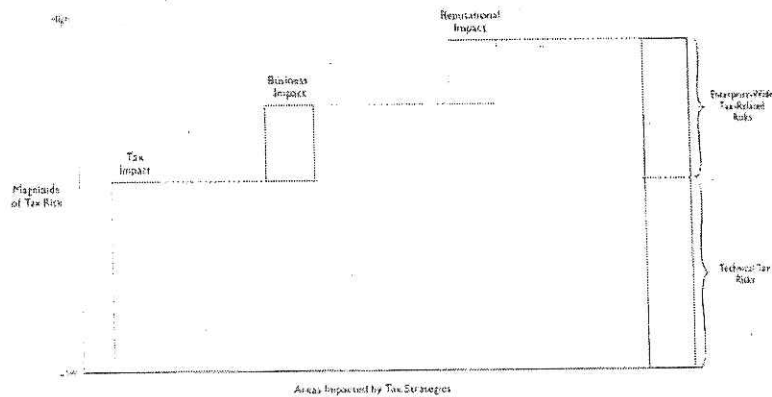
State of Tax Business – In General

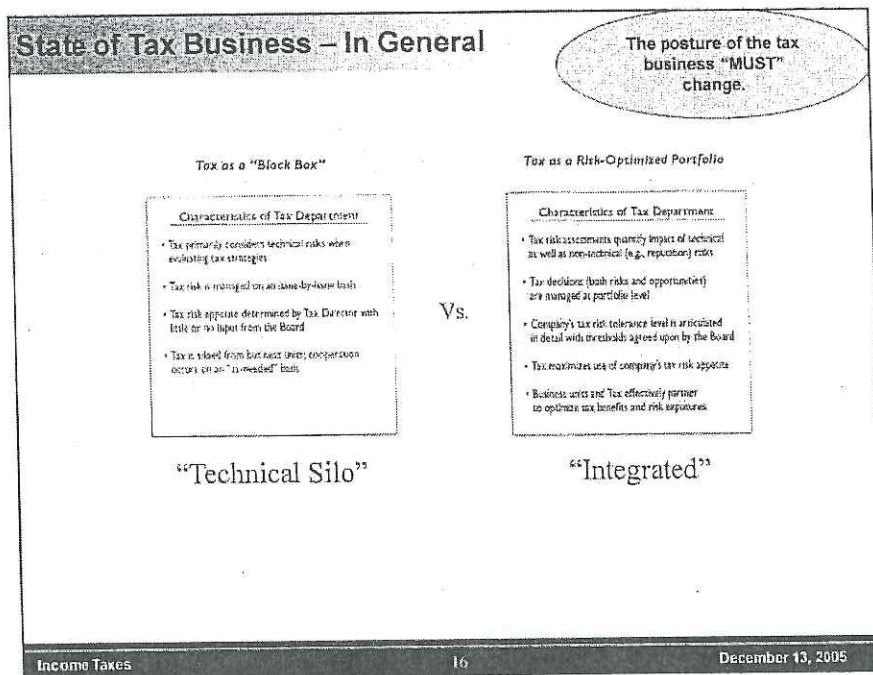
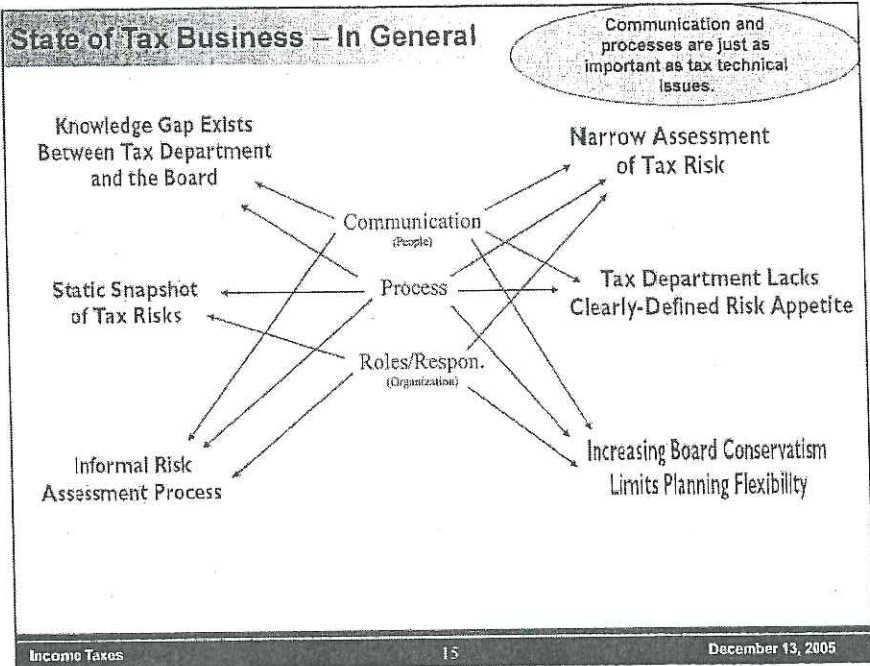
People, Organization & Process
-- not really surprising, is it?



State of Tax Business – In General

Tax professionals generally focus on tax technical risks.





Agenda

What we'll cover today

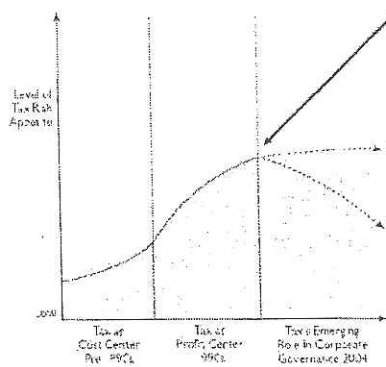
- What is Tax Management ?
- State of the Tax Business at Caterpillar
- State of the Tax Business . . . Current Practices, Research & Data Points
- Path to World-Class Tax Risk Management
- People Risk = Tax Risk

Objective

Where do we go from here?
Any changes?

We have a natural
decision point.

The Evolution of the Typical Tax Department's Risk Appetite
Illustrative



Objective

Being proactive is how we avoided material weaknesses in the first place.

Future Material Weaknesses

If it ain't broke don't fix it.

World-Class

If we don't keep march'n, we'll take up the rear.

Income Taxes 19 December 13, 2005

World-Class Tax Risk Management

We must clearly define & communicate Caterpillar's Tax Risk Profile to the Audit Committee.

Audit Committee – Risk Guard Rails

Risk Categories	Structure of Risk Results
1) Transactional Risk Application of decisions and regulations to specific transactions	Low to High
2) Operational Risk Inherent risks in every-day business operations	Low to High
3) Compliance Risk Statutory risks associated with tax return preparation, computations and submissions	Low to High
4) Financial Accounting Risk Risk associated with tax recording, financial statements and internal controls	Low to High
5) Portfolio Risk Aggregate impact of transactions, operations, and compliance risks	Low to High
6) Management Risk Failure to manage the above listed risks in a manner consistent with corporate tax risk policy	Low to High
7) Reputation Risk Risk that impacts the company's image as perceived by the public	Low to High

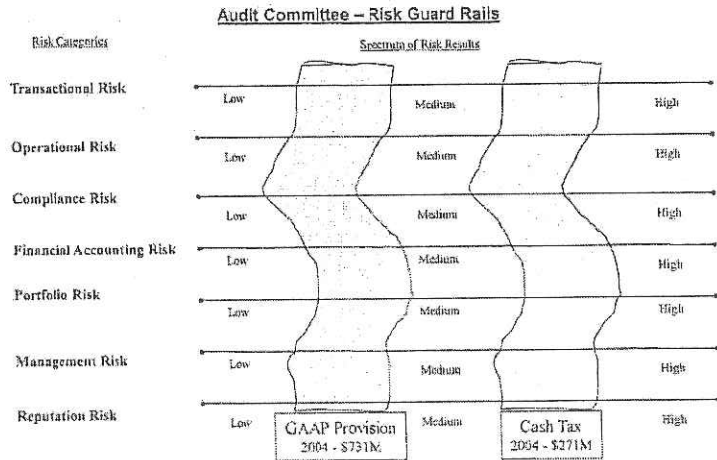
Excavation Triggers
Risk positions clearly indicate the portfolio higher communication to the Audit Committee for guidance and possible remediation.

Tax Risk Profile
Long risk spectrum. Tax closely communicates the relative riskiness of transactions, its tax implications, and non-taxable tax profile.

Income Taxes 20 December 13, 2005

World-Class Tax Risk Management

"Risk Guard Rails" facilitate mgmt. decision making within Board policy, and Board understanding of mgmt. decisions.



Agenda

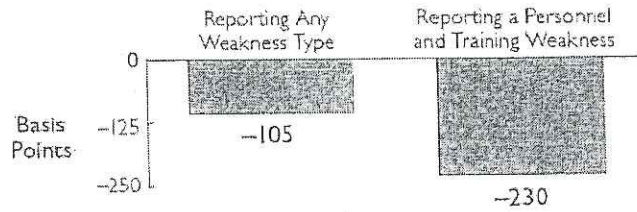
What we'll cover today

- ◆ What is Tax Management ?
- ◆ State of the Tax Business at Caterpillar
- ◆ State of the Tax Business... (2004) (2005) (2006) (2007) (2008) (2009) (2010) (2011) (2012) (2013) (2014) (2015) (2016) (2017) (2018) (2019) (2020) (2021) (2022) (2023) (2024) (2025) (2026) (2027) (2028) (2029) (2030)
- ◆ Path to World-Class Tax Risk Management
- ◆ People Risk = Tax Risk

State of Tax Business – In General

2x's the reaction for personnel related disclosures.

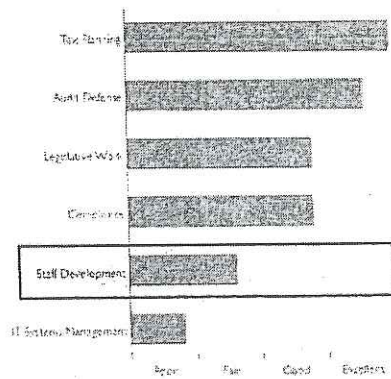
Market Underperformance by Type of Weakness
Cumulative Return, Five Days Prior–Five Days After Disclosure
 2005



State of Tax Business – In General

The foundation for Risk Management is people.



Effectiveness of Tax Directors at Critical Tax Department Activities
Self-Assessments, 2003

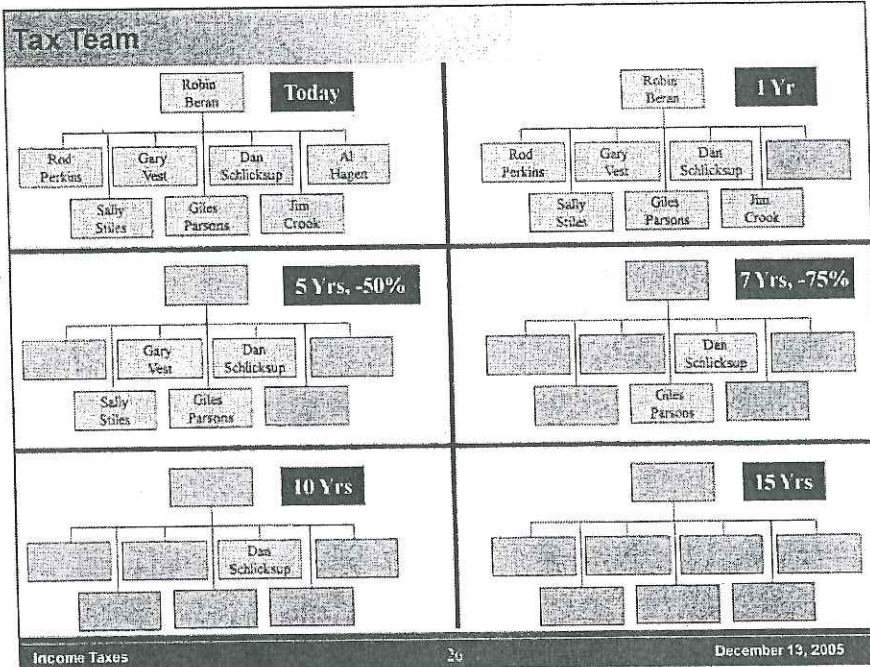


State of Tax Business – In General

Change requires new skills.

New Roles in Tax Examples from Leading Companies

- 
Project Manager
 Individual with process management experience is tasked with activities such as SOX documentation and ensures projects are completed in a timely fashion. No prior tax expertise is required but individual is familiar with Microsoft Project, Visio and other project management tools.
- 
Information Technology Specialist
 Individual is tasked with data collection, systems implementation, data queries and data management. Prior tax expertise is not required, but may be beneficial. Individual is familiar with ERP packages and manipulating Microsoft Excel for time-saving "short cuts."
- Continuous Process Improvement Expert**
 Individual is tasked with identifying opportunities for efficiency across Planning, Audit and Compliance activities. Prior tax expertise is required, as is keen desire to help map process inefficiencies.



Deliverables: for Feb. Audit Comm. Mtg.

Focus on Risk
Management

- Present Tax Risk Guard Rails
 - Identify Tax Risk Categories
 - Define degrees of risk for Low/Med/High
 - Define GAAP & Cash-Tax Guard Rails for each risk category
 - Mutual agreement on Tax Risk Guard Rails
 - Plot current tax positions on Guard Rails (April Mtg.)
- Present Risk Management Policy
 - Define roles and responsibilities of Tax Director, Controller, CFO & Audit Committee

END



Tax Risk Guardrails - audex
Daniel Schlicksup to: Dave B. Burritt

02/07/2006 08:52 AM

From: Daniel Schlicksup/OE/Caterpillar
To: Dave B. Burritt/OG/Caterpillar@Caterpillar

Caterpillar: Confidential Green

Dave, I have a solid draft of the guard rails done. I have not polished it into a presentation because it was not included on the agenda. I feel comfortable that if Gene demanded to see something today and you came and got me, I could present the draft and get the Aud Comm comfortable that we are meeting our commitments. I will send you a couple of the charts shortly that represent the overall excel file.

On your other audex, I did not want to embarrass Sharad or Jim in the meeting, and it would have been very uncomfortable for them if I had asked to stay behind. I believe it's important for you to have the facts & data so that you don't get caught in the middle or blind sided. Then you can much better decide the facts and course of action, if any -- that's clearly your call.

Good luck in the meetings & please call if you have any questions.



A/C meeting
Daniel Schlicksup to: Dave B. Burritt

02/27/2006 04:34 PM

From: Daniel Schlicksup/0E/Caterpillar
To: Dave B. Burritt/0G/Caterpillar@Caterpillar

Caterpillar: Confidential Green

FYI,

Robin indicated that the tax presentations were moved from April a/c meeting to June. We had a two day offsite last week to finalize the guardrails. We have two more days next week to plot the tax positions on the guardrails. This will be done in April if the agenda changes.

Categories	WL	Indicative Criteria	141	141	ITAS
Transactional	10	Tax Law	3	30	3,49
	5	Tax Personnel Continuity	3	15	25
	1	Industry Practice	5	5	5
	10	Business Purpose & Substance	5	50	50
	5	Consistency	5	25	5
	7	Magnitude of Cash Impact	5	35	5
	7	Documentation	1	7	7
	10	Operational Change	3	30	3,00
	5	Compliance Requirements	1	5	1,00
	10	Availability of the Data	1	10	10
Financial Accounting	10	Decision to Reserve, Provide Valuation Allowance, M&A Accounting or Indefinite Reinvestment	1	10	3,48
	3	Estimation of Reserves and Valuation Allowances for Deferred Tax Assets	5	15	15
	5	Documentation	3	15	15
	5	Impact on Financial Reporting Processes	3	15	25
	10	Magnitude of \$ Impact on Financial Statements	5	50	50
	5	Documented Corporate Tax Risk Process	5	25	4,36
	7	BU versus Legal Entity Functional Alignment	3	21	21
	10	Operational Change without Tax Advice	1	10	50
	10	WSJ Test	3	30	5,00

**Redacted By
Permanent Subcommittee
on Investigations**

14,92	17,30	11,70	9,71	8,88	7,48	14,41	14,84	12,97	22,55	20,34	21,22	21,15	20,20
-------	-------	-------	------	------	------	-------	-------	-------	-------	-------	-------	-------	-------

**Permanent Subcommittee on Investigations
EXHIBIT #25a**

Categories	WF	Indicative Criteria	141
			Bundled Revenue
Transactional	10	Tax Law	3 30 3.71
	5	Tax Personnel Continuity	3 15
	1	Industry Practice	5 5
	10	Business Purpose & Substance	5 50
	5	Consistency	5 25
	7	Magnitude of Cash Impact	5 35
	7	Documentation	1 7
Operational	10	Operational Change	3 30 3.00
Compliance	5	Compliance Requirements	1 5 1.00
	10	Availability of the Data	1 10
Financial Accounting	10	Decision to Reserve, Provide Valuation Allowance, M&A Accounting or Indefinite Reinvestment	1 10 3.18
	3	Estimation of Reserves and Valuation Allowances for Deferred Tax Assets	5 15
	5	Documentation	3 15
	5	Impact on Financial Reporting Processes	3 15
	10	Magnitude of \$ Impact on Financial Statements	5 50
Management	5	Documented Corporate Tax Risk Process	5 25 3.18
	7	BU versus Legal Entity Functional Alignment	5 35
Reputational	10	Operational Change without Tax Advice	1 10
	10	WSJ Test	3 30 3.00

**Redacted By
Permanent Subcommittee
on Investigations**

			141
			IFAS
	3	30	3.49
	5	25	
	5	5	
	5	50	
	1	5	
	5	35	
	1	7	
	3	30	3.00
	1	5	1.00
	1	10	
	1	10	3.48
	5	15	
	3	15	
	5	25	
	5	50	
	5	25	4.36
	3	21	
	5	50	
	5	50	5.00

14.92	17.30	11.70	17.07	9.71	8.88	7.48	14.41	14.84	12.97	22.55	20.34	21.22	21.15	20.64
-------	-------	-------	-------	------	------	------	-------	-------	-------	-------	-------	-------	-------	-------

14.92	17.30	11.70	17.07	9.71	8.88	7.48	14.41	14.84	12.97	22.55	20.34	21.22	21.15	20.64
-------	-------	-------	-------	------	------	------	-------	-------	-------	-------	-------	-------	-------	-------

**Permanent Subcommittee on Investigations
EXHIBIT #25b**

Categories	WL	Indicative Criteria
Transactional	10	Tax Law
	5	Tax Personnel Continuity
	1	Industry Practice
	10	Business Purpose & Substance
	5	Consistency
	7	Magnitude of Cash Impact
	7	Documentation
Operational	10	Operational Change
Compliance	5	Compliance Requirements
	10	Availability of the Data
Financial Accounting		Decision to Reserve, Provide Valuation Allowance, M&A Accounting or Indefinite Reinvestment
	10	Reinvestment
		Estimation of Reserves and Valuation Allowances for Deferred Tax Assets
	3	Deferred Tax Assets
	5	Documentation
	5	Impact on Financial Reporting Processes
	5	Magnitude of \$ Impact on Financial Statements
Management	10	Financial Statements
	5	Documented Corporate Tax Risk Process
	7	BU versus Legal Entity Functional Alignment
	10	Operational Change without Tax Advice
Reputational	10	WSJ Test

141		Bundled Roughly
	3	30 4.02
	3	15
	5	5
	5	50
	5	25
	5	35
	1	7
	3	30 3.00
	1	5 1.00
	1	10
	1	10 2.82
	1	3
	3	15
	3	15
	5	50
	3	15 2.73
	5	35
	1	10
	3	30 3.00

Redacted By
Permanent Subcommittee
on Investigations

141		TIAS
	3	30 3.49
	5	25
	5	5
	5	50
	1	5
	5	35
	1	7
	3	30 3.00
	1	5 1.00
	1	10
	1	10 3.30
	3	9
	3	15
	5	25
	5	50
	3	15 4.55
	5	35
	5	50
	5	50 5.00

12.47	18.12	12.62	16.57	12.26	10.70	13.26	15.65	12.21	16.27	20.34	20.77	20.89	18.25
-------	-------	-------	-------	-------	-------	-------	-------	-------	-------	-------	-------	-------	-------

Permanent Subcommittee on Investigations
EXHIBIT #25c

<u>Category</u>	<u>Definition</u>	<u>Indicators</u>	<u>Low</u>	<u>Medium</u>	<u>High</u>
Operational	Level of risk structure or transaction creates for everyday business operations.	Tax Driven Change	There was no operational change required by the business unit to implement the structure or transaction. <ul style="list-style-type: none"> & The business unit would agree that the required operational change was not a significant change or disruption to the business. & The business unit was not reluctant to implement the change required by the structure or transaction. There was operational change required by the business unit to implement the structure or transaction. <ul style="list-style-type: none"> & The business unit resisted the required change and was reluctant to implement the change. & The business unit has facts and data to support the proposed risk associated with the change. 		
Compliance	Level of risk structure or transaction creates associated with tax return preparation, completion and submission.	Compliance Requirement	There are no compliance requirements associated with this structure or transaction. <ul style="list-style-type: none"> & The compliance requirements are well established to the point that there is no interpretation of the regulations required to comply. & The compliance requirements are the same or similar to requirements we have complied with before. There are compliance requirements associated with this structure or transaction. <ul style="list-style-type: none"> & The compliance requirements are subject to one's interpretation of the regulations. or We have not had to complied with these requirements before. 		
Financial Accounting	Level of risk structure or transaction creates associated with tax accounting, financial statements or internal controls.	Reserves	The accounting department has determined that the structure or transaction requires no reserve. or The accounting department has determined that the structure or transaction does require a reserve and 100% of the tax benefit has been reserved. The accounting department has determined that the structure or transaction does require a reserve and less than 50% of the tax benefit has been reserved. The accounting department has determined that the structure or transaction does require a reserve and less than 50% of the tax benefit has been reserved.		
Management	Probability above risks can be managed consistent with corporate tax risk policies.	Corporate Tax Risk Policy	There is a written Corporate Tax Risk Policy. <ul style="list-style-type: none"> & The CFO, Controller, Tax Accountants, Tax Director and direct reports to the Tax Director are familiar with the content of the policy and its application. & There is a well established past practice of managing Transactional, Operational, and Compliance risk in accordance with the policy. There is a written Corporate Tax Risk Policy. <ul style="list-style-type: none"> & The CFO, Controller, Tax Accountants, Tax Director and direct reports to the Tax Director are not familiar with the content of the policy and its application. or There is not a well established past practice of managing Transactional, Operational, and Compliance risk in accordance with the policy. There is no written Corporate Tax Risk Policy. <ul style="list-style-type: none"> & The CFO, Controller, Tax Accountants, Tax Director and direct reports to the Tax Director are not familiar with the content of the policy and its application. or There is not a well established past practice of managing Transactional, Operational, and Compliance risk in accordance with the policy. 		
Reputation	Probability structure or transaction will generate negative impact on the Company's image as perceived by the public.	WSJ Test	The Executive Office would have no problem fully disclosing this structure or transaction for a WSJ article. The Executive Office would not fully disclose this structure or transaction for a WSJ article, but would feel comfortable discussing it if asked. The Executive Office would not want to have to answer questions from the press about this topic.		
		Executive Knowledge	4 or fewer members of the Executive Office understand the structure or transaction. 3 or fewer members of the Executive Office understand the structure or transaction. 2 or fewer members of the Executive Office understand the structure or transaction.		

Income Tax Update

June 13, 2006

*Building momentum on the journey
to Global Finance & Strategic Support Transformation...*

UFA ERIPILLAH

Caterpillar Confidential Red 10

Tax Agenda

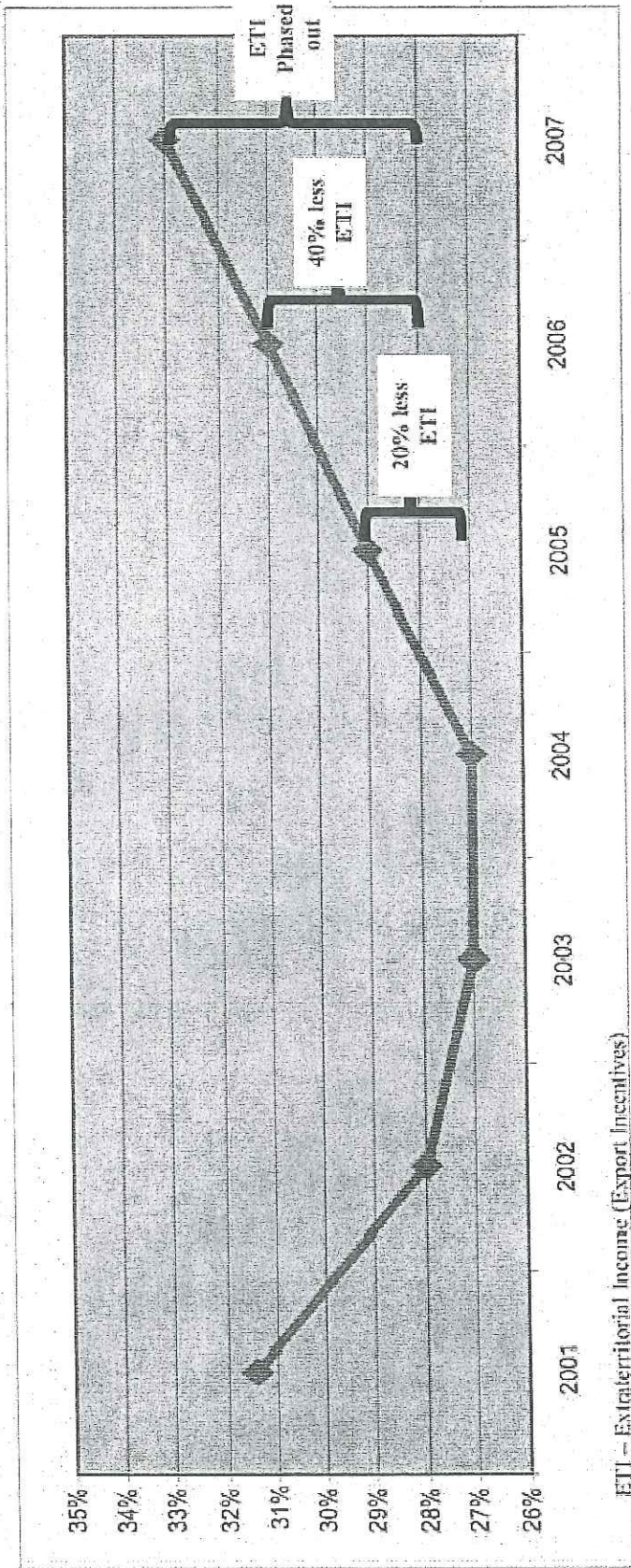
Tax overview focusing on
RISK MANAGEMENT

• Key Messages

- Effective Tax Rate trending up
- Difficult IRS exams
- Adequate reserves
- Complex risk environment, but well managed
- Complex reporting environment, but integrated with Global Finance & Strategic Support Transformation

Effective Tax Rate

Export incentive phase-out increases ETR in 2005, 2006 and 2007.



ETR - Extraterritorial Income (Export Incentives)

Year	U.S. Rate	Export Incentives	Foreign Earnings	Misc.	ETR
2001	35.0%	[4.9%]	[0.1%]	1.4%	31.4%
2002	35.0%	[4.4%]	[3.4%]	0.8%	28.0%
2003	35.0%	[4.9%]	[4.0%]	0.9%	27.0%
2004	35.0%	[4.9%]	[3.7%]	0.6%	27.0%
2005	35.0%	[2.7%]	[3.2%]	[0.4%]	28.7%
2006	35.0%	[2.0%]	[2.4%]	0.4%	31.0% (Estimate)
2007	35.0%	[0.0%]	[2.4%]	0.4%	33.0% (Estimate)

Effective Tax rate

2005 rank primarily due to earnings in low-tax jurisdictions.

Dow 30	2005 ETR	2004 ETR	Rank	Competitors	ETR
Boeing Co.	9.1%	7.1%	1		
AT&T - Formerly SBC Communications Inc.	16.3%	30.5%	2	Ingersoll Rand Co. Ltd.	16.3%
General Electric Co.	17.4%	17.6%	3		
Alcoa Inc.	22.8%	25.1%	4		
Johnson & Johnson	23.8%	33.7%	5		
American Express Co.	24.2%	29.8%	6		
Microsoft Corp.	26.3%	33.0%	7		
United Technologies Corp.	26.8%	26.2%	8		
Coca-Cola Co.	27.2%	22.1%	9	Volvo	27.0%
American International Group	28.0%	29.7%	10		
Caterpillar Inc.	28.7%	27.0%	11	Caterpillar Inc.	28.7%
Pfizer Inc.	29.7%	19.0%	12		
McDonald's Corp.	29.7%	28.9%	13		
Allria Group, Inc.	29.9%	32.4%	14		
Verizon Communications, Inc.	30.3%	28.2%	15	Cummins	30.0%
Procter & Gamble Co.	30.5%	30.7%	16		
J.P. Morgan Chase & Co.	30.6%	27.9%	17		
Citigroup Inc.	30.8%	28.4%	18		
Walt Disney Co.	31.1%	32.0%	19		
Intel Corp.	31.3%	27.8%	20		
Honeywell Int'l. Inc.	31.9%	23.8%	21		
Hewlett-Packard Co.	32.3%	16.7%	22		
General Motors	33.5%	33.0%	23	Deere & Co.	33.1%
3M Company	34.0%	33.0%	24		
International Bus. Mach.	34.6%	29.7%	25		
Wal-Mart Stores, Inc.	34.7%	36.1%	26		
Merck & Co. Inc.	37.1%	27.1%	27	Komatsu	36.5%
Horne Depot, Inc.	37.1%	36.8%	28		
DuPont (E.I.) de Nemours	41.3%	-22.8%	29		
Exxon Mobil Corp.	41.4%	40.3%	30		

Caterpillar Confidential Recd

Tax Reserves

Ending 2005 Tax Reserves

Caterpillar reserves
are adequate.

Redacted by the
Permanent Subcommittee on Investigations

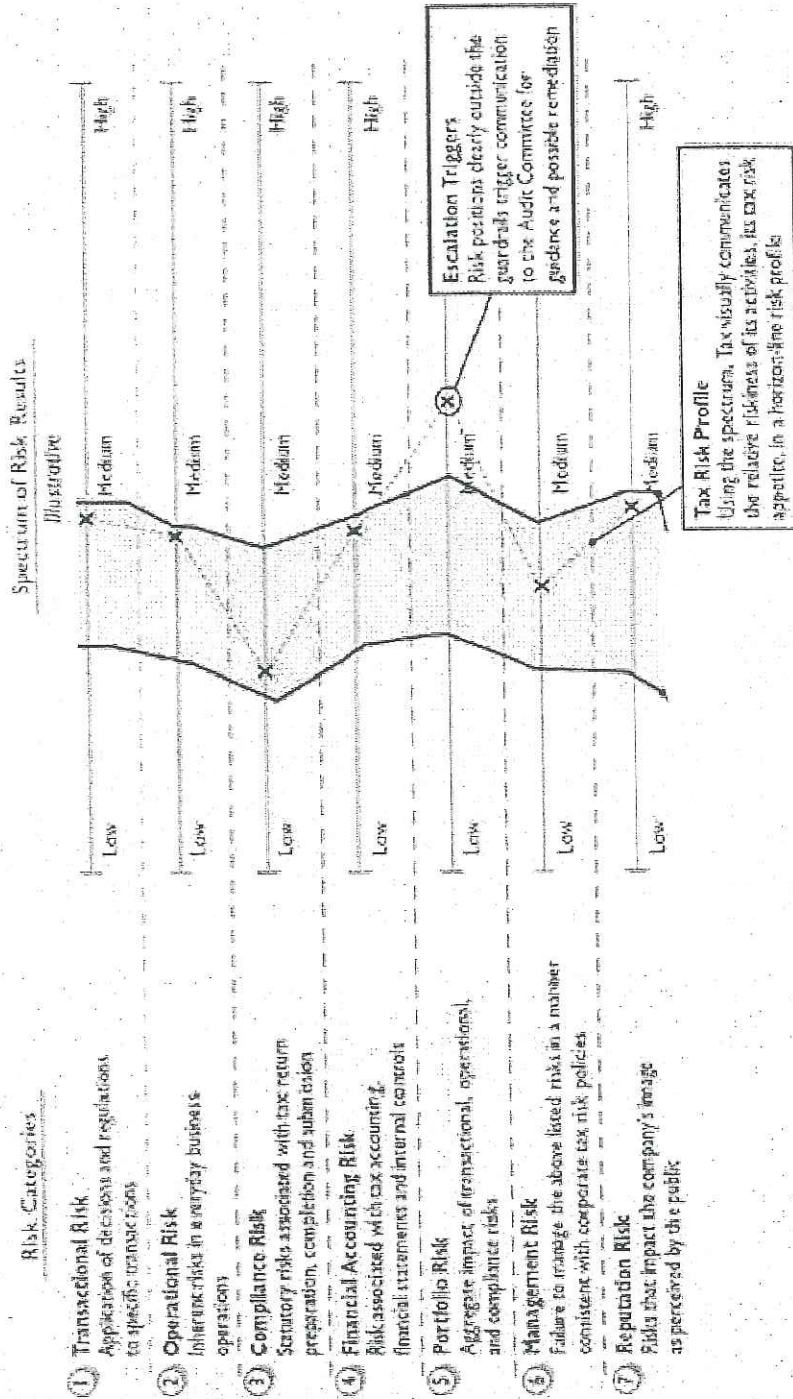
Transfer Pricing
Export Incentives
Research Credit
Thin Capitalization
US Federal (incl Interest)
US State
Total

(Millions USD)

Caterpillar: Confidential Red

We must define, understand & communicate Caterpillar's Tax Risk Profile.

Audit Committee – Risk Guard Rails



From the Corporate Executive Board

Tax Risk Guard Rails - Process

- Simple
- Manageable
- Nontechnical

- Step 1 – Identify & Define Risk Categories
- Step 2 – Identify Criteria for Risk Categories
- Step 3 – Define Risk Level for each Criteria

Step 1: Identify & Define Risk Categories

These are the potential "business risks" that can be created by tax positions.

Risk

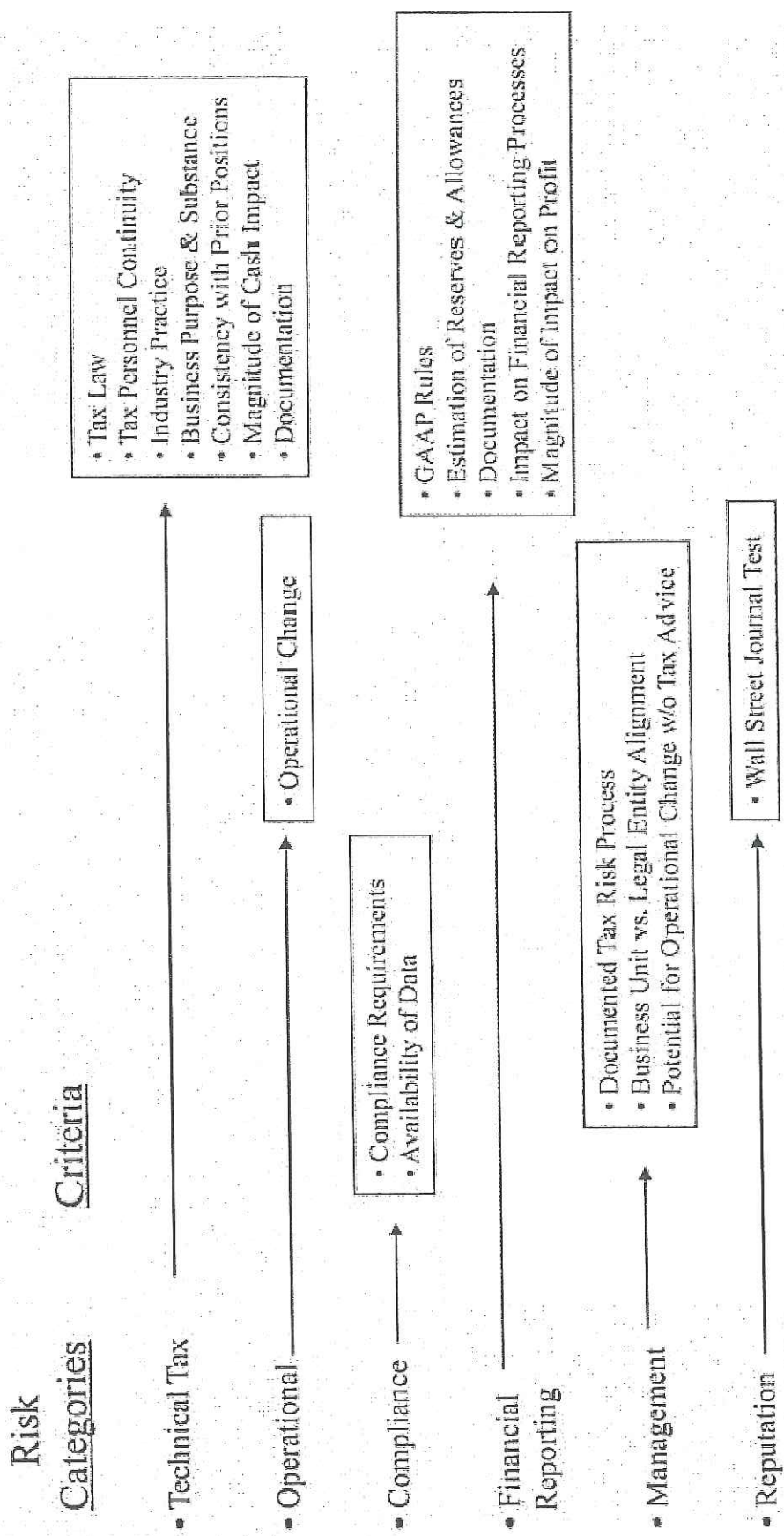
Categories

Definition

- Technical Tax
 - Level of risk the structure or transaction creates with full compliance with the law, regulations and court decisions.
- Operational
 - Level of risk the structure or transaction creates for everyday business operations.
- Compliance
 - Level of risk the structure or transaction creates for tax return preparation, completion and submission.
- Financial Reporting
 - Level of risk structure or transaction creates associated with tax accounting, financial reporting or internal controls.
- Management
 - Probability above risks can be managed consistent with corporate tax risk policies.
- Reputation
 - Probability the structure or transaction will generate negative impact on the Company's image.

Step 2: Identify Criteria for Risk Categories

- Simple
- Manageable
- Nontechnical



- Tax Law
- Tax Personnel Continuity
- Industry Practice
- Business Purpose & Substance
- Consistency with Prior Positions
- Magnitude of Cash Impact
- Documentation

- GAAP Rules
- Estimation of Reserves & Allowances
- Documentation
- Impact on Financial Reporting Processes
- Magnitude of Impact on Profit

Step 3: Define Risk Level for Each Criteria - Example

- Simple
- Manageable
- Nontechnical

Risk

Categories

Criteria

- Technical Tax →
- Operational
- Compliance

- Tax Law
- Tax Personnel Continuity
- Industry Practice
- Business Purpose & Substance
- Consistency with Prior Positions
- Magnitude of Cash Impact
- Documentation

- **Low:** The structure or transaction is completely consistent with the applicable laws, administrative rules, and judicial decisions of the applicable jurisdiction(s).
 - **Med:** The structure or transaction is consistent with the applicable laws, administrative rules, and judicial decisions of the applicable jurisdiction(s) in all significant respects.
 - **High:** The structure or transaction is not consistent with the applicable laws, administrative rules, or judicial decisions of the applicable jurisdiction(s) in some significant respect, or
- We cannot determine the level of significance or consistency for any reason, or
- The structure or transaction is not consistent with outside advice in some significant respect.

- Financial Reporting

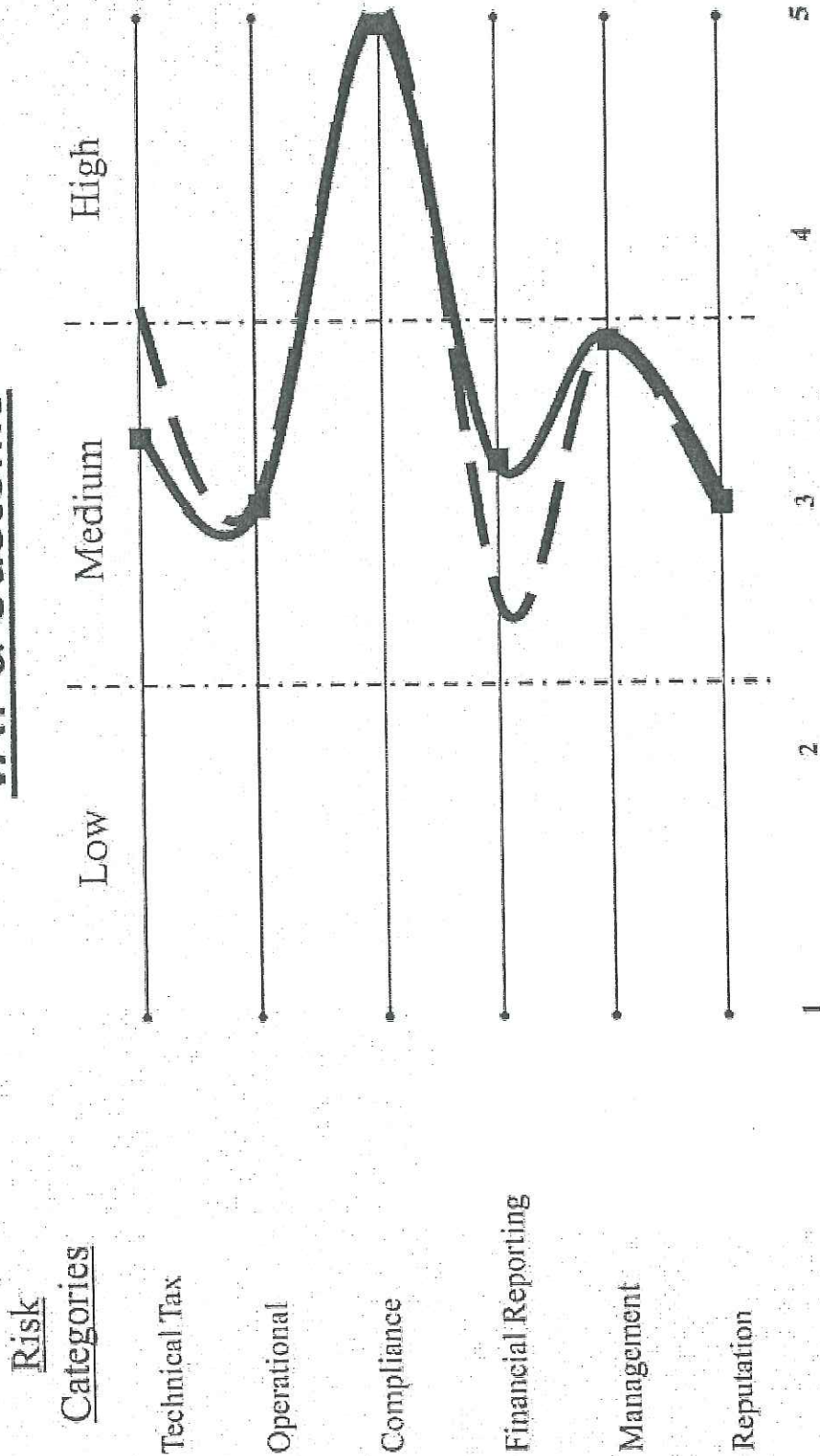
- Management

- Reputation

Tax Risk Guard Rails - Examples

Other tax positions followed the same process.

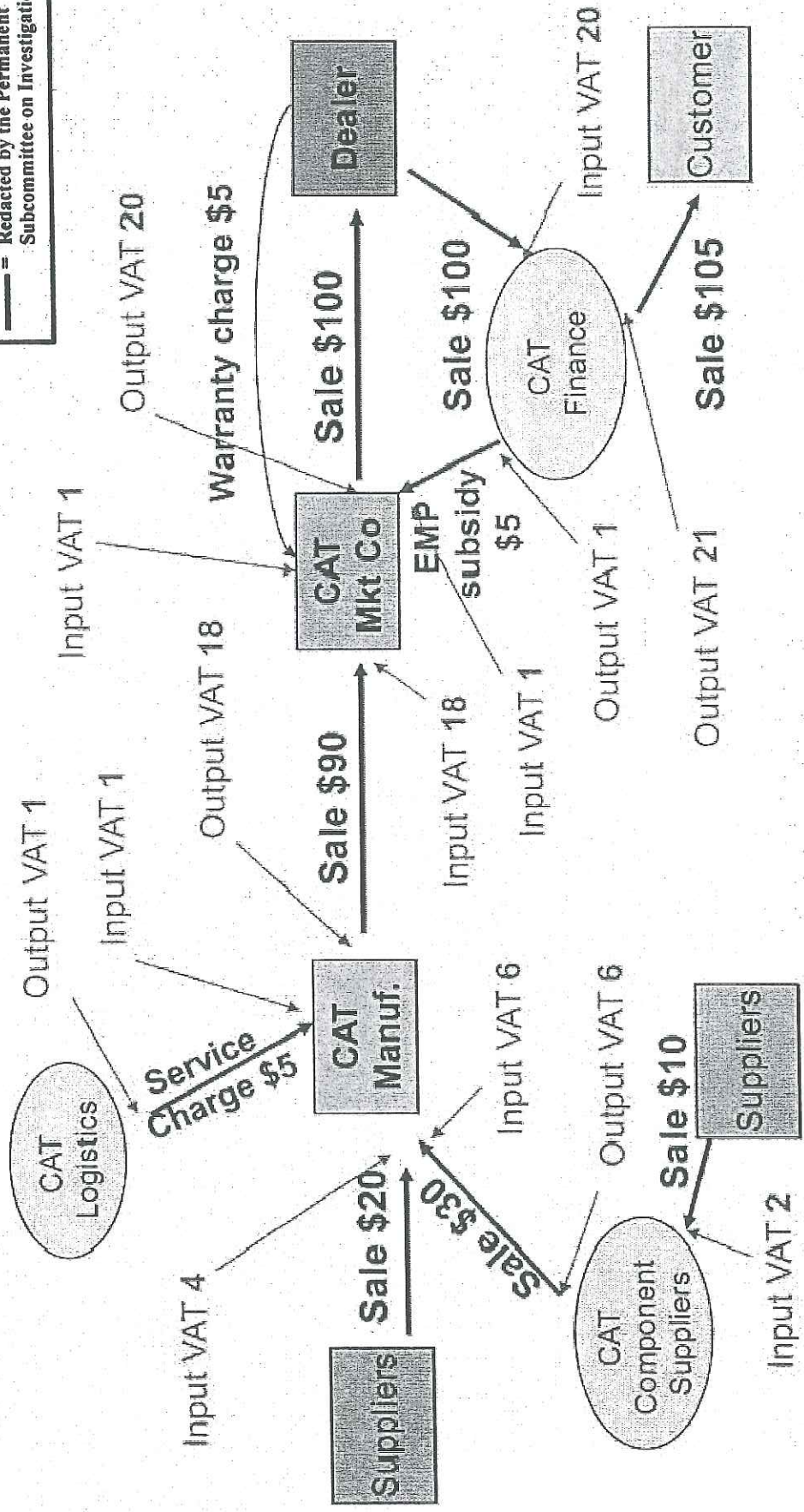
VAT & Customs



VAT Example: What is the Risk to Caterpillar?

Total Caterpillar Revenue: [Redacted]
 Total VAT Risk.....

[Redacted] = Redacted by the Permanent Subcommittee on Investigations



Global Finance & Strategic Support Transformation

Tax Savings are in the details, not the financial statements. Tax sensitized processes are a must.

WW Consolidated Financial Statements

Tax Detail

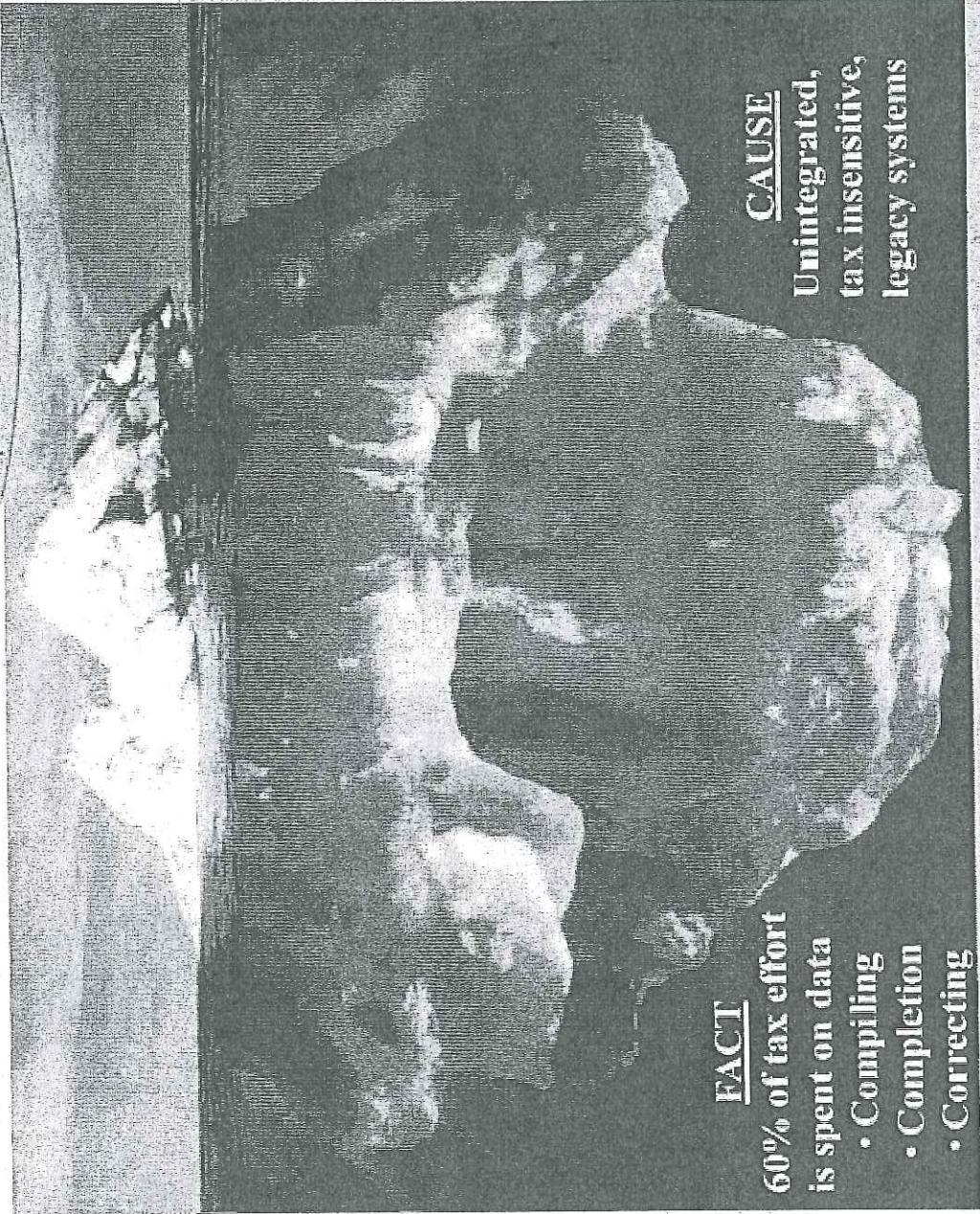
25M+ sales transactions

50M+ I/C transactions

Etc.

Etc.

Etc.



FACT
60% of tax effort is spent on data

- Compiling
- Completion
- Correcting

CAUSE
Unintegrated, tax insensitive, legacy systems

Why does Tax need so much data?

Tax requires 4 sets of books.
Current systems produce 1 of 4.

Tax

US-Tax GAAP in USD

US-Tax GAAP in local
currency

US GAAP in local currency

Local country books in local currency

Additional non-GAAP calculations...

- R&E expense
- R&D credit
- Export incentives
- Foreign Tax Credits

Accounting

US GAAP in USD

In Summary

It's a challenging environment, rapidly changing, and we're adapting.

• Key Messages

- Effective Tax Rate trending up
- Difficult IRS exams
- Adequate reserves
- Complex risk environment, but well managed
- Complex reporting environment, but integrated with Global Finance & Strategic Support Transformation



Re: fyi only -- Update to Legal 6S team on regulatory compliance

Robin D Beran to: Daniel Schlicksup, Dave B. Burritt

07/28/2006 08:28 AM

From: Robin D Beran/0S/Caterpillar

To: Daniel Schlicksup/0E/Caterpillar@Caterpillar, Dave B. Burritt/0G/Caterpillar

Caterpillar: Confidential Green

Good work, Dan. We need to schedule a meeting to update the final review/charts. I believe we've noted some new info on one, and I think we have metrics problem re complexity for the VAT & Customs chart. Can discuss further, but current chart puts one area at high. Assuming guidance is to stay below high in all areas, how could we utilize?

Robin

Beranrd@cat.com 309.675.4478

Daniel Schlicksup

From: Daniel Schlicksup

Sent: 07/28/2006 08:19 AM

To: Dave Burritt

Subject: fyi only -- Update to Legal 6S team on regulatory compliance

Provided overview of Tax Risk Guard Rails yesterday to a 6S team from legal working specifically on a deep dive into regulatory compliance risks for the company for which penalties can be stiff due to new regulations. They were impressed with what Tax has done and said it fits perfectly in with what they are trying to do. They encouraged us to continue with the process and explain our current tax risk profile to the audit committee to get their approval.



Tax Risk Guard Rails

Daniel Schlicksup to: Dave B. Burritt

08/11/2006 05:02 PM

From: Daniel Schlicksup/0E/Caterpillar
To: Dave B. Burritt/0G/Caterpillar@Caterpillar

Caterpillar: Confidential Green

FYI, Tax Council will be meeting in near future to update TRGRs. The pressure/question I am getting is focused on reducing the risk shown on the guard rails. For example, I am being questioned why the structured finance deals should be considered to have high reputational risk. How would we explain to someone why we sold our factories and leased them back and got a lot of cash in the form of favorable financing rates when nothing really happened? I think he is very concerned about showing any risk at all. Also, he seems to forget the financial statement issues surrounding structured finance with PwC.

I need to understand where you want to go with the TRGRs. Are we going to stop where we are at which is just informing the board about the process we went through to create the guard rails, or are we going to show the board the results and have a meaningful discussion explaining our risk profile and to determine the board's comfort with it? I don't want to spend a lot more time on this if it is not going to go anywhere. I recommend the latter as I believe it is a best practice and the whole point for going down this path in the first place.

Please give me some feedback.

Global Finance and Strategic Support



Global Tax Update

Purpose: Annual Update on Tax Management

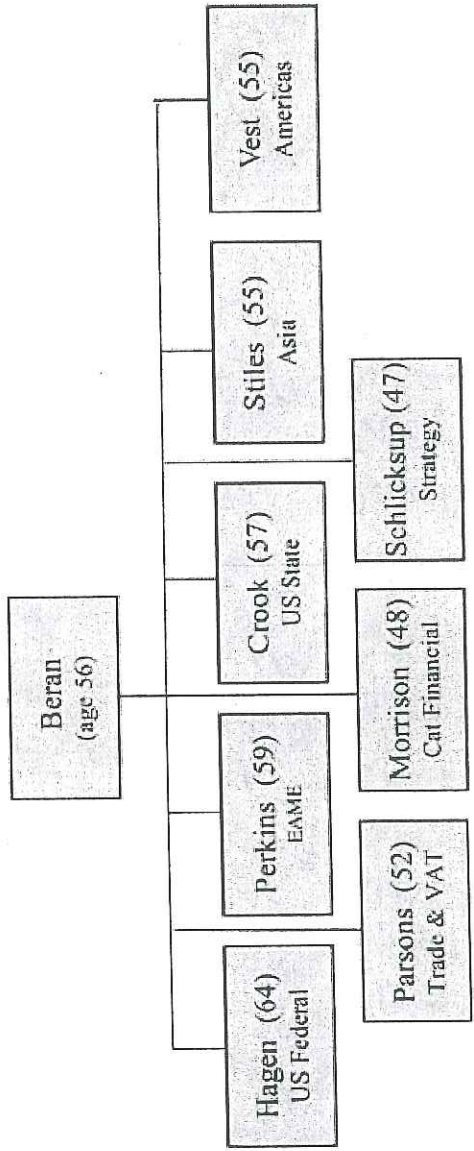
Key Messages:

- We have "Global" Tax and Trade resources
- Effective Tax Rate is increasing, near mid of Dow 30 range
- Tax Reserves are Adequate
- Tax Risk Management processes are robust

April 8, 2008

Retirements looming.
Good bench strength.

Global Organization - Succession



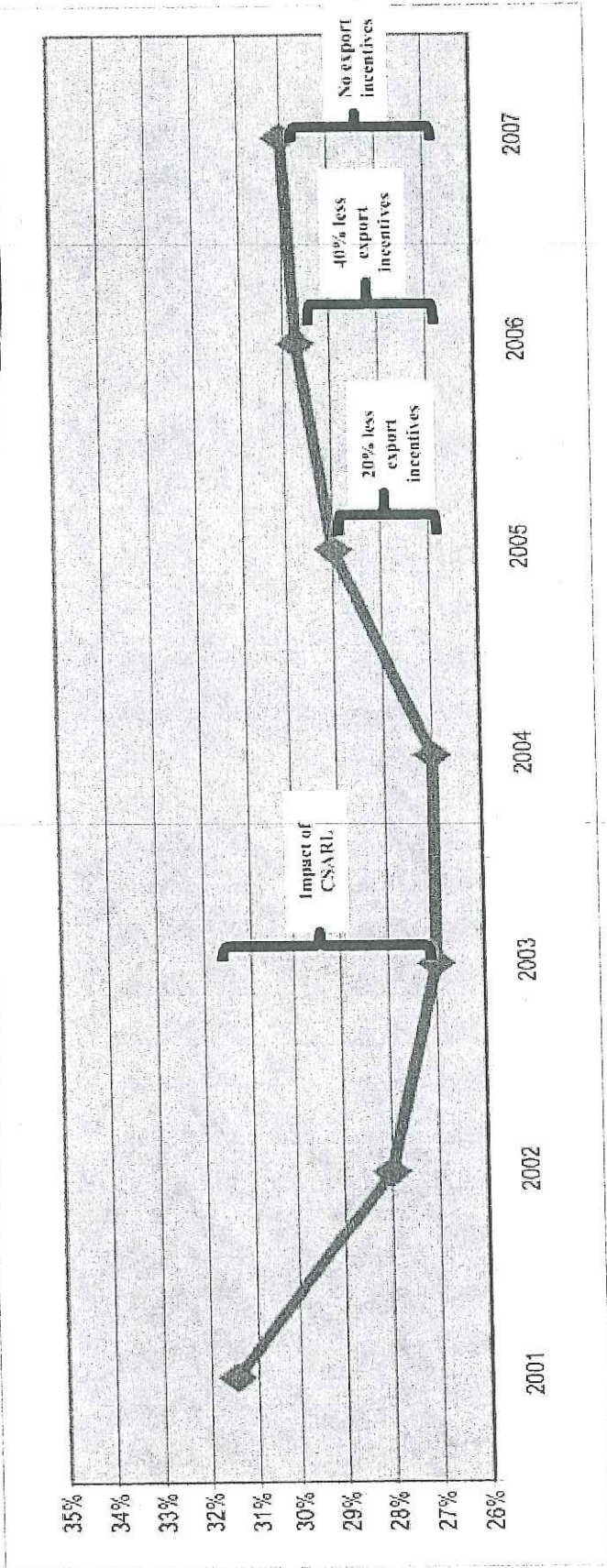
Next level: Abellard-41, Bakanowski-48, De Pena-37, Gates-49, Grierson-53, Laks-45, McWhorter-47, Miller-45, Poling-42, Rac-53, Zinneman-39

2nd level: Cachbach-31, Carter-44, Dobberfuhl-30, Duley-32, Estebanez-33, Gao-36, Grace-38, Mitchell-44, Murphy-41, Stranz-29, Wright-49

Caterpillar: Confidential Red

Effective Tax Rate - Trend

Expect 2008 ETR of 31.5%.
Increase primarily due to
expiration of U.S. R&D Credit.



Year	U.S. Rate	Export Incentives	Foreign Earnings	Misc.	ETR
2001	35.0%	[4.4%]	[3.4%] ↑	<u>1.4%</u>	31.4%
2002	35.0%	[4.9%]	[4.0%]	<u>0.9%</u>	27.0%
2003	35.0%	[4.9%]	[3.7%]	<u>0.6%</u>	27.0%
2004	35.0%	[4.9%]	[3.7%]	<u>0.6%</u>	27.0%
2005	35.0%	[2.7%] ↓	[3.2%]	<u>[0.4%]</u> ↑	28.7%
2006	35.0%	[2.1%] ↓	[3.5%]	<u>0.4%</u>	29.8%
2007	35.0%	[0.0%] ↓	[4.7%] ↑	<u>[0.3%]</u> ↑	30.0%

Effective Tax Rate - Trend

ETR is average for the Dow 30.

Dow 30	2007 ETR	2006 ETR	Rank	Competitors	ETR
General Motors	-595.0%	56.0%	1		
Citigroup Inc.	-129.4%	27.3%	2		
Merck & Co. Inc.	2.8%	28.7%	3		
Pfizer Inc.	11.0%	15.3%	4		
General Electric Co.	15.5%	16.1%	5		
American International Group	16.3%	30.1%	6		
DuPont (E.I.) deNemours	20.0%	5.9%	7		
Johnson & Johnson	20.4%	24.2%	8		
Hewlett-Packard Co.	20.8%	13.8%	9	Fiat (CNH)	21.3%
Intel Corp.	23.9%	28.6%	10	Volvo	23.7%
Coca-Cola Co.	24.0%	22.8%	11		
American Express Co.	27.3%	30.0%	12		
International Bus. Mach.	28.0%	29.0%	13	Komatsu	27.8%
Bank of America	28.4%	33.9%	14		
United Technologies Corp.	28.8%	27.2%	15		
Procter & Gamble Co.	29.7%	30.0%	16		
Caterpillar Inc.	30.0%	28.9%	17	Caterpillar Inc.	30.0%
Microsoft Corp.	30.0%	31.0%	18		
3M Company	32.1%	30.6%	19		
J.P. Morgan Chase & Co.	32.6%	31.4%	20	Cummins	32.6%
Wal-Mart Stores, Inc.	33.6%	33.1%	21	Deere & Co.	33.0%
Boeing Co.	33.7%	30.9%	22	Terex	33.2%
AT&T Inc.	34.4%	32.4%	23		
Alcoa Inc.	34.6%	24.3%	24		
McDonalds Corp.	34.6%	31.0%	25		
Walt Disney Co.	37.2%	34.7%	26		
Home Depot, Inc.	38.1%	38.0%	27		
Chevron Texaco Corp.	41.9%	46.4%	28		
Verizon Communications, Inc.	42.0%	32.8%	29		
Exxon Mobil Corp.	44.0%	43.0%	30		

Caterpillar: Confidential Red

Issues - Tax Reserves

Caterpillar reserves
are adequate.

Redacted by the
Permanent Subcommittee on Investigations

Caterpillar SARL
Transfer pricing
Export benefits
U.S.- Federal
U.S.- International
Non-U.S.
State

Caterpillar: Confidential Red

Processes are robust.

Issues – Risk Management

- Sarbanes Oxley
 - Robust quarterly identification and evaluation process for tax uncertainties
 - Global team of tax professionals reviews operating activities and material tax positions with local accounting managers

- Tax Risk Guard Rails
 - Global Central Committee review of uncertain tax positions
 - Representatives from Accounting and Tax who consider risk factors: Transactional, Operational, Compliance, Financial Reporting, Management and Reputation.



Caterpillar: Confidential Red

Issues – Risk Management

Risk

Categories

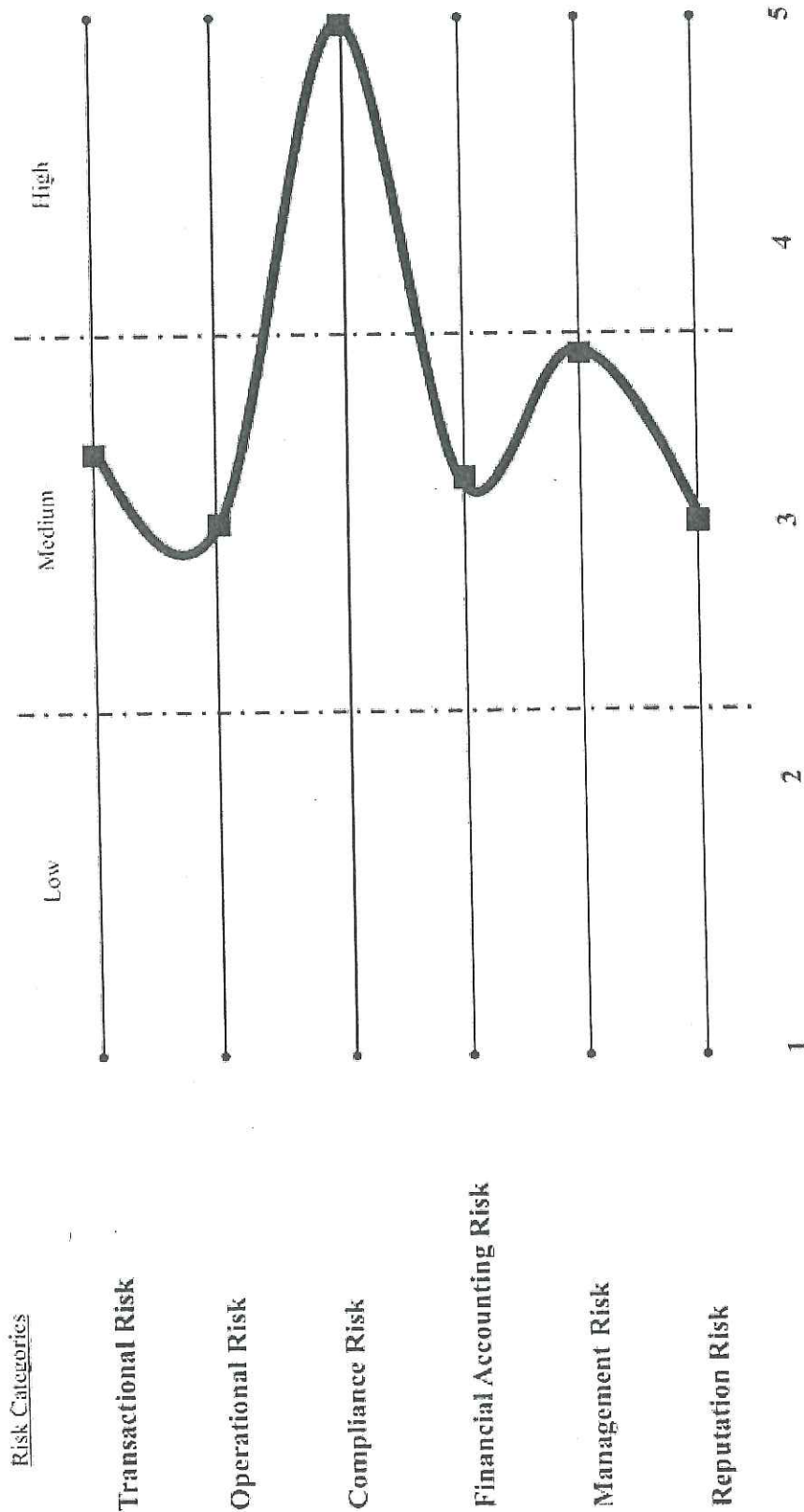
- Transactional
 - Compliance with the law, regulations and court decisions.
- Operational
 - Impact on business operations.
- Compliance
 - Tax return preparation, completion and submission.
- Financial Reporting
 - Tax accounting, financial statements or internal controls.
- Management
 - Consistency with corporate tax risk policies.
- Reputation
 - Impact on the Company's image.

These are the
"business risks"
created by tax positions.

Complex definitions tied to individual transactions.

Issues – Risk Management Example

VAT



Caterpillar: Confidential Red

High risk areas are actively managed.

Issues – Risk Management

Mitigation

- Established Global Process Owner
- Established Global Procedures and Training
- Moving toward better, global control

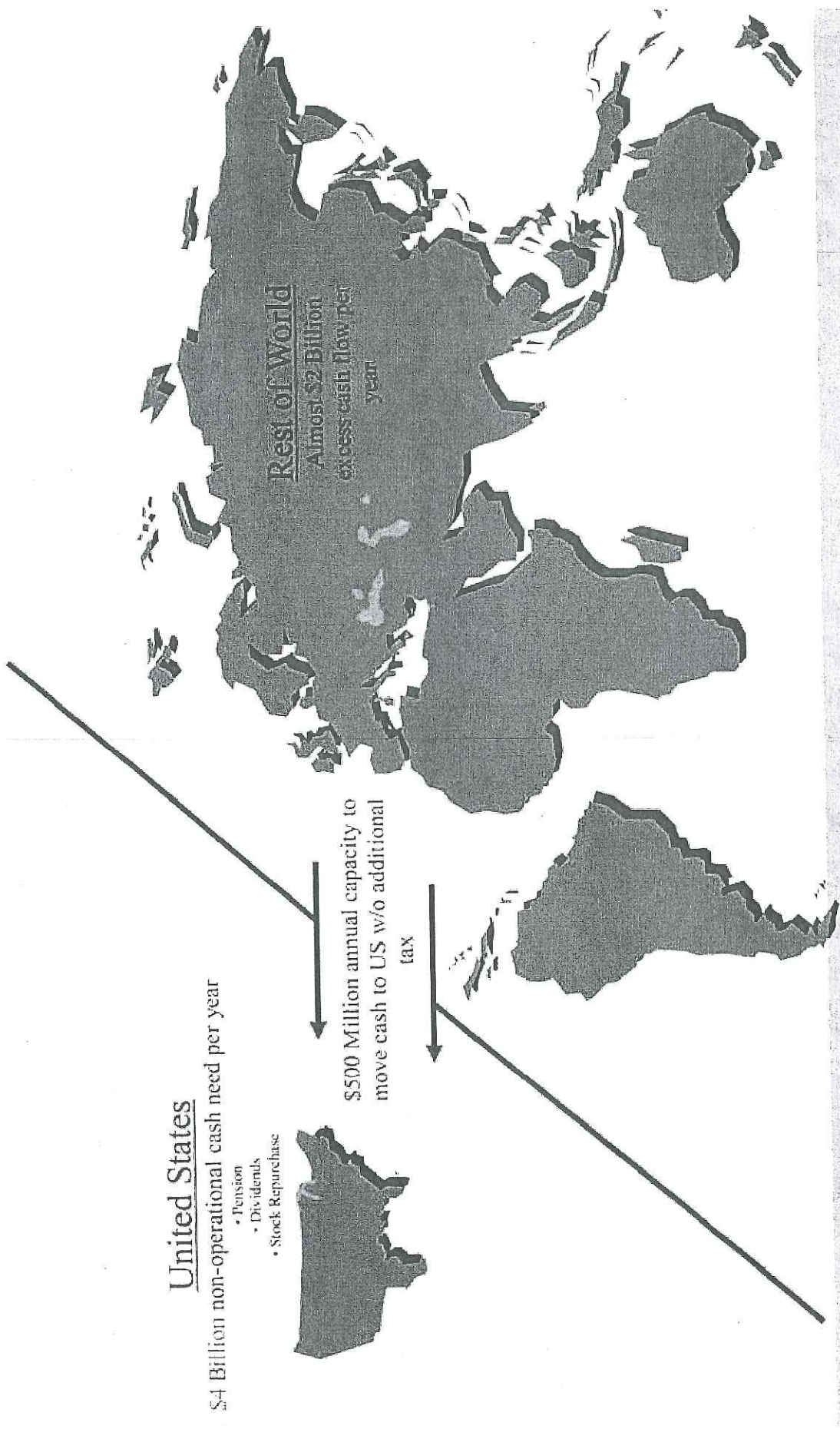
Higher Risk Areas

- VAT - Compliance
- Customs - Compliance
- CSARL – Product Management - Operational
- CSARL – Product Management - Management & Reputation
- Annual review of activities.
- New Regulations issued by IRS
- Developed plan with outside counsel and accountants

Caterpillar: Confidential Rec

Issues - Cash Source vs. Use

Taxable repatriation will increase the ETR.



In Summary – Key Messages

- We have “Global” Tax and Trade resources
- Effective Tax Rate is increasing, near mid of Dow 30 range
- Tax Reserves are Adequate
- Tax Risk Management processes are robust

P&SS AVAILABILITY & INVENTORY MANAGEMENT

Craig Barley-Manager, Peoria

General Facts

Worldwide field population: 1.2 mil engines, .8 mil machines

200 dealers worldwide

500,000 part numbers serviced by P&SS

-170,000 made as ordered-slow moving

-330,000 stocked in a P&SS facility

-50,000 stocked at a dealer

80% of P&SS total assets is parts inventory. 50-60% of value of inventory is fast moving (10 or more orders per month) parts, 40-50% is slow moving

P&SS holds 6.5 months of total stock worldwide-just under two turns per year. Low number because of many part numbers. 10% parts numbers produce 80% of volume, but 90% parts numbers are held in inventory. P&SS holds 3 months of fast moving inventory.

Worked vs PF does not really matter for inventory management, what matters is fast or slow moving

Morton and US

85% of worldwide parts inventory is managed from Morton-moving toward 100%

-determine parts to service

-set stocking levels

-forecast usage

-plan material from sources

-determine disposition of surplus

-manage supporting systems

-maintain transaction audit trail

-resolve record discrepancies

-improve record accuracy

300 people in Craig Barley's availability and inventory organization-all but 4 in Morton

Regional stock facilities are "facing centers"-first point of filling dealer order

Orders not able to be filled by regional facility are filled by searching the system

Emergency orders are orders which customers pay premium to receive faster

Most regional distribution centers are served from Morton, not from contract packagers

because of low volume at regional centers

Morton holds worldwide safety stock

Systems

Antares is the dealer interface computer system-records dealer sales and orders. Antares feeds into the inventory management system that runs min/max calcs and calculates parts forecasts

Central America and North America have the new Antares system

Europe still has Anatares predecessor, but is now converting

Grimbergen order processing system is linked back to Morton by daily batch transmission

Morton knows if Grimbergen sold a part, received part, scrapped a part-information goes into Morton global parts forecast calc

Inventory management system calculates recommended requirements and transfers to corporate "Lognet" system.

Orders on Lognet are based on current expected demand at time of order

Total expected demand is made up of facility demands

CAT manufacturers and purchased finished suppliers obtain orders from "Lognet."

95% of parts go through a contract packager who will ship to Morton, Grimbergen, York, Singapore, and other large facilities

Morton directs contract packagers how to deploy based on current expected demand at time of receipt-distribute to give all stock centers fair share based on stock levels

P&SS Outside US

Grimbergen and Singapore have a person to expedite and schedule orders, but all calculation and ordering is done from Morton, even for Europe source parts

Singapore and SCM control own inventory

Grimbergen receives European worked and PF through a contract packager and Morton then tells Grimbergen where to send parts-Singapore, Morton, etc

In Europe, Grimbergen manages warehousing (main function), contract packagers, freight and transportation, government documentation (duty etc), customer service on orders, information systems center, business services (accounting), availability and inventory (12 expeditors working with Euro PF suppliers and plants).

Europe marketing is in Geneva and purchasing is in Grimbergen

100% of Grimbergen inventory is controlled by Morton

PURCHASING TRANSPORTATION AND TECHNICAL SUPPORT

Don Puryear-Manager, Peoria

General Facts

Purchasing

- P&SS purchases 40% of purchased finished; remainder contracted to other purchasing groups
 - Mossville (engines)
 - Purchasing & Transportation Europe-PT Europe (Grenoble, Gosselies)
 - Central Purchasing (Peoria)
 - Leicester
 - Cat Services Ltd. (Tokyo)
- Contract purchasing groups have authority to accept price increases; P&SS Morton monitors contract groups overall price performance.
- PT Europe and US purchaser both place orders on Europe suppliers
- Cat supplier relationships
 - Balance desire for long-term relationship and price and quality
 - Cat doesn't guarantee volumes or duration of agreement, all agreements have termination clause based on price or quality
 - JV supplier agreements exist-Donaldson (filters), Mexico JV (castings)
 - Cat offers input/training to suppliers but supplier controls own business
- Purchasing involves
 - selection of supplier
 - negotiation of price and availability
- Can have a JIT production line but not a JIT service (parts) business

Scheduling

- P&SS Morton expedites PF coming to Morton
- Expeditor goes to supplier to get non current part made if not in P&SS inventory
- Emergency order is when part is not in parts system

Technical Support (Engineering)

- Ensure non current parts have proper cost reduction focus-may redesign to use steel available in smaller lots
- Have design control of service kits-bearing kits, overhaul kits
- Eliminate duplicate parts in system

Transportation

- Operational traffic, daily material movements-expediting and tracing
- Import/export-customs, forwarders, NAFTA documentation
- Do not negotiate rates or select carriers-corporate traffic does this
- Decides rail, air, sea, or truck and then uses carrier selected by corporate

Other

- 46-48% of gross revenue is from non-current parts
- P&SS takes interest in design but not real design control when a part becomes non current
- Cat may buy from a supplier who also sells non-Cat product, but the Cat-product is made to Cat tolerances therefore is still distinguished-oil, bolts, bearings

-What sells Cat parts

- liberal warranty process

- best availability

- part designed specific to Cat machines

- trend of customer going more to dealer for service (machine complexity)

Who purchases what?

- Central purchasing groups-buy all current and non current

 - P&SS for batteries, filters, ground engaging tools

 - Corporate purchasing for bearings, heat transfer, etc

 - Business units for areas of expertise-cabs, pistons, electrical

- Non central purchasing groups

 - P&SS buys non current

 - Plants buy current-machined, welded, stamped items

P&SS has developed (over 12 years) network of suppliers for non current that is independent of current production suppliers (foundry, machine shop etc-specialize in low volume, quick turn around)

A separate non current supply network is not as evolved in Europe

PT Europe is the central buyer for the European requirement-Cat US central purchasers developed the sources for central-type parts, PT Europe set up own sources for non-central type parts

Purchasing principle-centralized purchasing, decentralized scheduling

Remanufactured parts may be worked by manufacturer or unrelated party

P&SS provides purchasing service to remanufactured parts group for fee

IN THE UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF ILLINOIS

DANIEL J. SCHLICKSUP,)
)
 Plaintiff,)
)
 VS.) No. 09-1208
)
 CATERPILLAR, INC., DAVID B.)
 BURRITT, ALICE BARBOUR, ROBIN)
 D. BERAN, JAMES B. BUDA,)
 DOUGLAS R. OBERHELMAN, and)
 EDWARD J. RAPP,)
)
 Defendants.)

The deposition of SALLY A. STILES, called for examination pursuant to the provisions of the Federal Rules of Civil Procedure of the United States District Courts as they apply to the taking of depositions, taken before Paula A. Morsch, C.S.R. License No. 84-002965, a Certified Shorthand Reporter in the State of Illinois, on the 24th day of February, 2011, commencing at the hour of 12:00 p.m. and ending at 6:00 p.m., at 415 Hamilton Boulevard, in the City of Peoria, County of Peoria, State of Illinois.

ADVANTAGE REPORTING SERVICE

Permanent Subcommittee on Investigations

EXHIBIT #32

PSI-TWLF-11-000008

1 product support?

2 A First off I wouldn't call product support
3 the parts areas. There is not a parts area of the
4 company, especially during this period. There was
5 not a group that would say I manage the parts
6 business. Product support, I don't know if they
7 were involved or not.

8 Q So you recall somebody from Logistics as
9 being involved, but do you also recall anybody from
10 the other areas that dealt with parts? You say
11 there was no one part area but there were a bunch of
12 areas that dealt with parts. Any other areas
13 besides Logistics?

14 A Not that I recall.

15 Q And was Barb Church the only one you
16 recall as being involved?

17 A That's the only name I can come up with.
18 I recall there were more people involved. I just
19 don't know their names.

20 Q Have you seen Barb Church lately?

21 A No.

22 Q Is it fair to say that the driving force
23 behind Glove or CSARL was the tax department and not

1 any business unit?

2 A Yes.

3 Q How did you first hear about Glove?

4 A At the opening meeting with the
5 consultants.

6 Q With Price Waterhouse?

7 A Yes.

8 Q Did you work with McDermott, Will & Emery
9 on Glove?

10 A Yes.

11 Q Who did you work with there?

12 A Lowell Yoder.

13 Q Anyone else?

14 A David Ryder.

15 Q Anyone else?

16 A Sherry Everson.

17 Q Anyone else?

18 A There were others, yes. I just can't
19 remember all the names.

20 Q Have you ever seen any kind of a
21 memorandum from Price Waterhouse analyzing the issue
22 of business or economic substance when it came to
23 CSARL?

IN THE UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF ILLINOIS

DANIEL J. SCHLICKSUP,)
)
) Plaintiff,)
)
) VS.) No. 09-CV-1208
)
CATERPILLAR, INC., et al,)
)
) Defendants.)

The deposition of ROBIN BERAN, called for examination pursuant to the provisions of the Federal Rules of Civil Procedure of the United States District Courts as they apply to the taking of depositions, taken before Paula A. Morsch, C.S.R. License No. 84-002965, a Certified Shorthand Reporter in the State of Illinois, on the 15th day of March 2011, at the hour of 9:00 a.m., at 415 , in the city of Peoria, County of Peoria, State of Illins.

1 A Was that specifically the product

2 managers?

3 Q I believe that the second from last
4 question I asked you was specific to the product
5 managers. I think my last question just asked if
6 there's anyone, but let me have it read back.

7 (Record read as requested.)

8 MR. TURNER: I object, form.

9 A I don't really recall having a discussion
10 with the product managers.

11 Q Did anybody at Caterpillar ever ask you
12 what the effect would be in the field on the product
13 managers if the expansion that you were proposing
14 was implemented?

15 MR. TURNER: Object, form and
16 foundation.

17 A I'm sure I had conversations with people
18 about the flow of parts. The management structure
19 related to decisions tied to parts distribution, the
20 fact was when we established the changes, we were
21 reflecting the way the company was already doing
22 business back in '99 and prior years.

23 Q Did you believe that the expansion of the

1 distribution of purchased finished replacement parts
2 by CSARL into the entire world except for the United
3 States would require any changes in business
4 operations?

5 A No, it required some changes.

6 Q What changes in business operations did it
7 require?

8 A It changed who actually bought the parts
9 because CSARL became the acquirer of all the parts
10 from the beginning. It changed various customs and
11 logistics issues because of who the importers of
12 record might be. There's a lot of changes that come
13 into play.

14 Q Well, other than paper issues that were
15 caused by the entities that became involved, were
16 there any other changes to the physical flow of
17 purchased finished replacement parts?

18 A Physical flow, probably not substantially.

19 ~~Q In the period of 2000 to 2005, was it~~
20 necessary as a result of the CSARL implementation
21 for the product managers to incur any expenses on
22 their budgets?

23 ~~A Any?~~

IN THE UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF ILLINOIS
PEORIA DIVISION

DANIEL J. SCHLICKSUP,)	
)	
Plaintiff,)	
)	
vs.)	No. 09-1208
)	
CATERPILLAR, INC.,)	
DAVID B. BURRITT, ALICE)	
BARBOUR, ROBIN D.)	
BERAN, JAMES B. BUDA,)	
DOUGLAS R. OBERHELMAN,)	
and EDWARD J. RAPP,)	
)	
Defendants.)	

THE DEPOSITION of RODNEY PERKINS, called for examination pursuant to notice, and pursuant to the provisions of the Code of Civil Procedure, and the Rules of the Supreme Court thereof pertaining to the taking of depositions, taken before me, Donna F. Banks, CSR, a Notary Public in and for the County of Peoria and State of Illinois, at 415 Hamilton Boulevard, in the City of Peoria, County of Peoria and State of Illinois, on March 10, 2011, at 9:00 a.m.

1 exhibit 9?

2 A Yes.

3 Q And in this instance, the amount of selling
4 general and administrative expenses was 4.248
5 billion dollars, is that correct?

6 A Yes.

7 Q And the higher that -- it's sort of like a
8 teeter-totter, the higher that number goes, the
9 lower the number for consolidated profit before
10 taxes, is that correct?

11 A Yes.

12 Q And so the more that's incurred by Caterpillar,
13 Inc., for general expenses, including legal and
14 accounting, the lower the number is going to be
15 for consolidated profit before taxes, is that
16 correct?

17 A That's correct.

18 Q So the expenses relating to the CSARL structure
19 for accounting and legal services, those were
20 paid by Caterpillar, Inc., and not by CSARL, is
21 that correct?

22 A Yes.

23 Q And CSARL was never asked to reimburse any of

1 those expenses, is that correct?

2 A I don't believe they were.

3 Q What was the benefit to Caterpillar, Inc., to
4 have CSARL purchase finished replacement parts
5 instead of having Caterpillar, Inc., buy them
6 and sell them to CSARL?

7 A It would alter the character of the income from
8 CSARL from includable deemed distribution
9 income to the U.S.

10 Q So the advantage to Caterpillar, Inc., would be
11 that it would pay less Federal income tax?

12 A Yes.

13 Q And that would be an advantage to the
14 enterprise as a whole in the sense that the tax
15 was at least deferred?

16 A Yes.

17 Q Was there any business advantage to
18 Caterpillar, Inc., to have this arrangement put
19 in place other than the avoidance or deferral
20 of income taxation at higher rates?

21 A No, there was not.

22 MR. TURNER: Let's take a break.

23

1 (Whereupon a short recess was
2 taken and proceedings resumed as
3 follows.)

4 (Deposition Exhibit Number 12 was
5 identified for the purpose of
6 the record.)

7 Q Have you seen exhibit 12 before?

8 A Yes.

9 Q Do you think you saw exhibit 12 shortly after
10 it was created, at least in draft form?

11 A Yes.

12 Q When is the last time you saw exhibit 12 before
13 today?

14 A In its draft form?

15 Q Yes.

16 A Seven years ago.

17 Q Have you seen exhibit 12 in its final form
18 since you left Caterpillar?

19 A No.

20 Q Was the draft that we've marked as exhibit 12
21 prepared by McDermott, Will and Emery?

22 A Yes.

23 Q Was it prepared by a lawyer who is now

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23

IN THE UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF ILLINOIS

DANIEL J. SCHLICKSUP,)
)
 Plaintiff,)
)
 VS.) No. 09-1208
)
 CATERPILLAR, INC., DAVID B.)
 BURRITT, ALICE BARBOUR, ROBIN)
 D. BERAN, JAMES B. BUDA,)
 DOUGLAS R. OBERHELMAN, and)
 EDWARD J. RAPP,)
)
 Defendants.)

 ORIGINAL

The deposition of JANIE COPELAND, called for examination pursuant to the provisions of the Federal Rules of Civil Procedure of the United States District Courts as they apply to the taking of depositions, taken before Paula A. Morsch, C.S.R. License No. 84-002965, a Certified Shorthand Reporter in the State of Illinois, on the 5th day of May, 2011, at the hour of 9:00 a.m., at 415 Hamilton Boulevard, in the City of Peoria, County of Peoria, State of Illinois.

1 accounting that's done for CSARL?
 2 A I don't personally, no. I have a group
 3 that works under me in Geneva that is involved that I
 4 am, at a very high level, familiar with what they
 5 do.
 6 Q Do you know if they perform the entries
 7 for that accounting system?
 8 A I believe they do, yes.
 9 Q Is the accounting system for CSARL used
 10 solely for tax purposes?
 11 A I don't know. I'm not familiar with the
 12 processes.
 13 Q For processes that are actually used to
 14 state earnings on the company's publicly disclosed
 15 statements, are you the controller for those
 16 processes?
 17 A Yes.
 18 Q And do you think that the processes for
 19 CSARL's accounting are not the same as the processes
 20 you oversee for purposes of the publicly disclosed
 21 statements?
 22 MR. TURNER: Object, foundation.
 23 Object, form.

1 statement of Caterpillar, Inc.?
 2 A That's right, yes.
 3 Q How are the numbers calculated for CSARL
 4 that are used for financial statement purposes?
 5 A They're calculated according to U.S. GAAP
 6 rules.
 7 Q Using your regular accounting system, is
 8 that right?
 9 A That's right.
 10 Q So are there two sets of books for CSARL,
 11 one that does the partnership accounting and another
 12 that does the accounting in the context of the
 13 consolidated results?
 14 A Like I said, I'm not familiar with how
 15 they do the partnership accounting.
 16 Q Do you know if when earnings are
 17 consolidated, is it done in the same way for CSARL
 18 as for COSA?
 19 A I guess I don't know what you mean in the
 20 same way. Yes, people report in their U.S. GAAP
 21 financial statements and we consolidate them.
 22 Q Do you know how partnership results are
 23 then used on a consolidated basis for the corporate

1 A Can you repeat the question?
 2 Q Yes. Well, let me ask you this. Do you
 3 know what system is used to do the accounting work
 4 for CSARL?
 5 A No.
 6 Q Is partnership accounting done anywhere
 7 besides CSARL at Caterpillar?
 8 A I'm not aware that it is, no.
 9 Q And do you know if CSARL or the tax
 10 department had to go out and buy a system that would
 11 do partnership accounting?
 12 A I don't know.
 13 Q Are the books and records that you control
 14 set up for a corporation in corporate accounting?
 15 A That's correct.
 16 Q Is CSARL treated as a partnership on the
 17 SEC disclosures?
 18 A No.
 19 Q Is it treated as a corporation?
 20 A SEC disclosures are consolidated results
 21 at Caterpillar.
 22 Q So is somehow the information that's
 23 associated with CSARL consolidated into the overall

1 results?
 2 MR. TURNER: Object, form.
 3 Q Let me ask it this way. Do you know how
 4 many partners there are?
 5 A No.
 6 Q In CSARL?
 7 A No, I don't.
 8 Q Do you know what happens to different
 9 income and expense streams at CSARL?
 10 A At a very high level. I'm not involved in
 11 the details.
 12 Q Okay. At a high level what happens with
 13 the different partnership income and expense streams
 14 at CSARL?
 15 A Depending on the nature of the income,
 16 they can be taxed at different rates.
 17 Q Okay. Are there -- do you know who the
 18 partners in CSARL are?
 19 A Not really, no. Like I said, I have very
 20 high level knowledge.
 21 Q Are some of the partners corporations?
 22 A I don't know.
 23 Q Do you know if the accounting for purposes

1 of the consolidated books and records of
 2 Caterpillar, Inc., is done the same way with respect
 3 to Swiss operations now as it was before CSARL?
 4 A It's the same.
 5 Q So the results that are reported on a
 6 consolidated basis would be the same now as they
 7 would be if there was no CSARL, is that right?
 8 A Can you explain what you mean by same?
 9 Q The same numbers reported.
 10 A I imagine tax expenses is different
 11 because CSARL is a different company than what we
 12 had before.
 13 Q Before you get to the tax line of the
 14 return, would the results be the same?
 15 A Yes.
 16 Q So would operating profit still be the
 17 same?
 18 A Yes.
 19 Q But earnings after taxes would be
 20 differently?
 21 A Right.
 22 Q Do you have someone who works with the tax
 23 department concerning CSARL?

1 Q Did you only have a role with respect to
 2 CSARL after you came back from Indiana?
 3 A I had a brief role. I was on family leave
 4 and then I came back to a special assignment prior
 5 to going to Indiana where I reviewed the accounting
 6 on a consolidated basis for CSARL, a special
 7 project.
 8 Q Do you know approximately when that was?
 9 A October of 2000.
 10 Q Were you on family leave to have a baby?
 11 A Yeah.
 12 Q So you had just come back from the family
 13 leave and you were on the special assignment?
 14 A Right, uh-huh.
 15 Q That's probably pretty easy to pinpoint
 16 when that occurred?
 17 A That's why I can get to the month, yeah.
 18 Q Do you know how long you stayed in that
 19 special assignment?
 20 A Until I moved in January.
 21 Q So how many months is that?
 22 A It's essentially three months.
 23 Q Who assigned you to that?

1 A Terri Pierpont.
 2 Q Is there anyone else that you have who
 3 does something with respect to CSARL?
 4 A Terri has two staff. They may be involved
 5 as well.
 6 Q Anyone else?
 7 A No.
 8 Q Were you at the company when CSARL was
 9 started?
 10 A Yes.
 11 Q What was your position?
 12 Let me ask you this way. Before 2001 were
 13 you in the Administration Building before you went
 14 to Indiana?
 15 A Yes, I was in capital assets.
 16 Q When did you leave North Carolina?
 17 A Early 1998.
 18 Q So from early '98 until 2001 you were --
 19 A I was fixed asset manager, fixed asset
 20 accounting manager in corporate accounting.
 21 Q In that role did you have anything to do
 22 with CSARL?
 23 A No.

1 A Steve Goose.
 2 Q What was his position?
 3 A Corporate -- I don't know his title. He
 4 was in corporate accounting and consolidating. He
 5 was a manager.
 6 Q What was the nature of the need for that
 7 special project?
 8 A Because CSARL was new, there was new
 9 transactions, we wanted to make sure consolidated
 10 operating profit wasn't affected and we had made all
 11 the appropriate intercompany eliminations for
 12 unrealized profit in inventory, and we concluded
 13 that we were.
 14 Q So is it fair to say that you wanted to
 15 make sure that on a consolidated basis the numbers
 16 turned out the same as before?
 17 A That's right.
 18 Q That would be the numbers before you got
 19 to the tax line, right?
 20 A That's right.
 21 Q In arriving at operating profit?
 22 A That's right, uh-huh.
 23 Q Did you learn at that time that there was



Rodney J
Perkins /OS/Caterpillar
06/06/2005 01:32 PM

To Daniel Schlicksup /OE/Caterpillar@Caterpillar
cc
bcc
Subject Fw: Authorization to proceed with planning and ABP cost
adjustment

Caterpillar. Confidential Green

Here's the timing of the initial approvals by DBB and DRO. As I recall this memo is the one DBB then forwarded to DRO, who then "penned" his approval with instructions "let's go," or something along those lines....

Rod Perkins
Intl Tax Manager (Europe Africa & Middle East)
Corporate Tax, Caterpillar Inc.
100 NE Adams, Peoria Illinois 61629-4230
E-mail: rjperkins@cat.com
Telephone: (309) 675-4499
Fax: (309) 494-4543

----- Forwarded by Rodney J Perkins /OS/Caterpillar on 06/06/2005 01:29 PM -----



Robin D Beran /OS/Caterpillar
02/28/2005 09:24 AM

To: Rodney J Perkins, Giles A. Parsons, John P. Caviness
Subject Fw: Authorization to proceed with planning and ABP cost
adjustment

Caterpillar. Confidential Green

Retention Category: L21 - Contracts/Agreements
- Compliance and Support Records

This was it.

Robin
309.675.4478 - beranrd@CAT.com

----- Forwarded by Robin D Beran /OS/Caterpillar on 02/28/2005 09:22 AM -----



Robin D Beran /OS/Caterpillar
02/25/2005 03:23 PM

To: Dave B. Burritt
Subject Authorization to proceed with planning and ABP cost
adjustment

Caterpillar. Confidential Green

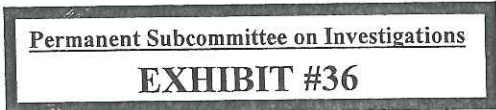
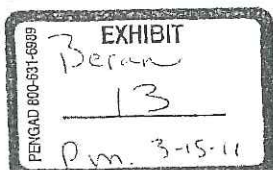
Retain Until: 03/27/2005

Retention Category: G90 - General
Matters/Administration

Dave, as we discussed.

Due to the successful planning from prior years, significant low taxed earnings (over \$1.5 billion) have accumulated in CSarl. This cash is now increasing at about \$70 million per month at tax rates of about 10%. This is resulting in offshore cash balances that can no longer be managed through intercompany loans and purchases without triggering significant additional tax costs, and an increase in CAT's effective tax rate. Corporate Tax needs authorization to move forward on planning related to legal restructurings and cash movements to the US from non US subsidiaries of approximately \$2.5 to \$3.5 billion, including approximately \$1.0 billion under the repatriation incentive in the recently enacted Tax Act. We are also solving debt:equity problems that exist in our UK and German tax groups, and creating a more tax efficient offshore structure for future non US investments.

Working with counsel at McDermott, Will & Emery, we met with E&Y, KPMG and PwC to solicit ideas. We have melded these ideas into an overall plan, but now need to move to the next steps. This entails



PSI-TWLF-12-000315

engaging firms to assist in developing final plans and implementation steps, including cost estimates. The work will be broken down amongst the 3 accounting firms, based on best ideas presented, and will proceed in increments to control costs and meet timelines.

This work is required now because:

- o The Tax Act requires the \$1.0 billion of qualifying dividends to be paid before end of year.
- o The other planning must be coordinated with the qualifying dividend planning.
- o The debt:equity problems are causing lost interest deductions, thereby hurting our overall effective tax rate.
- o This planning will allow us to optimize utilization of existing cash, and cover earnings for approximately the next 3 years.

Rough estimates of external costs approach \$5 million, spread across the 3 accounting firms and MWE. This will be in addition to our approved ABP amounts. As detailed plans are developed we will lock in costs, and keep you informed of the progress. Failure to proceed will result in significant additional tax costs, approximately 15 to 25% of any cash moved to the US, or the need to stop sweeping all cash to the US, which may require borrowing in the US while holding cash offshore. Repatriation without planning would cost over \$200 million for 2005, and would move the ETR over 1/2 point.

Robin
309.675.4478 - berand@CAT.com

Caterpillar Sàrl

Overview

July 30, 2008

R ♦ thumbs up

Caterpillar Sarl – Pop Quiz

Question #1 - How much of Caterpillar Inc.'s consolidated revenue and profit, respectively does Csarl generate?

- a) 30% of revenue and 20% of profit
- b) 40% of revenue and 33% of profit
- c) 45% of revenue and 43% of profit
- d) 50% of revenue and 45% of profit
- e) who cares it's all intercompany, right?

Answer: c) Csarl's consolidated revenues and profits in 2007 were \$20 billion and \$1.5 billion

R ♦ thumbs up



Facility:
 Date: May 6, 2004
 Plant/Office:
 Department:
 Attention: J. W. Owens

Plant/Office	Department	Attention
		RWB

copy: F. L. McPheeters
 J. B. Buda
 R. K. Kanuru
 T. C. Gwillim

Handwritten notes:
 PwC
 Thanks for your
 kind letter and
 good job explaining
 it to lay
 people
 6/1

RE: Tax Concerns Raised by an Unnamed Source

On May 6, 2004, Jim Owens and Raj Kanuru (Caterpillar Tax Counsel) received copies of an undated and unsigned letter (the "Letter", *see attached*) from an individual claiming to be a current Caterpillar Tax Department employee.

The Letter makes the following allegations:

1. Caterpillar's transfer pricing practices (past and present) do not satisfy IRS guidelines;
2. The Caterpillar SARL re-organization does not have a substantial business purpose and was transacted primarily for tax avoidance purposes; and
3. Recent reductions in the global effective tax rate are due to questionable transactions and organizational changes.

Additionally, the letter makes reference to a recent U.S. income tax deficiency levied by the Internal Revenue Service on a U.S. branch of the U.K. pharmaceutical company, GlaxoSmithKline, plc. The \$2.7 billion tax (and estimated \$2.5 billion in interest and penalties) assessment was a result of the breakdown of ten years of negotiations between Glaxo and the IRS regarding Glaxo's transfer pricing policies during the 1980's and 1990's.

The author of the letter has called for an independent investigation of the foregoing allegations by a party other than either PwC or McDermott Will & Emery. If no investigation is conducted, the anonymous author states he/she will report these allegations to the IRS.

In response, I do not feel an investigation is warranted since the allegations set forth in the Letter are simply untrue and the author is unfortunately very misinformed as to the facts and established practices of Corporate Tax, as well as the IRS audit process.

Specifically, with respect to the first allegation, Caterpillar's transfer pricing policy is the result of detailed analysis of the functional activities of the various entities in strict accordance with required Treasury Regulations. Two independent accounting firms provide reports on different parts of our operations. Comparables of prices based on external data are analyzed and Caterpillar's prices are established within the middle two quartiles of the range of comparables. This analysis is completed.

annually and all determinations have been documented and provided to the IRS as part of the IRS's routine audit procedures.

The second allegation in the Letter questions the business purpose of Caterpillar SARL's reorganization in Switzerland. Caterpillar SARL was formed to facilitate and coordinate Caterpillar's non-U.S. business activities throughout the world. It initially consisted of activities previously carried out by Caterpillar Overseas SA, with additional non-U.S. marketing and ancillary activities contributed after 1999. The Caterpillar SARL partnership is owned by non-U.S. Caterpillar subsidiaries, which contributed assets to the partnership and, in turn, received profit allocations based on their contributions. Some of these assets, mainly non-U.S. marketing related assets, had been held by U.S. subsidiaries of Caterpillar and were transferred down through multiple subsidiaries.


The basic operations of Caterpillar SARL are no different than any other valid and legal partnership operating anywhere in the world. Great care has been taken to ensure Caterpillar's operations are consistent with Switzerland's laws and any applicable U.S. and international tax laws. Information related to asset transfers and sales/charges to Caterpillar SARL and all other Caterpillar entities has been filed as part of Caterpillar's annual U.S. income tax return. U.S. activity of all Caterpillar SARL partners has also been provided to the IRS as part of routine audit procedures. Over 6% of almost 2,500 pages of the 2000, 2001 and 2002 Federal Income Tax Returns, exclusive of an additional 7,000 pages of foreign subsidiaries' financial information, relates to disclosures of the organization and re-organization of the various entities.

The third allegation refers to the writer's general disagreement with how the Tax Department has conducted business over the past few years. It is impossible to fully address this concern due to its vagueness. However, Caterpillar has been, and continues to be, very cooperative with the IRS in all tax audits and inquiries. The efforts of internal Tax Counsel and assistance from external counsel enable Corporate Tax to ensure Caterpillar is compliant with all relevant laws and regulations related to the tax function. We feel strongly that Corporate Tax has taken conservative, well-supported and documented tax positions on all issues and promotes a transparent atmosphere that encourages candid discussion, openness, and integrity.

As the IRS is currently engaged with Caterpillar in a tax audit of the years 1995 to 1999, has already completed tax audits for previous years and is planning the tax audit for more recent years, we already do, and will continue to, provide information to the IRS related to all the above issues.

Please let me know if you have any further questions concerning this matter.

Best regards,


R. D. Beran
Director of Taxation

The Internal Revenue Service is pursuing Multinationals who are evading taxes. The IRS wants the UK pharmaceutical company, Glaxo Smith Kline to pay \$5 billion in taxes, penalties, and interest for the years 1989 to 1996. This case involves transfer pricing. I do not believe Caterpillar's transfer pricing practices (past and present) meet the IRS' tests. The Officers and Board of Directors need to examine the transfer pricing issue before Caterpillar ends up in court and in the press.

Similarly, the Tax Code does not permit transactions or an organizational structure that have no substantial business purpose other than for tax avoidance purposes. The CSARL reorganization in my opinion, does not meet this test. When you look through the reorganization, the primary purpose was to avoid taxes.

Over the past few years, Caterpillar's tax rate has dropped significantly due to very questionable transactions and organizational changes. I work in the Tax Department and I strongly disagree with how we have conducted our business over the past few years. I have not spoken out before, because of the fear of retribution. I'm speaking out now for the long term good of Caterpillar. An independent investigation (not PWC or our outside Tax counsel) is needed. If there is no independent investigation or if there is any retribution, I will go to the Internal Revenue Service.



9
4295

MA. RAJ KGMAR

CATAPUNJARA

M. E. W. E. B. B. A. N. S.

P. B. O. R. M., 715 6100 9

67917
61629

E-FILED
 Friday, 23 September, 2011 01:21:03 PM
 Clerk, U.S. District Court, ILCD



Robin D Beran/0S/Caterpillar
 01/19/2007 11:03 AM

To: Daniel Schlicksup/0E/Caterpillar@Caterpillar
 cc: John P. Cavness/0A/Caterpillar@Caterpillar
 bcc:

Subject: Re: CONFIDENTIAL Attorney Client Privilege Re: 7th Cir Cases

Caterpillar Confidential Green

Dan, I think this is really a non issue, under the heading of clear application of the existing law, and that it changes the various subs facts and circumstances. I described something like this to the JCT and SFC staff in our mtg yesterday, and they didn't suggest at all that it was inappropriate. We got a pretty clear indication that individual legal entities would be respected, unless there was something truly artificial in the structure.

Now we need to keep working on getting language in the history to make sure field examiners don't go off the deep end

Robin
 309.675.4478 - beranrd@CAT.com

Every transaction has tax consequences
 Daniel Schlicksup/0E/Caterpillar

Daniel
 Schlicksup/0E/Caterpillar
 01/19/2007 09:44 AM

To: John P. Cavness, Robin D. Beran
 Subject: CONFIDENTIAL Attorney Client Privilege Re: 7th Cir Cases

Caterpillar Confidential Green

Retain Until: 02/18/2007

Retention Category: 050 - General
 Matters/Administration

John, Here are the additional cases. Levin is particularly interesting. Please review it and let's discuss.
 [attachment "Levin v. Commr, 832 F2d 403 (7th Cir 1988).doc" deleted by Daniel Schlicksup/0E/Caterpillar]
 [attachment "Levin v. Commr, TC 43,406 (1985).doc" deleted by Daniel Schlicksup/0E/Caterpillar]
 [attachment "Forseth v. Commr, 845 F2d 746 (7th Cir 1988).doc" deleted by Daniel Schlicksup/0E/Caterpillar]
 [attachment "Saviano v. Commr, 765 F2d 643 (7th Cir 1985).doc" deleted by Daniel Schlicksup/0E/Caterpillar]

Robin, as part of the coalition on the codification of economic substance and business purpose, John and I have begun reading relevant caselaw from the 7th Circuit. An article describes the 7th Circuit as applying the conjunctive test requiring both business purpose and economic substance for transactions to be upheld. No matter how you describe or apply this test or tests, the 7th Circuit seems to have a history of holding against the taxpayer where they find no economic substance. For example, the Court has referred to the "magic words" approach where taxpayers believe that if they have legal documents with all the right words in them, then all is well, but the Court ignores the legal documents where there was no real intent for one party to actually get into and operate the business stated in the documents or there is no activity to support the legal arrangement. This is true even when the "letter of the Code" is followed. The Court clearly states that tax motivated transactions are ok and taxpayers have the right to minimize taxes, but not if the transaction is one without any economics behind it, but for tax savings. This is why we went to so much trouble to be sure the business changed and adheres to the change in the contract manufacturing arrangement in Europe. However, whenever the topic of CSARL parts initiative is discussed from a risk point of view, the discussion seems to be limited to the risk that the IRS will challenge and adjust the royalty rate. I think the bigger risk is that the Service will attack it as lacking economic substance which would not adjust the benefit, but deny it in total. To my knowledge there is no one in CSARL managing the parts business or managing the sub-contracting of all the activity to Inc. Given the case law above, I think it would be prudent to review the situation from this angle, particularly in light of the FIN48 requirement that one assume the IRS knows all the facts when assessing risk. John

and I could talk about options for addressing this

John P. Caviness/OA/Caterpillar



John P.
Caviness/OA/Caterpillar

01/17/2007 08:34 AM

Caterpillar Confidential Green

To: Daniel Schlicksup
Subject: 7th Cir Cases

Retain (init) 02/15/2007

Retention Category: G90 - General
Matters/Administration

Hi, Dan. Would you mind e-mailing the two 7th Cir. cases you mentioned yesterday?

Thanks very much.

Best regards,
John

John P. Caviness
Corporate Counsel - Tax
Caterpillar Inc, / Legal Services Division
100 NE Adams St., Peoria, IL 61629-4295
e-mail: cavinjp@cat.com
ph: 1 (309) 675-1579
fx: 1 (309) 675-1753
vt: 7-725-1579

THIS E-MAIL IS INTENDED ONLY FOR THE USE OF THE INDIVIDUAL OR ENTITY TO WHICH IT IS
ADDRESSED AND MAY CONTAIN INFORMATION THAT IS PRIVILEGED AND/OR CONFIDENTIAL. IF
YOU ARE NOT THE INTENDED RECIPIENT OF THIS E-MAIL, PLEASE DELETE IT AND ANY
ATTACHMENTS, WITHOUT OPENING THEM, IMMEDIATELY.

Daniel Schlicksup/0E/Caterpillar
01/22/2007 08:25 AM

To: Robin D Beran/0S/Caterpillar, John P Caviness/0A/Caterpillar@Caterpillar
cc
bcc
Subject: Re: CONFIDENTIAL Attorney Client Privilege Re: 7th Cir Cases

Caterpillar Confidential Green

Hey Robin and John, a couple of things to take into account in this analysis

First, I think this has less to do with respecting legal entities than whether there is substance underlying the transactions in which they engage. The Courts have applied econ subst and/or bus purpose test(s) for decades. The cases stand for the proposition that merely following the letter of the law will not suffice if there is no underlying economics to the transaction. The current bill in congress is intended to codify what the courts have said in the past, not overrule or modify it. I am not sure what "clear application" means, but am certain based on what we have heard from DC that the Congress does not intend for it to mean that current caselaw will not apply. My only point is that I think it would be prudent to have John review the MWE memos to determine if this caselaw has been taken into account. A substance review seems prudent given the indications that the bill will almost certainly be enacted into law. We do this for the euro contract manufacturing and luxco (I think).

Second, we might want to think about how to use the econ subst and/or bus purpose test(s) to help us in the upcoming license fee litigation. In this case, the IRS is trying to say that we should ignore the economic substance of what was going on (subs paying for technology for which they cannot make profit in their markets)

Thanks, Dan.

Robin D Beran/0S/Caterpillar



Robin D Beran/0S/Caterpillar
01/19/2007 11:03 AM

To: Daniel Schlicksup cc: John P Caviness
Subject: Re: CONFIDENTIAL Attorney Client Privilege Re: 7th Cir Cases

Caterpillar Confidential Green

Retain Until: 07/19/2008

Retention Category: G90 - General Matters/Administration

Dan, I think this is really a non issue, under the heading of clear application of the existing law, and that it changes the various subs facts and circumstances. I described something like this to the JCT and SFC staff in our mtg yesterday, and they didn't suggest at all that it was inappropriate. We got a pretty clear indication that individual legal entities would be respected, unless there was something truly artificial in the structure.

Now we need to keep working on getting language in the history to make sure field examiners don't go off the deep end.

Robin
309.675.4478 - beranrd@CAT.com

Every transaction has tax consequences
Daniel Schlicksup/0E/Caterpillar

Daniel

To: John P Caviness, Robin D Beran



John P.
Caviness/0A/Caterpillar
01/22/2007 08:35 AM

To: Daniel Schlicksup/0E/Caterpillar@Caterpillar; Robin D
Beran/0S/Caterpillar@Caterpillar
cc
bcc
Subject: Re: CONFIDENTIAL Attorney Client Privilege - Re: 7th Cir
Cases

Caterpillar Confidential Green

I'd much rather discuss this in person than continue a long e-mail chain.

Best regards,
John

John Caviness
Corporate Counsel - Tax
Caterpillar Inc. / Legal Services Division
100 NE Adams Street, Peoria, IL 61629-4295
e-mail: cavinjpc@caterpillar.com
phone: (309) 675-1579
fax: (309) 675-1753
cell: 7-725-1579

This e-mail is intended only for the use of the individual or
entity to which it is addressed and may contain information
that is PRIVILEGED and/or CONFIDENTIAL. If you are not
the intended recipient of this e-mail, please delete it and any
attachments, without opening them, immediately.

Daniel Schlicksup

From: Daniel Schlicksup
Sent: 01/22/2007 08:35 AM
To: Robin Beran; John Caviness
Subject: Re: CONFIDENTIAL; Attorney Client Privilege - Re: 7th Cir.
Cases

Hey Robin and John, a couple of things to take into account in this analysis.

First, I think this has less to do with respecting legal entities than whether there is substance underlying the transactions in which they engage. The Courts have applied econ subst and/or bus purpose test(s) for decades. The cases stand for the proposition that merely following the letter of the law will not suffice if there is no underlying economics to the transaction. The current bill in congress is intended to codify what the courts have said in the past, not overrule or modify it. I am not sure what "clear application" means, but am certain based on what we have heard from DC that the Congress does not intend for it to mean that current caselaw will not apply. My only point is that I think it would be prudent to have John review the MWE memos to determine if this caselaw has been taken into account. A substance review seems prudent given the indications that the bill will almost certainly be enacted into law. We do this for the euro contract manufacturing and luxco (I think).

Second, we might want to think about how to use the econ subst and/or bus purpose test(s) to help us in the upcoming license fee litigation. In this case, the IRS is trying to say that we should ignore the economic substance of what was going on (subs paying for technology for which they cannot make profit in their markets).



Daniel
Schlicksup/OE/Caterpillar
04/01/2008 05:28 PM

To: Robin D Beran/OS/Caterpillar
cc
bcc

Subject: Pls review again before we send in AM

Caterpillar Confidential Green

Retain Until: 04/01/2011



040108 Apr 2008 Audit Comm Pres - v2.ppt

Look at the guard rail charts. I changed product management to tolling with goss and gren - more descriptive. your call? I changed CSARL Parts Distribution including Virtual Parts Inventory to CSARL - Virtual Parts Inventory. This is only risk associated to the virtual parts inventory, not anything else. Using the word "including" implies there is something else

On page 12, I don't think there are new regs related to or annual reviews of the Parts Distribution Operations - are there? Shouldn't this be limited to the Tolling/Contract Manufacturing?

With all due respect the business substance issue related to the CSARL Parts Distribution is the pink elephant issue worth a Billion dollars on the balance sheet. I have been asking for more than a year if we have memos with proper facts and analysis of case law. I have been told John has them and maybe he has them, and now we are worried about me reading them - even PwC memos. If we had these memos and they properly addressed these issues then I feel I would have seen them a long time ago. I don't think you can talk about CSARL without addressing this issue and it is not addressed in the charts you have included. I don't think this presentation can be considered "a full, transparent discussion of CSARL with the Board". I think discussing CSARL in this manner is misleading. Again, and with all due respect, if I am wrong, then someone please tell me why based on the facts and the law

Thanks, Dan

Product Management Alignment Recommendation

Recommend
Preserve & Brasil

- 1) **Implement Global Parts Management organization in Geneva**
 - Executes entrepreneurial responsibilities
 - Must support all MBDs
 - Staff likely drawn from Industry and Solutions & Product Support orgs

- 2) **Locate Regional Product Managers in Geneva**
 - Substantial contribution to MWL, MTTT/L, HEX and MG manufacturing
 - Global Product Managers provide oversight role

- 3) **Support organizations provide added entrepreneurial substance**
 - Global Purchasing
 - Industry Groups
 - Solutions & Product Support

Product Management Alignment CSARL Benefits – Based on 2008 Results

Recommend
Preserve & Brasil

			Benefits			
	Products	Presence	Preserve	Preserve & Brasil	Preserve & Enhance	Preserve & Optimize
Parts	All MBDs	Global Parts Manager(s)	\$ 300	\$ 300	\$ 300	\$ 300
Machines	MWL	Bouteille	(50)	(50)	(50)	(50)
	MTTT	Bouteille				
	HEX	Kauk				
	WHEX	Abbott				
	MG	Bouteille	15 - 25	15 - 25	15 - 25	
	AT	Lanctot		15 - 50	15 - 50	
	LTTT	Ransley			50 - 75	
LWL	Srinath			10 - 25		
			\$ 250	\$265 - \$275	\$280 - \$325	\$340 - \$425

Note: Benefits are based on 2008 results.

Product Management Alignment

Enhance & Optimize

Defer decision to
enhance &
optimize

- 1) **Requires relocation of WW Product Managers**
 - PMs that have sole manufacturing source in U.S.
 - Entrepreneur must not be located at manufacturing source

- 2) **Inefficient, ineffective product management**
 - Distance to manufacturing, product development, business partners, customers
 - Requirement of eleven days in Geneva too restrictive

- 3) **While technically appropriate, creates optics concerns**
 - Taxation in CSARL with minimal business substance

- 4) **Election not required in 2009**
 - Election may be deferred
 - Revisit in conjunction with GPNP execution

Including Brasil
enhances benefit
by \$26m

Product Management Alignment CSARL Benefits – Based on 2009 ATS

			Benefits				
	Products	Presence	Preserve	Preserve & Brasil	Preserve & Enhance	Preserve & Optimize	
Parts	All MBDs	Global Parts Manager(s)	\$ 300	\$ 300	\$ 300	\$ 300	
Machines	MWL	Bouteille	}	(40)	(21)	(21)	
	MTTT	Bouteille					(50)
	HEX	Kauk					
	WHEX	Abbott					
	MG	Bouteille		7	7	(6)	
	AT	Lancot			(9)	(9)	
	LTTT	Ransley				28	
	LWL	Srinath				7	
			\$ 260	\$ 286	\$ 277	\$ 271	

* - Preserve & Optimize represents RPM responsibilities for EMEA, Americas and Asia Pac

From: Rod J Perkins <Perkins_Rodney_J@cat.com>
To: srwdc1@aol.com; Thomas F. Quinn/US/TLS/PwC@Americas-US
Sent: 11/11/2008 10:26:11 AM
Subject: Exec Office Slides - Business Alignment

Steve and Tom,

Attached are the slides that will be used today during the meeting with the
Exec Office.

Rod Perkins
International Tax Manager (Europe Africa & Middle East)
Global Tax & Trade, Caterpillar Inc.
100 NE Adams, Peoria Illinois 61629-4230
E-mail: rjperkins@cat.com
Telephone: (309) 675-4499
Mobile: (309) 361-8594
Fax: (309) 675-6573

- 2009 Business Alignment EO Update 11-11-2008_ppt.zip

Permanent Subcommittee on Investigations

EXHIBIT #42

Caterpillar Inc.

Machine Business Alignment: Update Briefing

November 11, 2008

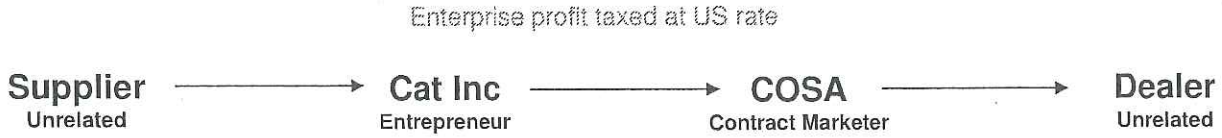
Due Date November 17

Purpose: Leverage business realignment to preserve and enhance CSARL benefits

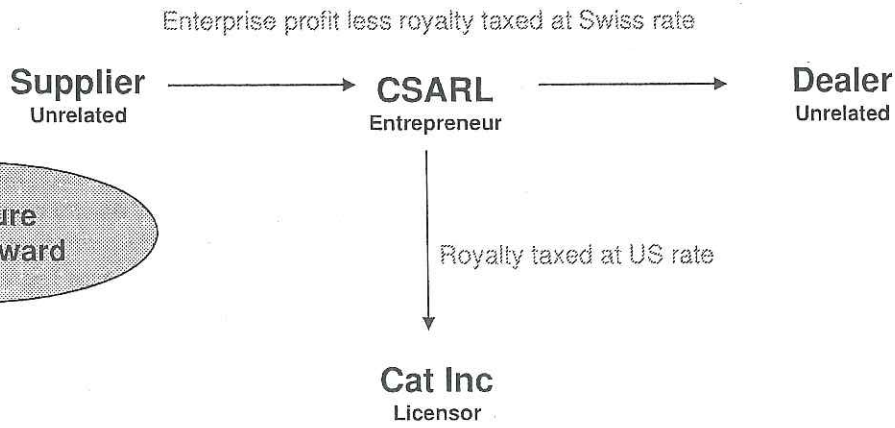
CSARL – Parts

\$1.3B cumulative benefits, in 2008 \$250M forecast

Structure through mid-1999



Structure 1999 forward

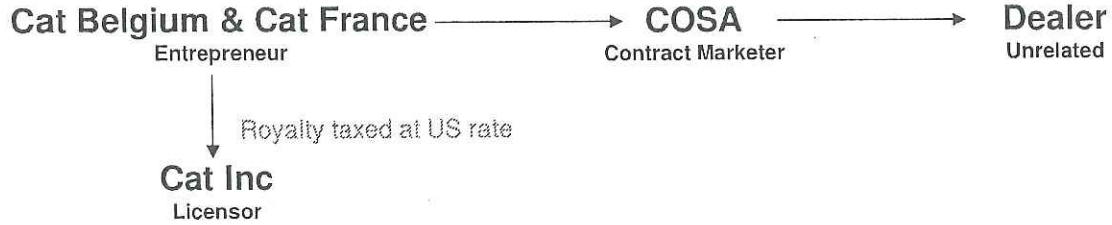


CSARL – Manufacturing

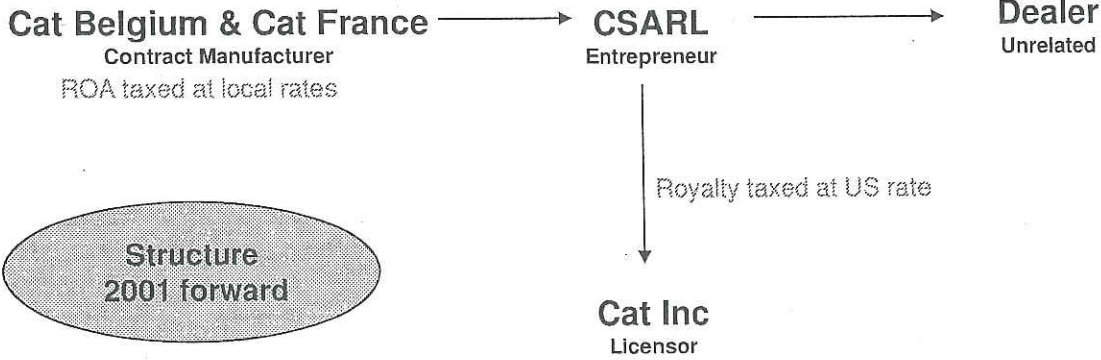
After-tax benefits
2001 – 2007 \$200M,
in 2008 forecast loss

Structure through
2000

Enterprise profit taxed at or near US rate



Enterprise profit less contract manufacturer return and royalty taxed at Swiss rate



Structure
2001 forward

CSARL

Must ensure benefits are maintained or grown

Parts & Manufacturing structures result in significant benefits

Today

- \$250 - \$300M
- PPS = \$0.40 - \$0.48
- ETR Impact 5 - 6 pts

Current Presence

- ✓ Group President
- ✓ Marketing VP & BU
- ✓ EAME Operations Management
- ✓ Product Mgrs -
 - MTTT (Oval) & TTL – Patrick Durieux
 - MWL (Regional) – Quentin DeWarlincourt
 - HEX (Regional) – Zack Kauk
 - WEX – Brian Abbott (CSarl employee, primarily located in Wackersdorf)

What's Changing

- New IRS Regulations: Regional Product Managers not enough ... need more presence
 - While CAT provided significant input, IRS insisted on substantial local entrepreneurial decision-making
- Global Product Manager for Oval MTTT & TTL moved from Geneva ... reducing presence
- Enterprise Alignment creates opportunity to redefine presence ...
 - Other products
 - Brazil production

Business Realignment - Protect the Existing CSARL Benefits (2008 \$250M)

➤ CSARL Thru 2008

- Mary Bell BCP
 - **Small Hex (WW)** Ken Gray Akashi
- Gary Stampanato IPDD
 - **Medium Hex (Regional)** Zack Kauk Geneva
 - **Large Hex (Regional)** Zack Kauk Geneva
 - **MWL (Regional)** Quentin DeWarlincourt Geneva
 - **Wheeled Hex** Brian Abbott Wackersdorf
- Mark Pflederer HCMD
 - **MTTT (Regional)** P Duriex Geneva
 - **TTL (WW)** P Duriex Geneva

➤ CSARL 2009 Fwd (Business Realignment)

- Tom Bluth Earthmoving
 - **MWL** Karl Weiss Beijing
 - **MTTT/TTL** Scott Johnson Peoria
- Gary Stampanato Excavation
 - **Medium Hex** Tom Frake Peoria
 - **Large Hex** Ken Gray Akashi
 - **Wheel Ex** Brian Abbott Wackersdorf
- Chris Curfman Mining
- Bill Springer Quarry & Waste

RED Not Supportive of CSARL as entrepreneur

GREEN Beneficial

Business Realignment - Preserve And/Or Grow the Existing CSARL Benefits (2008 \$250M)

			Preserve	Preserve & Enhance	Preserve & Optimize	Preserve & Brasil
> Tom Bluth Earthmoving						
MWL Karl Weiss				X		
MTTT/TTL Scott Johnson						X
MG Pat O'Connell Decatur	\$15M-\$25M				X	X
			Select			
> Gary Stampanato Excavation						
Small Hex Dan Harms						
Medium Hex Tom Frake						X
Large Hex Ken Gray			any			X
Wheeled Hex Brian Abbott				X		
AT Steve Lanctot	\$15M-\$50M			X	X	
> Chris Curfman Mining						
LTTT Andrew Ransley	\$50M-\$75M			X	X	
LMT Ed McCord			four			
> Bill Springer Quarry & Waste						
WTS Larry Tate						
LWL Sri Srinath	\$10M-\$25M				X	
		Preserve	\$250M	\$250M	\$250M	\$250M
		Incremental	----	\$65M-\$125M	\$90M-\$175M	\$15M-\$25M

Relocate 4 PMs to Geneva
Need final decision before year-end

Other Requirements:

- Retain GP in Geneva
- Retain regional distribution services
- Retain EAME OPS Mgt in Geneva
- No regional product managers in Belgium or France

Singapore would be an option for one of the PMs

Executive Summary

Enhance the CSARL benefits

Outcomes:

- Preserves existing benefits
- Offers incremental benefits, accretive in year one, depending on timing of relocations
- Sustainable growth in benefits
- Low risk of implementation

Issues:

- Regional product managers will not be sufficient under proposed IRS regulations
- Requires managing two pools of cash, one in US, the other offshore
- System modifications

Risks & Challenges:

- Failure to take action weakens current CSARL structure
- Changes in responsibilities, subsequent pressures to relocate key personnel
- Continued downturn in economic conditions (e.g., ROS < 9% reduces tax savings)
- Exposures in currency movement can negatively impact margins
- Possible adverse US tax legislation under the Obama administration

Back-up Slides

Business Realignment - Protect & Grow the Existing CSARL Benefits (2008 \$250M)

➤ Proposed CSARL PM Structure

- Tom Bluth Earthmoving
 - **MWL** Karl Weiss Beijing
 - **MTTT/TTL** Scott Johnson Peoria
 - **MG** Pat O'Connell ~~Decatur~~ Geneva \$15M-\$25M

People identified in green preserve and enhance; pick any four to preserve only

- Gary Stampanato Excavation
 - **Medium Hex** Tom Frake Peoria
 - **Large Hex** Ken Gray Akashi
 - **Wheel Ex** Brian Abbott Wackersdorf
 - **AT** Steve Lanctot ~~Peterlee~~ Geneva \$15M-\$50M

Other Requirements:

- Retain GP in Geneva
- Retain regional distribution services
- Retain EAME OPS Mgt in Geneva
- No regional product managers in Belgium or France

- Chris Curfman Mining
 - **LTTT** Andrew Ransley ~~Peoria~~ Geneva \$50M-\$75M

- Bill Springer Quarry & Waste
 - **LWL** Sri Srinath ~~Aurora~~ Geneva \$10M-\$25M

Enhanced benefit is \$90M - \$175M

Singapore would be an option for one of the PMs

Business Realignment - Global Tax & Trade Recommendation

Only higher margin products deliver benefits (>9%)

Recommendation:

- Location of either the following groupings outside the US, preferably in Geneva, but Singapore may also work
 - Maintain existing CSARL benefits---
 - PMs: MTTT, MWL, LHEX, MHEX, MWEX
 - OR
 - MBD VPs: Mining, Quarry, Earthmoving, & Excavation
 - Approaching \$300M annually & growing, primarily parts distribution
 - Substance through 2008 supported by WW and/or regional PMs, managing machines, supporting parts and field population growth, together with regional marketing operations
- Increase benefits by product---
 - Add benefit for Brazil Production
 - MG \$10M - \$25M
 - MTTT, LHEX, MHEX \$25M - \$50M
 - Other high-margin machines with benefit
 - AT \$15M - \$50M
 - LTTT \$50M - \$75M
 - LWL \$10M - \$25M

Selective PM relocation adds \$100-\$200M/year; MBD VP relocation is significantly lower due to portfolio effect

Executive Summary – What's Changed

Two key changes:
Underlying law
Business Realignment

- **Prior law based on case law**
 - Established ability to *attribute* "manufacturer" status through contractual risk shifting
 - Could establish "manufacturer" status through either product control or process control
 - Amount of benefit required ability to show entrepreneurial control over the product
 - Required actual ownership of inventory to achieve benefit

- **Current proposed law**
 - Cat influenced the definition of the regulations, focusing on nine criteria
 - Buy/sell ownership of finished goods is sufficient
 - Proposed law focuses on employees of CSARL making a "substantial contribution" to the manufacturing of product including:
 - **management of risk of loss & manufacturing profits*
 - **quality control, direction of intellectual property development*
 - Amount of benefit required ability to show entrepreneurial control over the product
 - Concern is worldwide product managers outside Geneva/Singapore will control most of the substantial contribution factors, and no one in Geneva/Singapore will have enough control to be considered "substantial"

- **Critical entrepreneurial PM role, which provides current support, impacted by two new forces**
 - MBD reorganization
 - IRS regulations, focused on manufacturing control

- **Above forces place existing \$250M/year benefit at risk**
 - However, if managed correctly, it should enable incremental financial benefits

Caterpillar Inc
CSARL 2009 activities
Report to Audit team
January 2010

Tom Quinn, Tax ITS
Steve Williams, Tax Transfer Pricing
Ed Bodnam, Tax ITS

PRICEWATERHOUSECOOPERS 

CONFIDENTIAL

PwC-CAT-00002431

Permanent Subcommittee on Investigations

EXHIBIT #43

CSARL: 2009 Activities

October 2008: "Enterprise Alignment" announced by Exec Office:

During 2009: PwC Tax assisted Corporate Tax to align CSARL activities with the new "Enterprise Alignment". Four workstreams:

Workstream	Benefit
"RPMs in Geneva" with defined responsibility for production in CBSA (Gosselies), CFSA (France), and, new from 2009, with responsibility for CBL (Brazil).	\$44.3m (Brazil only)
"Brazil Parts": CBL legal entity focus on manufacturing, new entity CBCL to sell parts, sourced from CSARL, to Brazilian customers	\$10.4m ("Brazil")
"Worldwide Parts Manager": establish group in CSARL Geneva with worldwide parts responsibilities	\$300m ("Preserve")
"Legal Reorganization of CSARL" Legal reorganization of CSARL to utilize Class F tolling losses	\$50m

CSARL: 2009 Activities

Original recommendation to EO from Corporate Tax – January 2009

Product Management Alignment Recommendation

Recommend
Preserve & Build

- 1) **Implement Global Parts Management organization in Geneva**
 - Executes entrepreneurial responsibilities
 - Must support all MBDs
 - Staff likely drawn from Industry and Solutions & Product Support orgs
- 2) **Locate Regional Product Managers in Geneva**
 - Substantial contribution to MWL, MTTT/L, HEX and MG manufacturing
 - Global Product Managers provide oversight role
- 3) **Support organizations provide added entrepreneurial substance**
 - Global Purchasing
 - Industry Groups
 - Solutions & Product Support

* Original slides located in Appendices

CONFIDENTIAL

PwC-CAT-00002433

3. Worldwide Parts Management Group in CSARL

The Enterprise Alignment allowed for Caterpillar to strengthen the substance surrounding CSARL's parts sales.

- From 1999 through 2009, Caterpillar has relied on "unrelated-to-unrelated" transactions, through disregarded entities, to support that CSARL's parts sales were not FBCSI (Class A, Class G)
- Enterprise Alignment allowed for the creation of a WW Parts Management Group, in Geneva, to have closer management, supervision, and entrepreneurial responsibilities over WW Parts. This group consists of representatives of MBDs/EBDs, and M&PS COE ("parts steward")
- Thus, the WW Parts Management Group provides additional substance to the "unrelated-to-unrelated" basis for non-FBCSI treatment.

3. WW Parts Management in Geneva, p 2

Supporting Evidence:

- Target Design (excerpts attached)
- Revised Parts White Paper with description of WW Parts Mgmt group
- Roles and Responsibilities checklists
- Personnel Announcements, Decision Rights, etc.
 - Led by Quentin de Warlincourt, as of Nov 2009.

III. Worldwide Parts Management	
Contents of Closing Book	Status/Notes
1. Final Target Design	- WW Parts Business Table Agenda Slides
2. Implementation Checklist	- Project workplan
3. Legal Agreements	
5. Other*	- RACI charts included in WW Parts Business Table Agenda Slides, as finalized by WW Parts Management group - WW Pts Mgt Announcement

The WW Parts Management Structure provides further substance to preserve annual parts benefit of \$300m

Summary and Next Steps

Summary of Benefits:

<u>Workstream</u>		<u>Benefit per year \$</u>
Brazilian RPM	(new benefit)	\$44.3m
Brazilian Parts	(new benefit)	\$10.4m
Worldwide Parts Management	(preserve)	\$300m
Convert Class F	(reduce detriment)	\$50m
Total Benefit		\$404.7m

CSARL 2009 activities
PricewaterhouseCoopers

January 2010
Slide 26

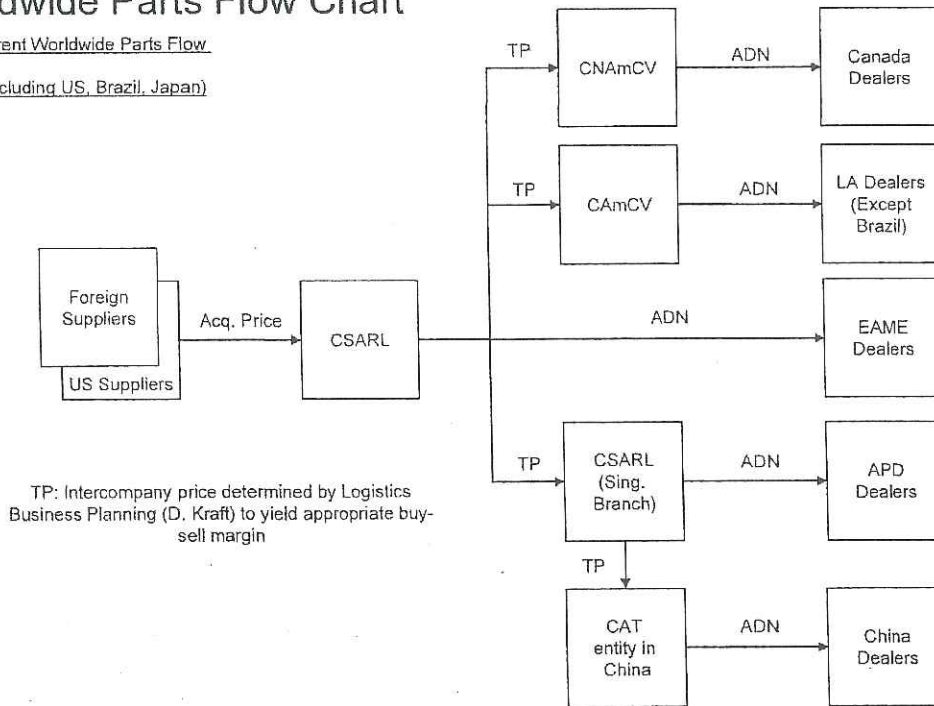
CONFIDENTIAL

PwC-CAT-00002456

Worldwide Parts Flow Chart

Current Worldwide Parts Flow

(Excluding US, Brazil, Japan)



TP: Intercompany price determined by Logistics Business Planning (D. Kraft) to yield appropriate buy-sell margin

CSARL 2009 activities
PricewaterhouseCoopers

January 2010
Slide 42

From: CN=Michael T Murphy/OU=US/OU=TLS/O=PwC
To: CN=Steven R. Williams/OU=US/OU=TLS/O=PwC@Americas-US
Sent: 05/17/2010 11:33:49 AM EST
Subject: Re: Fw: WW Parts Manager

Ok will do, I'll start on that right now try to get you something by COB today

Michael T Murphy | PricewaterhouseCoopers | Telephone: +1 202 312 7586 |
Facsimile: +1 813 496 2721 | michael.t.murphy@us.pwc.com

From: Steven R. Williams/US/TLS/PwC
To: Michael T Murphy/US/TLS/PwC@Americas-US
Date: 05/17/2010 12:32 PM
Subject: Re: Fw: WW Parts Manager

yep, see subsequent email from TFQ. 2pg memo to Quentin (and really to Gosselin), on what the role of the WW Pts Mgr is and why Tax needs it...

Steve Williams | Managing Director | Global Transfer Pricing |
PricewaterhouseCoopers | Telephone: +1 703 918 3339 | Mobile: +1 202 492 6666 |
steven.r.williams@us.pwc.com

Michael T Murphy/US/TLS/PwC
05/17/2010 12:25 PM

To
Steven R. Williams/US/TLS/PwC@Americas-US
cc

Subject
Re: Fw: WW Parts Manager

Yea I can help out with this.

Do we want the memo or do we want to just give Caviness the closing book? (Memo seems to make more sense)

When do you want me to get started?

"Custodian" --> Ouch. I like to think of myself as the plantation owner of the closing books haha

Permanent Subcommittee on Investigations

EXHIBIT #44

Michael T Murphy | PricewaterhouseCoopers | Telephone: +1 202 312 7586 |
Facsimile: +1 813 496 2721 | michael.t.murphy@us.pwc.com

From: Steven R. Williams/US/TLS/PwC
To: Michael T Murphy/US/TLS/PwC@Americas-US
Date: 05/17/2010 11:51 AM
Subject: Fw: WW Parts Manager

in case we need to help John Caviness reply to this, have you got time to assist?

see Org Announcement from Cat last week for background...

Steve Williams | Managing Director | Global Transfer Pricing |
PricewaterhouseCoopers | Telephone: +1 703 918 3339 | Mobile: +1 202 492 6666 |
steven.r.williams@us.pwc.com

----- Forwarded by Steven R. Williams/US/TLS/PwC on 05/17/2010 11:49 AM -----

Steven R. Williams/US/TLS/PwC
05/17/2010 11:30 AM
Local: 703-918-3339
Intl: cell 202 492 6666
"Reply to All" is Disabled

To
thomas f. quinn
cc
Ed Bodnam/US/TLS/PwC
Subject
Fw: WW Parts Manager

actually, if Ed and I are backed up and you need quick turnaround, I can get Mike Murphy to draft something then I can edit and send to you. The request was for

"a short memo or in a conference call summarizing in a structured way our tax guidance for the position, covering items such as:

- background for the initial tax recommendation and key tax requirements
- acceptable range of SG for the WW Parts Manager (ie why we need a senior position, Steve specifically asked this question) - importance of support staff in Geneva or other locations. "

Mike can pull that together from the "closing book" and other documents that he is the custodian for.....

Ask John Caviness if he wants us to create something for him.

Steve Williams | Managing Director | Global Transfer Pricing |
PricewaterhouseCoopers | Telephone: +1 703 918 3339 | Mobile: +1 202 492 6666 |
steven.r.williams@us.pwc.com

----- Forwarded by Steven R. Williams/US/TLS/PwC on 05/17/2010 11:28 AM -----

Steven R. Williams/US/TLS/PwC
05/17/2010 10:57 AM
Local: 703-918-3339
Intl: cell 202 492 6666

To
Thomas F. Quinn/US/TLS/PwC
cc
Ed Bodnam/US/TLS/PwC@Americas-US
Subject
Re: Fw: WW Parts Manager

do you need our help in this? if you and Caviness are in Piracicaba?

or since Pierre asked Caviness/Stiles/Vest/Parsons, who of them is supposed to
reply to Quentin/Gosselin?

Ed and I can draft something for you and Caviness to review. Seems like a
short fuse-- I can get to it later this afternoon,

Steve Williams | Managing Director | Global Transfer Pricing |
PricewaterhouseCoopers | Telephone: +1 703 918 3339 | Mobile: +1 202 492 6666 |
steven.r.williams@us.pwc.com

Thomas F. Quinn/US/TLS/PwC
05/17/2010 08:48 AM
Local: 312-298-2733
Intl: mobile: 1-847-867-2401
One North Wacker Drive Chicago IL 60606
US
"Reply to All" is Disabled

To
Steven R. Williams/US/TLS/PwC, Ed Bodnam/US/TLS/PwC
cc

Subject
Fw: WW Parts Manager

Back to the drawing board...

- Tom

Thomas F. Quinn | Int'l Tax Services | PricewaterhouseCoopers | Telephone: +1
312 298 2733 | Mobile: +1 847 867 2401 | thomas.f.quinn@us.pwc.com
----- Forwarded by Thomas F. Quinn/US/TLS/PwC on 05/17/2010 07:48 AM -----

"John P. Caviness" <Caviness_John_P@cat.com>
05/17/2010 06:58 AM

"Reply to All" is Disabled

To
Beran_Robin_D@cat.com
cc
Thomas F. Quinn/US/TLS/PwC@Americas-US
Subject
Fw: WW Parts Manager

FYI

Best regards,
John

John P. Caviness
Tax Counsel
Caterpillar Inc. / Legal Services Division
100 NE Adams St., Peoria, IL 61629-4295
e-mail: cavinjp@cat.com
ph: 1 (309) 675-1579
fx: 1 (309) 675-1753
t/l: 7-725-1579

* * * * *
* * *

THIS E-MAIL IS INTENDED ONLY FOR THE USE OF THE INDIVIDUAL OR ENTITY TO WHICH
IT IS ADDRESSED AND MAY CONTAIN INFORMATION THAT IS PRIVILEGED AND/OR
CONFIDENTIAL. IF YOU ARE NOT THE INTENDED RECIPIENT OF THIS E-MAIL, PLEASE
DELETE IT AND ANY ATTACHMENTS, WITHOUT OPENING THEM, IMMEDIATELY. -----

Forwarded by John P. Caviness/OA/Caterpillar on 05/17/2010 08:58 AM -----
Pierre De Pena/OE/Caterpillar
05/17/2010 06:25 AM

To
John P. Caviness/OA/Caterpillar@Caterpillar, Sally A
Stiles/OS/Caterpillar@Caterpillar, Gary L Vest/OS/Caterpillar@Caterpillar,
Giles A. Parsons/1B/Caterpillar@Caterpillar
cc

Fergal Murphy/0E/Caterpillar@Caterpillar, David S.
Poling/0S/Caterpillar@Caterpillar
Subject
WW Parts Manager

Caterpillar: Confidential Green Retain Until: 06/16/2010

Good morning,

As part of the recent organization changes, Quentin de Warlincourt is now reporting to Steve Gosselin. Quentin and Steve had some discussions on the role of the WW Parts Manager and how this would fit in Steve's future organization. As part of this exercise, Quentin would be interested in a short memo or in a conference call summarizing in a structured way our tax guidance for the position, covering items such as:

- background for the initial tax recommendation and key tax requirements
- acceptable range of SG for the WW Parts Manager (ie why we need a senior position, Steve specifically asked this question) - importance of support staff in Geneva or other locations.

Quentin's understanding is that Steve does not have a final opinion yet on the position. He would recommend to move fast, however, as this needs to be cleared before the first wave of announcements.

Best regards,

Pierre

Pierre de Pena
Inter-company Pricing Manager
EAME Tax & Trade
Caterpillar SARL
Tel +41 (0) 22 849 42 27
Mob +41 (0) 78 833 42 27

This document was not intended or written to be used, and it cannot be used, for the purpose of avoiding U.S. federal, state or local tax penalties.

This document was not intended or written to be used, and it cannot be used, for the purpose of avoiding U.S. federal, state or local tax penalties.

This document was not intended or written to be used, and it cannot be used, for the purpose of avoiding U.S. federal, state or local tax penalties.

This document was not intended or written to be used, and it cannot be used, for the purpose of avoiding U.S. federal, state or local tax penalties.

This document was not intended or written to be used, and it cannot be used, for the purpose of avoiding U.S. federal, state or local tax penalties.

This document was not intended or written to be used, and it cannot be used, for the purpose of avoiding U.S. federal, state or local tax penalties.

Caterpillar Inc.

Worldwide Parts
Management
Final Closing Book

Draft Version as of March 15, 2010

CONFIDENTIAL

Permanent Subcommittee on Investigations

EXHIBIT #45

PwC-CAT-00002477

Worldwide Parts Management Group Key Responsibilities

1. Parts Business Strategy: Establish the overall parts strategy. This includes establishing the Vision/Mission statement for the parts business and critical success factors to achieve the Vision & Mission. Targets, action plans and performance metrics will be established for each critical success factor. This strategy will be reviewed with the Executive Office (as part of M&PS's EOR) and all MBDs/EBDs to ensure alignment with the strategy. Some of the areas covered by the strategy include the 'go-to-market' strategy for parts and strategies for the '4 Ps' of marketing (Product, Promotion, Place, Price). As part of this role, the WW Parts Management Group will be included on the approval sign line for all Business Proposals related to the aftermarket parts business (i.e. capital expenditures for new/expanded parts distribution facilities, investments in new parts systems/software, etc.)
2. Margin Targets: Develop Caterpillar enterprise margin targets at the parts product level (i.e. Undercarriage, GET, engine parts, drivetrain, etc.) and by industry in the future when industry-specific parts data becomes available. Identify the products / industries where there are gaps between target and actual margins, and work with parts business table participants to develop action plans for cost reduction, resourcing, design changes, price realization, etc. to improve margins. Review margins and the status of improvement actions at quarterly parts business table meetings. In addition, dealer gross margins (i.e. difference between Suggested Consumer Price and Dealer Net Price) would also be established. The main business table participants the WW Parts Management Group would interface with are: Purchasing, Component Groups, and Parts Pricing.
3. Sales/Share Targets: Develop targets for sales growth / POPS-C at the parts product level and by industry in the future when industry-specific parts data becomes available. Identify products / industries where there are gaps between target and actual sales/POPS-C and work with parts business table participants to develop action plans to improve (i.e. new customer offerings, parts marketing programs, improved parts availability, price/sales variance actions, etc.). Participate in the parts S&OP process to track progress toward meeting sales/POPS-C targets, and establish corrective actions when the sales/POPS-C forecasted in the S&OP falls short of target. The main business table participants the WW Parts Management Group would interface with are: M&PS COE, DSDs, Parts Pricing, S&OP Group in Logistics Div.
4. Cost Targets: Develop cost targets at the parts product level, which are a function of competitively-based price levels and margin targets and/or an understanding of the level needed to achieve Low Cost Producer status. Identify parts products needing cost reduction to ensure healthy margins and work with parts business table participants to develop action plans for material cost reduction,

manufacturing cost reduction, resourcing, design changes, etc. to reduce cost. On an annual basis, work with Purchasing to establish the AT\$ material cost plan (for example "hold cost increases to half of inflation"). The main business table participants the WW Parts Management Group would interface with are: Purchasing, Component Groups, and MBD Product Groups.

5. NPI: Actively engage with the MBD Product Groups and Component groups during the NPI process. Provide input on parts and service related elements of machine & engine NPI programs. Work with NPI teams to evaluate design alternatives to ensure an appropriate balance is achieved between initial machine cost and downstream parts profit. Provide analysis and recommendations to machine product groups and component groups regarding component design, the use of proprietary vs. off-the-shelf components, CAT branding of purchased components, etc. The main business table participants the WW Parts Management Group would interface with are: MBD Product Groups, Component Groups, and M&PS COE.
6. Distribution Services Attributes: Work with DSDs to understand how CAT can help dealers deliver product support excellence. Provide solutions to dealers in critical areas, such as availability, capacity, capability, parts merchandising programs, etc. The main business table participants the WW Parts Management Group would interface with are: DSDs & M&PS COE.
7. Customer Offerings: See NPI. In addition, define customer centric solutions, such as Repair Options, Customer Service Agreements, etc. The main business table participant the WW Parts Management Group would interface with are M&PS COE & DSDs.
8. Parts Pricing/Sales Variance: Develop the annual parts price plan based on EO price realization targets, analysis from the Parts Pricing group (actual vs. target price premiums, actual vs. target margins, competitive price action, currency impacts, etc.), and input from MBD industry groups. The proposed price plan will optimize price realization and support sales and POPS-C goals. Key business table participants the WW Parts Management Group would interface with are: M&PS COE, Parts Pricing, and MBD Industry & Product Groups.
9. Availability: Develop targets for parts availability and monitor actual performance vs. target. When actual performance doesn't meet target, work with CAT Logistics to identify the reasons for the shortfall, establish corrective actions, and work with business table participants to execute those actions. Key business table members the WW Parts Management Group will work with are: Purchasing and CAT component groups (to ensure on-time parts delivery goals are met); CAT Logistics (to ensure proper management of parts supply within the logistics organization); and Distribution Services Divisions (to ensure dealer capability to meet customer parts demand and manage dealer parts inventories).

From: CN=Steven R. Williams/OU=US/OU=TLS/O=PwC
To: CN=Thomas F. Quinn/OU=US/OU=TLS/O=PwC@Americas-US
Sent: 11/04/2008 07:54:37 PM EST
CC: CN=Ed Bodnam/OU=US/OU=TLS/O=PwC@Americas-US
Subject: Re: is tomorrow really the only shot with DBB?

"3. PMs in US will put some pressure on the parts profit model. These guys are really bought into the PM is king concept. We are going to have to create a story that will put some distance between them and parts (eg. all the parts that are noncurrent) to retain the benefit. Get ready to do some dancing."

What the heck. We'll all be retired when this comes up on audit.

Bodnam and Chris Dunn will have to solve it.

Baby boomers have their fun, and leave it to the kids to pay for it.

This document was not intended or written to be used, and it cannot be used, for the purpose of avoiding U.S. federal, state or local tax penalties.

— Original Message —

From: Thomas F. Quinn
Sent: 11/04/2008 06:15 PM CST
To: Steven Williams
Cc: Ed Bodnam
Subject: Re: is tomorrow really the only shot with DBB?

Steve,

1. The meeting with DB is pretty key. See note below. Timing is critical. At most we will have one more day. I am sure Dave will want to send a deck to Rapp in advance of their meeting on the 7th.
2. Include a slide that shows the items for further work. Not sure we will be able to do them now - but lets keep track.
3. PMs in US will put some pressure on the parts profit model. These guys are really bought into the PM is king concept. We are going to have to create a story that will put some distance between them and parts (eg. all the parts that are noncurrent) to retain the benefit. Get ready to do some dancing.

- Tom

Robin D Beran/OS/Caterpillar
10/30/2008 10:26 AM

To
Sherie Hittinger/OC/Caterpillar@Caterpillar
cc
Dave B. Burritt/OG/Caterpillar@Caterpillar, Rodney J Perkins/OS/Caterpillar
Subject
Re: Ready?Link

Caterpillar: Confidential Green Retain Until: 11/29/2008
Retention Category: G90 - Information and Reports

Confidential

Permanent Subcommittee on Investigations

EXHIBIT #46

PwC_PSI_CAT_00033157

We will be ready for 5th. Will be ready for 7th if we're on same page as Dave and major differences don't arise. Will get materials to Dave yet this week so he can review before the 5th.

Robin D. Beran
Director, Global Tax & Trade
08 - AB4295
Phone: (309) 675-4478, tie line: 7-725-4478
Fax: (309) 675-1753, e-mail: beranrd@cat.com

This e-mail, including attachments, may include confidential and/or proprietary information, and may be used only by the person or entity to which it is addressed. If the reader of this e-mail is not the intended recipient or his or her authorized agent, the reader is hereby notified that any dissemination, distribution, or copying of this e-mail is prohibited. If you have received this e-mail in error, please notify the sender by replying to this message and delete this e-mail immediately. Thank you.

Sherie Hittinger/OC/Caterpillar
10/30/2008 10:14 AM

To
Robin D Beran/OS/Caterpillar@Caterpillar
cc
Dave B. Burritt/OG/Caterpillar@Caterpillar
Subject
Ready?

Caterpillar: Confidential Green Retain Until: 11/29/2008

Robin -- I set up two meetings regarding the Tax Project w/ Business Realignment. 1) Nov 5 - Attendees: DBB/BMH/RDB/RJP; 2) Nov 7 - DBB & EJR.

The question is ... will you be ready to meet with Dave on the 5th and will he then be ready for his meeting with EJR on the 7th?

Rgds, Sh

Thomas F. Quinn | Int'l Tax Services | PricewaterhouseCoopers | Telephone: +1 312 298 2733 | Mobile: +1 847 867 2401 | thomas.f.quinn@us.pwc.com

Steven R. Williams/US/TLS/PwC
11/04/2008 04:11 PM
Local: 703-918-3339
Int'l: cell 202 492 6666
"Reply to All" is Disabled

To
Thomas F. Quinn/US/TLS/PwC, Ed Bodnam/US/TLS/PwC
cc

Subject
is tomorrow really the only shot with DBB?

Seems like we have a lot of open items that we could really spend time on
-- big picture (global company vs US entrepreneurship vs US tax footprint),
-- snapshot vs longer term view
-- modeling benefits under alternative scenarios.

.. that we ought to spend more time fixing this before the Big Decision-- is that like next week when DBB meets with Raap?

Also, just curious-- say they decide most PMs stay in US. How do we retain CSARL parts profit if those "US entrepreneurs" claim both machine AND parts profit?

Steve

Steve Williams | Managing Director | Global Transfer Pricing |
PricewaterhouseCoopers | Telephone: +1 703 918 3339 | Mobile: +1 202 492 6666 |
steven.r.williams@us.pwc.com

This document was not intended or written to be used, and it cannot be used,
for the purpose of avoiding U.S. federal, state or local tax penalties.



100 NE Adams Street
Peoria, Illinois 61629-6490

*****CONFIDENTIAL—CONTAINS PROPRIETARY INFORMATION*****

Summary of Caterpillar Operations and Restructuring of Caterpillar Sarl

Further to our recent discussions and correspondence concerning your inquiry into Caterpillar's international tax practices, we thought that it might be helpful to provide you additional information on Caterpillar and, in particular, on the foreign operations and restructurings of Caterpillar Sarl. We ask that you consider this additional context as you review what you have learned thus far in your inquiry.

Executive Summary

Caterpillar has a high effective tax rate, maintains a very large U.S. manufacturing footprint, claims no U.S. tax deferral on sales in the United States or on export sales, and has not accumulated substantial offshore cash that has not already been subjected to U.S. tax. With respect to its foreign operations, Caterpillar uses standard lawful international tax planning that any responsible multinational enterprise would use. This planning is both appropriately conservative under applicable law and of relatively limited effect in terms of reducing Caterpillar's U.S. tax bill (hence the high effective tax rate, absence of significant offshore cash, etc.). We respectfully submit that Caterpillar is not an example of a multinational engaged in aggressive international tax planning, and that expanding the Subcommittee's inquiry further will not serve to illuminate any particularly important international tax policy issues.

We understand that you are interested in the fact that Caterpillar Inc. was removed from the supply chain of U.S.-sourced parts manufactured by unrelated parties for Caterpillar Sarl to sell into foreign markets. We hope that this paper will clarify the relevant facts and will explain how Caterpillar has complied with both the letter and spirit of relevant U.S. law in carrying out this restructuring and in operating the supply chain on an ongoing basis. Removing Caterpillar Inc. as an unnecessary purchaser in the supply chain resulted in additional deferral of U.S. tax relative to the prior structure, but this reflects flaws in the prior structure rather than anything inappropriate or aggressive about the resulting structure. Moreover, Caterpillar Sarl has fully compensated Caterpillar Inc. for all property and services provided by Caterpillar Inc. in connection with the restructuring and ongoing operation of the supply chain. The economic substance doctrine—which prevents taxpayers from engaging in unnecessarily complicated transactions in order to accomplish tax results not foreseeable by tax policy makers—is simply not relevant to the elimination of Caterpillar Inc. from this supply chain. The tax consequences of business decisions of this nature are governed by specific legal regimes (such as subpart F and the transfer pricing rules) that explicitly address the measurement and deferral of income in these situations. It is well established that these

basic structuring decisions are not subject to second-guessing under the economic substance doctrine.

Caterpillar's Business, Organization and Reporting

Caterpillar is the world's leading manufacturer of construction and mining equipment, diesel and natural gas engines, industrial gas turbines, and diesel-electric locomotives. Caterpillar is a leading exporter of products to global customers, providing more than 300 products available to customers in approximately 180 countries around the world. In fact, from 2008 through 2012, Caterpillar exported more than \$82 billion of products from the United States, supporting thousands of Caterpillar jobs in the United States as well as thousands of additional jobs at U.S. suppliers who provide components to Caterpillar for those exported products. The marketing, distribution and other support functions of Caterpillar Sarl, and its foreign affiliates, play a vital role in the support of these U.S. exports. About 70 percent of Caterpillar's sales and revenues are from outside of the United States, and over the decades, Caterpillar has grown its international operations to include facilities on six continents to support the provision of products to these global customers.

The Executive Office of Caterpillar is comprised of five Group Presidents, a Senior Vice President and a CEO. The Group Presidents are accountable for a related set of end-to-end businesses that they manage included within a segment. Caterpillar has four reportable segments in which separate profitability is determined. The reportable segments include Construction Industries, Resource Industries, Power Systems and Financial Products. With the exception of Financial Products, each reportable segment manages a product portfolio that supports a particular customer base and is responsible for strategy, design, management, development, marketing, sales and product support related to the product falling within the businesses managed by that segment. That is, each aspect related to the product included in that segment, from design, to manufacture, to sale, and to provision of replacement parts and servicing is determined by the Group President through appointed Vice Presidents and managers assigned to the businesses in that segment.

Reportable segment profitability is determined based on revenue and costs managed by each segment. This includes external sales and internal transfers to other segments less the related cost of goods sold, selling, general and administrative expenses and research and development expenses. Replacement parts are managed as an integral part of each segment. Profitability of replacement parts for products falling within a segment is not separately determined or reported, either internally or externally.

Caterpillar Sarl's Operations Comply With U.S. Tax Law

1. Historical Background of Caterpillar Sarl

Since the 1960s, Caterpillar Sarl (including, for purposes of this discussion, its predecessor entity) has built, grown, and maintained marketing and sales relationships with dealers and customers in foreign markets. Caterpillar Sarl and its foreign affiliates

have been the principal sellers of replacement parts, machines and engines to foreign dealers in Europe, Africa, Middle East and Asia for over 50 years. These activities are run from Caterpillar Sarl's offices in Switzerland and in Singapore and are a critical component of Caterpillar's business model. This was true both before and after the restructurings that occurred in 1999 and in the early 2000s.

2. Restructuring of Caterpillar Sarl Operations

In 1999 and in the early 2000s, Caterpillar Sarl engaged in a restructuring involving a series of steps that included a change to the supply chain of parts, engines and machines. Aspects of this restructuring included Caterpillar Sarl not only becoming responsible for the global foreign parts purchasing function in which purchased finished parts were purchased directly from third-party suppliers (rather than through Caterpillar Inc.) but also becoming the principal in certain contract (toll) manufacturing arrangements for producing engines and machines in Europe. The U.S. tax impact of this restructuring has been decidedly mixed, as Caterpillar Sarl has generated losses in its role as principal in the contract manufacturing arrangements. But in further establishing Caterpillar Sarl as the entrepreneur for various foreign markets, no attempt was made to "cherry pick" in the sense of leaving loss-making roles in the United States and trying to protect Caterpillar Sarl from such losses.

In connection with this restructuring initiative, and the related assumption of additional functions and risks by Caterpillar Sarl, Caterpillar Sarl licensed intangible property of Caterpillar Inc. to make, purchase, use, market, offer for sale, sell and/or import Caterpillar products in exchange for an arm's length annual royalty payment. In connection with the restructuring, there has been substantial movement of personnel with significant responsibilities within, and to, Switzerland including: (i) the promotion of a Vice-President as a new Group President responsible for all of EAME operations, (ii) the movement of several Product Managers to Switzerland, and (iii) the appointment of a Parts Purchasing Manager in Switzerland. Further, the Worldwide Parts Manager was later located in Switzerland together with a newly appointed Vice-President in Singapore.

It is important to keep the context of the overall restructuring initiative in mind in evaluating the restructuring of the supply chain for purchased finished replacement parts. Looking at purchased finished replacement parts in isolation may yield a distorted view of both the tax benefits of this restructuring activity and the non-tax business changes that it involved. This is particularly the case since profitability is determined on a segment level, and replacement parts are managed as part of each segment. Profitability of replacement parts for products falling within a segment is not separately determined or reported, either internally or externally.

3. An Unnecessary Purchaser in the Supply Chain of Purchased Finished Replacement Parts Was Eliminated

Prior to 1999, purchased finished replacement parts acquired by Caterpillar Sarl's predecessor from U.S.-based suppliers were acquired through Caterpillar Inc. In 1999,

Caterpillar Sarl began purchasing finished replacement parts directly from unrelated U.S.-based suppliers, with Caterpillar Sarl ordering the parts directly.

Standard prudent international tax planning calls for, and U.S. tax law allows, Caterpillar Sarl to purchase these parts from the unrelated manufacturers directly and then sell the parts to Caterpillar Sarl's unrelated dealers and customers, because "unrelated to unrelated" purchases and sales clearly do not give rise to subpart F income. Having Caterpillar Inc. serve as an intermediary between the unrelated manufacturers and Caterpillar Sarl ran contrary to standard prudent tax planning, by inserting an unnecessary related-party into the transaction and creating unnecessary subpart F income.

The elimination of the related-party purchase and sale transaction from the supply chain as part of the restructuring prevented Caterpillar Sarl from generating subpart F income in connection with the sales of these products to its foreign dealers and customers. In addition, as a function of the increased risks and responsibilities assumed by Caterpillar Sarl under the new arrangement, Caterpillar Sarl earns more profit under the arm's length standard than was the case when Caterpillar Inc. bore these risks and responsibilities.

The Elimination of the Unnecessary Purchaser of Parts Supplied to Caterpillar Sarl Complies With U.S. Tax Law

1. Caterpillar is Free to Structure Transaction Flows in Such a Way as to Permit a Foreign Entity to Purchase Products that the Foreign Entity Markets and Sells

The fact that a company may have structured its transaction flows one way for some period of time does not prevent the company from structuring its transaction flows in a different way later. Of course there must be compensation for any property transferred and services performed in connection with any restructuring, as there was in Caterpillar's case, but changing a supply chain structure is not, in and of itself, a taxable event. A multinational group's decision to have a foreign subsidiary pursue a business opportunity requires no "exit fee" in the form of compensation to the U.S. parent company—rather, it is the transfer of property rights and performance of services that may require such compensation. *See, e.g., HCA v. Comm'r*, 81 T.C. 520 (1983). As described below, Caterpillar Sarl has fully compensated and continues to fully compensate Caterpillar Inc. for all relevant property rights and services that Caterpillar Inc. has licensed and provided to Caterpillar Sarl. No separate compensation was required for the business opportunity as such.

2. A "Transfer" of a Network of Supplier Relationships Is Not a Taxable Transfer of Property

There was no taxable transfer of intangible property as a result of the mere fact that Caterpillar Inc. used to purchase from a particular set of unrelated manufacturers, and now Caterpillar Sarl does so. While legislative proposals have been introduced to

September 23, 2013

broaden the relevant definition of intangible property in order to create taxable events with respect to supposed transfers of various amorphous, non-legally-protected intangible qualities (e.g., assembled workforce), current law does not define intangible property so broadly. *See, e.g., Veritas Software Corp. v. Comm'r*, 133 T.C. 297 (2009).

3. **Caterpillar Sarl Has Fully Compensated Caterpillar Inc. for All Property and Services Provided by Caterpillar Inc.**

Caterpillar Sarl fully compensated (and continues to fully compensate) Caterpillar Inc. under the arm's length standard for all intangible property and services provided by Caterpillar Inc. in connection with the transition to (and ongoing operation of) this restructured supply chain. Caterpillar Sarl pays Caterpillar Inc. an ongoing annual royalty of 4-6 percent of Caterpillar Sarl's gross revenue (less returns, discounts, and sales, use, or turnover taxes) associated with the licensed business. Under this arrangement, Caterpillar Inc. has paid an immediate U.S. tax on approximately 35 percent of the total system profit from the licensed business. This allocation of profit to the licensor exceeds the 25-75 percent "rule of thumb" profit split articulated by the U.S. Tax Court in *Ciba-Geigy Corp. v. Comm'r*, 85 T.C. 172 (1985). In fact, in 2012, both Caterpillar Sarl and Caterpillar Inc. had the same return on sales of approximately 9 percent demonstrating that Caterpillar Sarl does not have an unreasonably high return on its business.

Caterpillar Sarl also pays Caterpillar Inc. a service fee of cost plus 5 percent for services rendered by Caterpillar Inc. in connection with the purchasing and logistics functions. Caterpillar Inc. thus has substantial U.S. taxable earnings on all work that it has carried out for Caterpillar Sarl in connection with the restructuring and ongoing operation of the supply chain, as required under the arm's length standard.

4. **The Economic Substance Doctrine is Not Relevant to the Caterpillar Supply-Chain Restructuring**

The economic substance doctrine prevents taxpayers from engaging in unnecessarily complicated transactions in order to accomplish tax results that could not be specifically foreseen by tax policy makers due to the unpredictable interactions between various tax rules as applied to a particular highly engineered set of transactions. When relevant, the doctrine requires some demonstration of a meaningful change in economic position due to the various steps of a transaction and/or a non-tax business purpose for the various steps. The doctrine is not relevant to supply-chain restructurings that actually simplify the relevant transaction flows and produce no tax savings other than those specifically contemplated and controlled by detailed tax rules. Instead, the transfer pricing and subpart F rules govern the allocation and deferral of income resulting from these basic supply-chain arrangements.

The Congress explicitly confirmed this point when it codified the economic substance doctrine. *See* Joint Committee on Taxation, *Technical Explanation of the Revenue Provisions of the "Reconciliation Act of 2010," as Amended, in Combination*

with the "Patient Protection and Affordable Care Act," JCX-18-10 (Mar. 21, 2010), at 152-53 (noting that, "under longstanding judicial and administrative practice," certain basic business decisions are respected "even if largely or entirely based on comparative tax advantages," including "a U.S. person's choice between utilizing a foreign corporation or a domestic corporation to make a foreign investment" and "the choice to utilize a related-party entity in a transaction, provided that the arm's length standard of section 482 and other applicable concepts are satisfied"); *see also* Internal Revenue Service, LB&I Directive for Industry Directors, *et al.* regarding Guidance for Examiners on the Codified Economic Substance Doctrine and Related Penalties (LB&I-4-0711-015), July 15, 2011 (confirming same). In other words, decisions of this nature are not subject to second-guessing under the economic substance doctrine, because they are already policed by other highly developed legal regimes (i.e., the subpart F and transfer pricing rules).

5. **Caterpillar Sarl is Not Required to Maintain Inventory Outside the United States**

Caterpillar Sarl maintains parts inventory in the United States or in transit through the United States and sells this inventory to foreign dealers and customers without taking physical possession of it in Switzerland or Singapore, as the case may be. The fact that the parts are generally not physically shipped to Caterpillar Sarl in Switzerland or Singapore does not render the arrangement a sham. Entities (and people, for that matter) can own property and incur related risks in places other than where they happen to be located. In fact, the export property exception under section 956(c)(2)(B) specifically envisions that CFCs may own property physically situated in the United States, for export to "foreign countries" (i.e., not just the one where they happen to be located). There has never been a general requirement that property be physically shipped to a particular income-earning location in order to satisfy subpart F or transfer pricing rules.

Caterpillar Bears a High Effective Tax Rate Because its Overall Business Operations and Transaction Structures Tilt Heavily in Favor of U.S. Manufacturing, U.S. Exports, and Transactions Subject to Immediate U.S. Tax

1. **High Effective Tax Rate**

Compared with other large multinational enterprises, Caterpillar has a high effective tax rate (30.5 percent in 2012). This high effective tax rate reflects Caterpillar's large business presence in the United States and in other high-tax countries around the world.

2. **No Deferral of U.S. Tax on Sales in the United States or on Export Sales**

Caterpillar does not attempt to benefit from low foreign tax rates or deferral of U.S. tax with respect to sales into the U.S. market. Caterpillar also does not benefit from low foreign tax rates or deferral of U.S. tax with respect to a considerable portion of the

group's sales into foreign markets, as many of these sales are either U.S. export sales or give rise to income taxable on a current basis under subpart F (or both).

In fact, for the years 2010 to 2012, approximately 38 to 65 percent of the U.S. taxable income of Caterpillar Inc. was attributable to Caterpillar Sarl items—either as royalties or service fees received from Caterpillar Sarl or as subpart F income (and gross-up) resulting from Caterpillar Sarl's activities. Further, for this period, Caterpillar Inc. included approximately 25 to 36 percent of the income of Caterpillar Sarl as subpart F income.

3. **Maintains No Substantial Offshore Cash**

Caterpillar's foreign subsidiaries do not hold substantial cash beyond their own working capital needs, and what cash they do currently hold could be repatriated if needed without incurring further U.S. tax cost, because so much of their income has already been subject to current U.S. taxation under subpart F.

4. **Uses Standard Prudent International Tax Planning Consistent with Letter and Spirit of Applicable Rules**

Caterpillar needs to have substantial foreign operations to facilitate its exports and serve its customers around the world. With respect to these operations, Caterpillar engages in standard prudent and lawful international tax planning to obtain the benefit of lower foreign tax rates as well as deferral of U.S. taxes on foreign earnings to the extent permitted under U.S. and foreign law. Caterpillar Sarl, a low-tax foreign subsidiary, sells into many foreign markets, having developed these markets for over 50 years through its substantial operations in Switzerland and Singapore, where the global parts manager and several product managers are located. Some benefit of lower foreign rates and deferral of U.S. taxes result from this structure. However, this is an unremarkable tax result in view of the substantial business presence maintained in Switzerland and Singapore and the fact that Caterpillar Sarl buys in relevant part from unrelated suppliers and sells to unrelated foreign dealers and customers. In addition, a significant portion of the system profit even on these transactions is subject to immediate U.S. tax due to large royalties and service fees paid by Caterpillar Sarl to Caterpillar Inc., as discussed above.

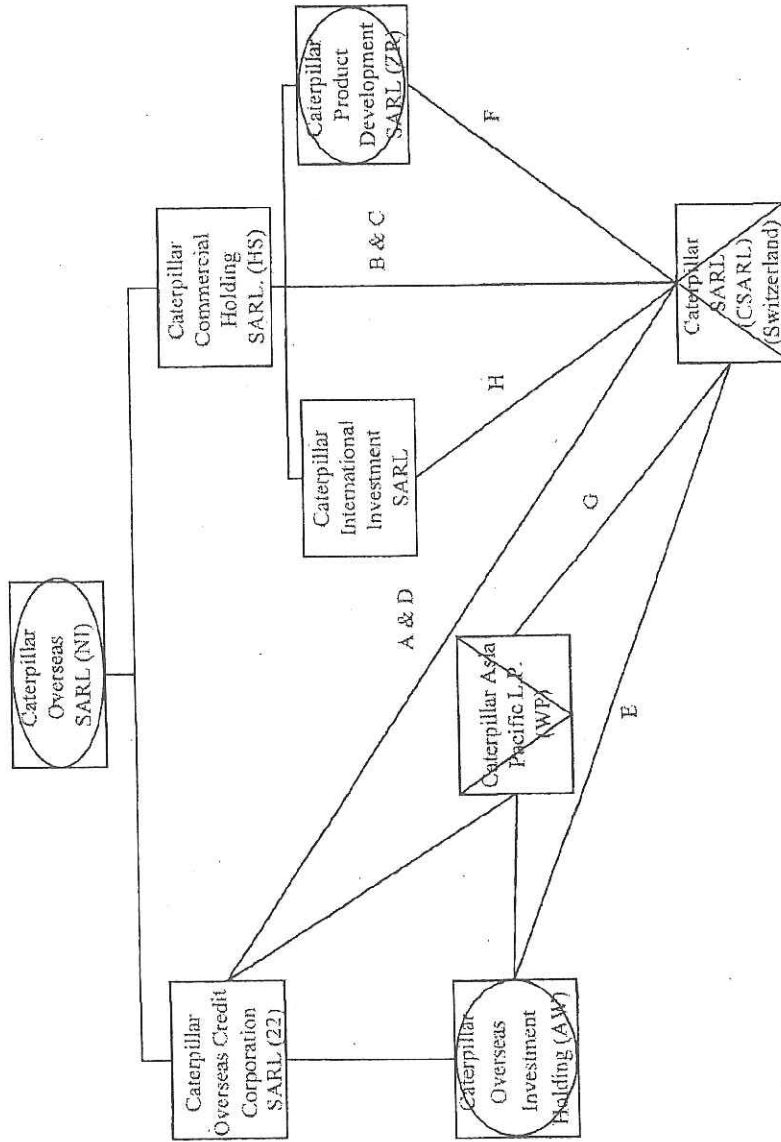
Conclusion

In sum, the arrangements governing Caterpillar Sarl's purchases and sales of finished replacement parts from unrelated suppliers comply with all applicable tax rules and indeed reflect entirely unexceptional prudent tax planning. Any U.S.-based multinational with a need to source products from unrelated manufacturers for sales into foreign markets would be well-advised to structure the relevant transaction flows in this manner. Caterpillar respectfully, but unequivocally, submits that these arrangements do not represent any abuse of the international tax rules. Caterpillar also respectfully submits that its high effective tax rate, large U.S. manufacturing footprint, very large exports and other U.S. taxable sales flows and lack of significant foreign cash

CONFIDENTIAL & PROPRIETARY
September 23, 2013

accumulation make it unattractive as an example for your Subcommittee of a multinational engaged in inappropriate tax planning.

CSARL Legal Structuring



January 2010
Slide 37

CSARL 2009 activities
PricewaterhouseCoopers

PwC-CAT-00001581

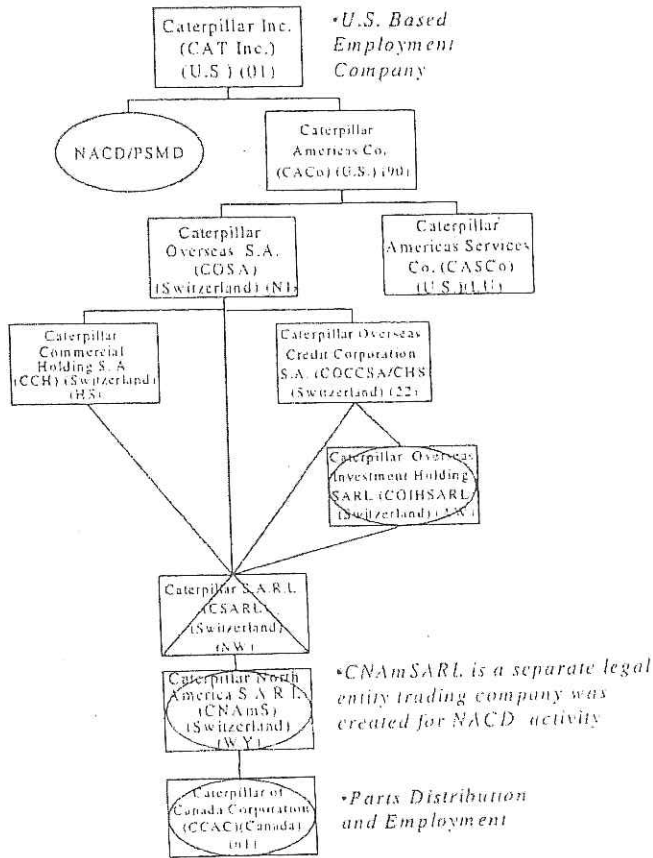
CONFIDENTIAL

Introduction to Caterpillar North America S.A.R.L.

Legal Structure

Caterpillar North America S.A.R.L. (CNAmSARL) is a Swiss limited liability company created in August of 2002. It is a direct subsidiary of Caterpillar S.A.R.L. (CSARL) and has one subsidiary of its own: Caterpillar of Canada Corporation.

Figure 1: Corporate structure relating to CNAmSARL



Acronym: CNAmSARL
 Facility Code: WY
 Customer Code: Y50W
 Formation Date: 2002
 Function: Trading Company Sales: Yes
 Accounting Services Provided by: Caterpillar Inc. (CAT Inc.)
 Employees: None
 Shareholder(s): Caterpillar S. A. R. L. (CSARL)
 Address: 76 Route de Frontenex
 P. O. Box 6000
 CH-1211 Geneva 6, Switzerland

Functions

CNAmsARL is the legal entity marketing company for Canadian dealers and certain sales to US dealers. In this role, CNAmsARL buys goods from Caterpillar's manufacturing subsidiaries and sells those goods to dealers.

Sales - Canada

CNAmsARL's role in Canada is its most significant. Effective September 1, 2002 it acquired the rights to the Canadian territory and the responsibility for sales of all Caterpillar machines, parts and engines to Canadian Dealers. CNAmsARL will not, however, make sales to any Canadian Original Equipment Manufacturer (OEM).

Sales - US

CNAmsARL's US dealer sales are limited to machines produced in Gosselies, Belgium or Grenoble, France and shipped from those factories on or after May 1, 2003. CNAmsARL, however, will not be a party to any sale made through the North American Storage Program (or other loan machine account) or to the following dealers that are partially or wholly owned by Caterpillar: Carter Machinery (D100) or Pioneer Machinery (D050).

Other Functions

CNAmsARL has no employees. As a result it must pay other Caterpillar entities to perform the following functions in support of its sales: accounting, administration and marketing support. These relationships and associated fees are discussed in more detail later.

Purpose

CNAmsARL was created and assigned its roles as part of a broader corporate initiative that brings most of Caterpillar's sales outside the United States under the umbrella of CSARL in Geneva, Switzerland.

Accountable Impact

CNAmsARL was created and implemented with the understanding that there be no impact on Caterpillar's accountable profit center reporting systems. While significant changes were made to our legal entity reporting systems, the objective of zero accountable impact was met.

Changes

CNAmsARL was created and implemented through the 6 Sigma process and significant effort was made to ensure that all Canadian, Swiss, and US regulatory requirements were met and controls were in place to maintain compliance over time. Because this structure is sensitive to three different regulatory environments any proposal to change processes or accounting procedures relating to CNAmsARL should be carefully evaluated and include input from the contacts listed below.

Contacts

Canada

Gary Vest, Caterpillar International Tax Manager, Western Hemisphere
(309) 675-4482

US

Rod Perkins, International Tax Manager, Europe Africa and Middle East
(309) 675-4499

CNAmsARL Accounting

Paul Thompson, Corporate Accounting Services, Accounting Supervisor
(309) 675-5003

CSARL Accounting

Fred Rydell, CSARL Corporate Accounting, Supervisor
+41 22 849 4638

CNAMSARL Sales and Sales Variance

Sales:

Canada

All sales of product to *Canadian* dealers are recorded on legal entity WY books with the exception of OEM sales. Legal entity N4 records Canadian OEM sales because these sales are actually made to US parent companies and drop shipped to Canadian manufacturing subsidiaries.

US

Sales of Gosselies (legal entity 25) or Grenoble (legal entity 37) sourced machine prime product to U.S. territory dealers are also recorded on legal entity WY books (exceptions: North American Storage Sales and other loan account sales, Carter Machinery D100 and Pioneer Machinery D050 all of which are booked to 01). All other sales of product to *U.S.* dealers are recorded on legal entity 01 books (machines and parts) or legal entity N4 books (engines and parts).

Accountable Profit Center

All sales to U.S. and Canadian dealers are reported as NACD (machines and parts) or EPD (engines and parts) sales from a business unit perspective.

Sales Variances: All sales variances related to sales to *Canadian* dealers are recorded on legal entity WY books and all sales variances related to sales to *U.S.* dealers are recorded on legal entity 01 (machines and parts) and legal entity N4 (engines and parts) books, with the following exception:

- For Gosselies (legal entity 25) or Grenoble (legal entity 37) sourced machine prime product sold to *U.S.* dealers (recorded as sales on legal entity WY books with the exceptions noted above):
 - Legal entity WY records cash discount.
 - Legal entity WY records invoice discounts, if any.
 - Legal entity 01 (machines only) records post sale credits and merchandising accrual.

All sales variances for *U.S.* and *Canadian* dealers are recorded in the appropriate sales variance category on legal entity 01, N4 or WY books.

All sales variances for *U.S.* and *Canadian* dealers are reported as sales variances on NACD (machines and parts) or EPD (engines and parts) business unit results.

Adjusting entries are recorded by legal entity 01 (Sales/Cost of Sales Supervisor) to appropriately move and reflect post sale credit and commercial goodwill items as SG&A expense from a consolidated legal entity basis. The detail supporting this adjusting entry can be found in the Fees section of this document under "Product Promotion and Support Services Fee".

Please refer to the Receivables section for further information on recording of receivables originally booked on legal entity WY books at time of sale, but subsequently sold to legal entity 90 or 01books.

November 26, 2013

*** CONFIDENTIAL—CONTAINS PROPRIETARY INFORMATION***

Response of Caterpillar Inc. to Inquiry Relating to Treatment and Use of Offshore Funds

This document sets forth a supplemental response to Caterpillar Inc.'s ("Caterpillar" or the "Company") November 6, 2013 partial response to Question 6 contained in the Subcommittee's questionnaire dated October 15, 2013.

Caterpillar requests confidential treatment of this response, as it contains Company confidential and proprietary information, the release of which would damage Caterpillar and potentially assist its competitors, particularly its non-U.S. competitors such as Komatsu, Hitachi, Sany, and Volvo.

6. **Please provide the dollar amount of your company's profit before tax that was attributable to the PFRP business for CSARL for each year from 1999 through 2012, earned from Inventory stored and shipped from a U.S. warehouse.**

On November 6, 2013, Caterpillar provided to the Subcommittee the amounts of total CSARL purchases of PFRPs (at standard cost) and the amounts of PFRPs that CSARL held in a U.S. warehouse for the years 2011 and 2012. As a supplement to that response, set forth below are the data for the years 2003 through 2012.

With respect to the November 6, 2013 partial response, we would like to clarify that the amount of CSARL purchases of PFRP reflected in that chart included inventory that CSARL did not acquire beneficial ownership of for U.S. tax purposes. In many situations, third party suppliers desire to sell parts to only one legal entity in the Caterpillar group. As an accommodation to the supplier, CSARL serves as the sole contracting party vis-à-vis the supplier in these cases. Thus, CSARL not only purchases inventory on its own behalf for non-U.S. markets, but also acquires title ownership of inventory for the U.S. market and then immediately transfers title to this inventory on to Caterpillar ("**Flash-Titled Inventory**"). The Flash-Titled Inventory is immediately "resold" by CSARL to Caterpillar at the same price that CSARL purchased the Flash-Titled Inventory from the third-party U.S. supplier, and therefore all profit from the subsequent sale of the Flash-Titled Inventory is reported by Caterpillar in the United States. Caterpillar assumes all freight costs, contract packager costs and all other out-of-pocket costs or expenses associated with the Flash-Titled Inventory, which include insurance charges associated with the Flash-Titled Inventory, from the date of CSARL's acquisition of the Flash-Titled Inventory from the third-party U.S. supplier.

The table below reflects the CSARL inventory purchases (both including and excluding Flash-Titled Inventory), as well the CSARL inventory held in a U.S. warehouse for each of the years 2002 through 2012. The column of Flash-Titled Inventory includes some small stock record inventory adjustments.

November 26, 2013

	CSARL Total Purchases @ standard cost	Amount included in prior column that was immediately flash-titled to Caterpillar	CSARL Total Purchases @standard cost excluding the amount immediately flash-titled to Caterpillar	CSARL Purchases @ standard cost stored at a US warehouse
2012	\$			
2011	\$			
2010	\$			
2009	\$			
2008	\$			
2007	\$			
2006	\$			
2005	\$			
2004	\$			
2003	\$			

**Redacted by the
Permanent Subcommittee on Investigations**

As indicated in Caterpillar’s prior response, the amounts set forth above include only the purchases by the CSARL entity and do not include purchases made by subsidiaries of CSARL that are disregarded for U.S. Federal income tax purposes. It should also be noted, however, that the purchases by CSARL’s disregarded subsidiaries are all made from non-U.S. suppliers. This means that if those amounts were included, the percentage of CSARL’s total purchases that are held in a U.S. warehouse would further decrease.

As a follow-up to Caterpillar’s November 6, 2013 submission, the Subcommittee requested that Caterpillar provide the percentage of CSARL’s total PFRP inventory that was resold to Caterpillar Inc. The Subcommittee also asked whether all purchases not held in a U.S. warehouse were held in a non-U.S. warehouse.

Set forth below is the percentage of CSARL’s total PFRP inventory that was sold to Caterpillar for the years 2003 through 2012. This percentage is calculated as the total PFRP inventory sold by CSARL to Caterpillar (excluding Flash-Titled Inventory) bears to the total PFRP inventory purchased by CSARL for the respective year (excluding Flash-Titled Inventory).

	Percentage of CSARL PFRP Inventory	Purchases that was sold to Caterpillar (excluding Flash Titled Inventory)
2012		
2011		
2010		
2009		
2008		
2007		
2006		
2005		
2004		
2003		

We are working to prepare this information for years 1999 through 2002. Finally, please note that inventory that is not reflected on the first schedule above as held in a U.S. warehouse would either be held in a non-U.S. warehouse by CSARL or in transit.

December 3, 2013

5. Please provide the portion of COSA or CSARL's profit before tax attributed to the (a) replacement part and (b) purchased finished replacement part (PFRP) business for each of the years [REDACTED]. Also, please indicate the portion of profit before tax attributable to sales in Switzerland.

Caterpillar's reporting and compliance processes do not determine profit before tax on CSARL's replacement parts sales. There are no existing files or reports that provide the requested profit before tax data. In years where available data content and format permit, we executed a supplemental process to make a good faith estimate of CSARL's profit on replacement parts sales. This process included the following steps and limitations:

- Identify replacement parts sales transactions using source data files created for transfer pricing compliance purposes. These files also include sales data for machines, engines (power systems) and components.
 - [REDACTED]
- Quantify net sales, cost of sales and gross margin. This step relies on general ledger account coding conventions.
- Subtract operating cost estimates to arrive at an estimated operating margin. This requires many broad allocations across machine sales, engine sales, parts sales, component sales and freight. Allocated items include:
 - Sales General & Admin Costs;
 - LIFO inventory adjustment;
 - Commissions and services; and
 - Hedging gains and losses
- License fees were estimated by extending net sales by the primary rate in effect for CSARL's fiscal period. As CSARL's fiscal year ends November 30 and royalty rates are determined on a calendar-year basis, there is imprecision in the expense measurement when rates change between calendar years.
- An estimate of non-operating items (miscellaneous expense) is allocated to CSARL's parts transactions to arrive at a net profit estimate.
- Interest expense and currency gains and losses are excluded from the estimate.
- This estimate is limited to profits from parts sales and does not take into account the significant manufacturing losses of CSarl.

The chart below provides this estimate of CSARL's profit before tax on its commercial sales of replacement parts for the [REDACTED]

[REDACTED] The allocation of the profit to the portion of profit before tax attributable to sales in Switzerland is not available.

Redacted by the Permanent Subcommittee on Investigations

Measure: Estimated Cat SARM Profit before Tax Currency: US Dollars Rounding: amounts in thousands

Type of Product Sold	Year
Replacement Parts	[REDACTED]
Purchased Finished Replacement Parts	[REDACTED]

Note:
"Replacement Parts" amounts reflect all Cat SARM parts sales. "Purchased Finished Replacement Parts" is a sub-set of "Replacement Parts".

**Redacted by the
Permanent Subcommittee on Investigations**

December 3, 2013

10. With regard to the replacement parts business, for each year from 1999 through 2012, please provide the following information:

- The percentage of your company's worldwide headcount and payroll assigned to the PFRP business and located in the U.S.
- The percentage of your company's worldwide headcount and payroll assigned to the PFRP business and located in Switzerland.

Caterpillar does not have employees assigned to a replacement parts business, however there are organizations throughout the enterprise that support purchase, storage, movement, and sales of replacement parts. In the chart below, we have identified divisions participating in these activities and provided U.S. based and non-U.S. based headcount statistics for the years 2006 through 2012. We do not have data for years prior to 2006.

	2006	2007	2008	2009	2010	2011	2012
Parts Distribution (Logistics):							
US Headcount Hourly	1266	1377	1528	1549	1663	1773	2167
US Headcount Management	1134	1158	1273	1142	1242	1448	1452
Total US Headcount	2400	2535	2801	2691	2905	3221	3619
Non-US Headcount:							
Non-US Headcount Hourly	588	647	779	742	893	972	1063
Non-US Headcount Management	643	723	844	697	763	1055	964
Total non-US Headcount	1231	1370	1623	1439	1656	2027	2027
Global Purchasing:							
US Headcount Management	699	702	625	617	574	885	1036
Non US Headcount Management	599	697	716	706	650	830	1080
Parts Pricing:							
US Headcount Management	38	43	42	29	25	28	37
Parts Pricing Non-US:							
Parts Pricing Corporate (Geneva)					4	4	4
Europe/Africa/Middle East (Geneva)	6	6	6	4	5	6	6
Americas South (Brazil)	6	6	6	5	5	5	5
Asia Pacific	6	6	6	6	6	6	7
Parts Marketing Support US							
	57	73	59	61	59	93	114
Distribution Services Division:							
Americas US Headcount				99	102	102	104
Non-US Headcount:							
Americas Non-US Headcount				45	47	47	47
Asia Pacific -Singapore				15	15	15	15
Asia Pacific -outside Singapore				91	91	89	88
Europe/Africa/Middle East - outside Geneva				49	51	56	74
Europe/Africa/Middle East (Geneva)				70	62	59	56

- Parts Distribution (Logistics) – Parts Storage, Shipment and Delivery
- Parts Marketing Support – Parts & Services Marketing Administration, Parts Product Training Materials, Maintenance Marketing, Product Support Administration
- Distribution Services Division – Caterpillar's interface with the dealers. Provides assistance to the dealers with regard to dealer financial health, marketing, parts on-hand inventory, parts service shop training, etc. These personnel are Caterpillar's face to the dealers with respect to parts sales.

December 3, 2013

11. Please describe CSARL's effective tax rate in Switzerland including in this description any agreements that your company entered into with Swiss tax authorities, whether national or cantonal.

Under Swiss law, CSARL is taxed on its worldwide income, excluding income attributed to foreign branches and establishments.

- A. For Federal income tax (IFD), CSARL is taxed at the ordinary 8.5% rate.
- B. For Cantonal and Communal income Tax (ICC), CSARL is taxed under the regime of article 23 of the Geneva Corporate Income tax Law (LIPM) taken in application of article 28.4 of the Federal Tax law on the Harmonization of Cantonal Income Taxes (LHID). That regime is available to all companies having a commercial activity focusing predominantly on commercial transactions outside of Switzerland ("Auxiliary Status").

This regime primarily allows to tax revenue from foreign sources at a reduced tax rate and is subject to change every five years. Effective with the 2007 ruling, CSARL is taxed on revenues from foreign sources in accordance with the following reducing scale:

- Turnover Up to CHF 20 million 20%
- From CHF 20 Million to CHF 30 million 15%
On condition that the profit before tax reaches CHF 25 millions
- From CHF 30 Million to CHF 50 million 10%
On condition that the profit before tax reaches CHF 40 millions
- From CHF 50 Million to CHF 100 million 8%
On condition that the profit before tax reaches CHF 75 millions
- From CHF 100 million 7%
On condition that the profit before tax reaches CHF 125 millions

Revenues not attributable to foreign sources are fully taxed at the ordinary rate.

According to the above, the CSARL Swiss effective tax rate varies primarily based on the mix between revenues attributable to foreign sources and to Swiss sources.

December 3, 2013

**Redacted by the
Permanent Subcommittee on Investigations**

- 15. Please describe any service or management function provided in the United States on behalf of CSARL replacement parts business for the years 1999 through 2012, and the total amount of compensation received from CSARL each year.**

Caterpillar Inc. provides various services in the United States for the benefit of the replacement parts portion of CSARL's integrated business. The service activities provided in the 1999 – 2012 periods include those described below.

- a. Contract Packaging - Handling/packaging labor and packaging material costs applicable for material processed at contract packaging locations and processing of returns, as well as manages third party contract packagers.
- b. Logistics/Warehousing Fees – General warehousing services and facilities.

December 3, 2013

- c. Purchase Service Fees - Fee for managing third party suppliers within the U.S. Activities performed on behalf of CSARL include:
 - ▶ Consult with CSARL on potential suppliers (sourcing);
 - ▶ Visiting suppliers as requested by CSARL;
 - ▶ Negotiate terms;
 - ▶ Arrange transportation and delivery of goods;
 - ▶ Quality inspection of goods;
 - ▶ Assist in complying with applicable customs laws, rules, or regulations.

- d. Managing Parts Flow – Activities performed include:
 - ▶ Creation, translation, and dissemination of service manuals, service literature, and other materials for replacement parts;
 - ▶ Inventory availability management;
 - ▶ Parts customer service to dealers (order inquiries, order expediting);
 - ▶ Parts pricing analysis and maintenance of price lists;
 - ▶ Maintenance and support of information systems;
 - ▶ Marketing consulting (creating and support of dealer marketing programs);
 - ▶ Manage and monitor inventory levels worldwide and perform expediting services;
 - ▶ Hold any refunds, reimbursements, or other proceeds and to transfer such funds to CSARL; and
 - ▶ Maintain detailed accounting, shipping, customs, and other records.

- e. Inland Freight - Inland freight charges for material destined to U.S. contract packagers.

December 3, 2013

**Redacted by the
Permanent Subcommittee on Investigations**

18. If exhibit 2 was created by CAT, please complete the chart and provide the same information for each of the years from [REDACTED] identifying the CSARL benefits (in millions of dollars) for Parts, Tolling, Reserve, and Benefits. Please also explain the meaning of the CSARL benefits represented by each column in the chart.

Set forth below is the "CSARL Benefits" file updated through [REDACTED]. In order to provide full visibility of the U.S. tax effects to Caterpillar, the chart also sets forth:

- The U.S. Federal income tax on Subpart F Income from the CSARL Partners
- The U.S. Federal income tax to Caterpillar Inc. from the receipt of royalty income from CSARL

**[REDACTED] - Redacted by the Permanent
Subcommittee on Investigations**

December 3, 2013

- The U.S. Federal income tax to Caterpillar Inc. from the receipt of services income from CSARL

Year	Parts	Contract Mfg.	Reserve	Deferral Benefit	US Tax on SubF Income	US Tax on Royalty Income	US Tax on Services
<div style="border: 2px solid black; padding: 10px; width: fit-content; margin: 0 auto;"> <p>Redacted by the Permanent Subcommittee on Investigations</p> </div>							
TOTAL	2,465	111	(172)	2,404	(1,078)	(1,380)	(33)

Parts = Estimated U.S. Federal income tax deferral on purchased finished parts sales.

Contract Manufacturing = Estimated U.S. Federal income tax deferral on contract manufacturing.

"Benefit" has been renamed "Deferral Benefit" for better representation and understanding.

January 14, 2014

**Redacted by the
Permanent Subcommittee on Investigations**

**— = Redacted by the Permanent
Subcommittee on Investigations**

4. Please provide the itemized amount of CSARL's royalty and service fee expenses paid to Caterpillar Inc. for each of the years [REDACTED]

The royalties that CSARL pays to Caterpillar Inc. can be itemized into two categories, original equipment and replacement parts. Royalties paid with respect to original equipment includes royalties paid on CSARL's sales of licensed machines and power systems. Royalties paid with respect to replacement parts includes royalties paid on CSARL's sales of licensed replacement parts. This data is

**Permanent Subcommittee on Investigations
EXHIBIT #50c**

January 14, 2014

Sales by Manufacturing Country	2009	2010	2011	2012
US Manufactured Sales				
Europe Manufactured Sales				
All Other				
Consolidated Sales	29,540	39,867	57,392	63,068

Revenues by Country	2009	2010	2011	2012
US Revenues	1,358	1,195	1,144	1,158
All Other	1,498	1,526	1,602	1,649
Total Revenues	2,856	2,721	2,746	2,807

Consolidated Sales & Revenues	2009	2010	2011	2012
Total	32,396	42,588	60,138	65,875

— = Redacted by the Permanent Subcommittee on Investigations

Sales of US Manufactured Product (Exports)	2009	2010	2011	2012
Canada				
Latin America				
Europe				
Africa / Middle East / CIS				
Asia / Pacific				
Total	10,385	13,420	19,742	22,811

Sales of Non-US Manufactured Product	2009	2010	2011	2012
Canada				
Latin America				
Europe				
Africa / Middle East / CIS				
Asia / Pacific				
Total	9,953	13,968	20,790	21,110

Total Sales Outside of the US	2009	2010	2011	2012
Canada				
Latin America				
Europe				
Africa / Middle East / CIS				
Asia / Pacific				
Total	20,338	27,388	40,532	43,921

**Redacted by the
Permanent Subcommittee on Investigations**

March 7, 2014

*** CONFIDENTIAL—CONTAINS PROPRIETARY INFORMATION***

Response of Caterpillar Inc. to Inquiry Relating to Treatment and Use of Offshore Funds

This document sets forth Caterpillar Inc.'s ("Caterpillar" or the "Company") response to the first question (first and third bullets) contained in the questionnaire dated February 4, 2014. The response for the second bullet will be provided as soon as this information is available.

Caterpillar requests confidential treatment of this response, as it contains Company confidential and proprietary information, the release of which would damage Caterpillar and potentially assist its competitors, particularly its non-U.S. competitors such as Komatsu, Hitachi, Sany, and Volvo.

Caterpillar's Responses to First Question (first and third bullets)

In its November 26, 2013 response, Caterpillar provided the worldwide total amount of CSARL purchases at standard costs for the years 2003-12.

- **What is the dollar amount of those purchases made from third-party suppliers located inside the United States for each of the years 2003-2012?**

The dollar amount of CSARL purchases from third-party suppliers located inside the United States, excluding the amount of flash title purchases sold to Caterpillar Inc., is set forth in the chart below for years 2007 – 2012. Detailed supplier data for years prior to 2007 is not available.

	CSARL External Purchases - US Suppliers excluding Flash Title Sales	
2012	\$	[REDACTED]
2011	\$	[REDACTED]
2010	\$	[REDACTED]
2009	\$	[REDACTED]
2008	\$	[REDACTED]
2007	\$	[REDACTED]

*** CONFIDENTIAL—CONTAINS PROPRIETARY INFORMATION***

Response of Caterpillar Inc. to Inquiry Relating to Treatment and Use of Offshore Funds

This document sets forth Caterpillar Inc.'s ("Caterpillar" or the "Company") response to a question from the Subcommittee related to inventory accommodations received via email on February 26, 2014. Caterpillar requests confidential treatment of this response, as it contains Company confidential and proprietary information, the release of which would damage Caterpillar and potentially assist its competitors, particularly its non-U.S. competitors such as Komatsu, Hitachi, Sany, and Volvo.

Caterpillar's Response to Accommodations Question

4. Provide a summary of the number and value of accommodations that occur between CSARL and Cat Inc. in the U.S. warehouses. To start, please provide this information for each year from 2008 to present from each entities' perspective; i.e. how much Caterpillar borrowed from CSARL and how much CSARL borrowed from Caterpillar.

- (a) Produce a summary total for each year.
- (b) Describe how these figures relate, if at all, to the information submitted to the Subcommittee on 2/11/14 in response to item 7.

(a) The quantity and dollar value of accommodations between Cat Inc. and CSARL for years 2008-2013 are set forth in the table below.

	Cat Inc		CSARL	
	Cat Inc obtained from CSARL	# of accommodations	CSARL obtained from Cat Inc	# of accommodations
2012	\$ [REDACTED]	277,794	\$ [REDACTED]	87,333
2012	\$ [REDACTED]	325,366	\$ [REDACTED]	95,036
2011	\$ [REDACTED]	204,665	\$ [REDACTED]	128,929
2010	\$ [REDACTED]	255,520	\$ [REDACTED]	148,967
2009	\$ [REDACTED]	234,766	\$ [REDACTED]	111,328
2008	\$ [REDACTED]	196,838	\$ [REDACTED]	118,227

[REDACTED] = Redacted by the Permanent Subcommittee on Investigations

(b) For accommodations that are not cleared by a subsequent receipt from Cat Inc. within a defined period, CSARL creates a sale or credit to Cat Inc. at cost. The accommodation sales were included in the item 7(d) response submitted to the Subcommittee on 2/11/14. For reference, the table is set forth below.

	CSARL Sales to Cat Inc. of Inventory Stored in a US Warehouse (sold @ Cat SARL standard cost)
2012	\$ [REDACTED]
2011	\$ [REDACTED]
2010	\$ [REDACTED]
2009	\$ [REDACTED]
2008	\$ [REDACTED]
2007	\$ [REDACTED]
2006	\$ [REDACTED]
2005	\$ [REDACTED]
2004	\$ [REDACTED]
2003	\$ [REDACTED]

[REDACTED] = Redacted by the Permanent Subcommittee on Investigations

CAT-0002265

LICENSE AGREEMENT

This LICENSE AGREEMENT ("Agreement") is made as of **January 1, 2011** (the "**Effective Date**"), by and between CATERPILLAR INC., a Delaware, U.S.A., corporation with its principal executive office at 100 N.E. Adams Street, Peoria, Illinois 61629, U.S.A. ("CAT"), and CATERPILLAR SARL, a société à responsabilité limitée organized under the laws of Switzerland, with its principal executive office at 76 Route de Frontenex, Geneva CH-1208, Switzerland ("CSARL").

N O W, T H E R E F O R E, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, CAT and CSARL (individually sometimes referred to as "Party" and collectively referred to as the "Parties") hereby agree as follows:

1. Definitions. The following are definitions of terms used herein:

1.1 "CAT Affiliate" means any Company that is controlled, directly or indirectly through one or more intermediate Companies, by CAT. For purposes of this definition, "control" of a Company means direct or indirect ownership of more than fifty percent (50%) of the voting interests of such Company.

1.2 "CBL" means Caterpillar Brasil Ltda., a Brazilian limited company and CAT Affiliate.

1.3 "CAT France" means Caterpillar France S.A.S., a French société par actions simplifiée and CAT Affiliate.

1.4 "CAT Belgium" means Caterpillar Belgium S.A., a Belgium société anonyme and CAT Affiliate.

1.5 "CSARL Technology Products" means those products for which CSARL owns the underlying intellectual property listed in Exhibit A of this Agreement.

1.6 "CSARL Territory" means everywhere in the world, not including the United States (excepted as provided in paragraph (a) of this Section 1.6) and Japan.

(a) with respect to sales of products sourced from entities which are operating under a manufacturing services arrangement with CSARL, the United States of America.

1.7 "CSARL Limited Risk Distributors" means Caterpillar SARL Singapore Branch, Caterpillar Americas C.V., and Caterpillar North America C.V.

1.8 "Company" means any corporation, company, partnership or other business entity.

1.9 "Discount Rate" means, the spot rate for the one- (1-) year LIBOR, plus twenty-five basis points (25 bp), on the date of prepayment of royalties under Section 4.3.

1.10 [Reserved]

1.11 "**Intellectual Property**" means (i) all intellectual property which is now or hereafter owned or licensable by CAT that relates to, and/or is necessary, useful or usable on or in connection with, the acquisition of, the inventory management of, the making, having made, purchasing, using, marketing, offering for sale, selling and/or importing of, Licensed Products and (ii) the portions of all intellectual property which are now or hereafter owned or licensable by CAT that are necessary, useful or usable as background technology or Trademarks relating to, or in connection with, the acquisition of, the inventory management of, the making, having made, purchasing, using, marketing, offering for sale, selling and/or importing of, CSARL Technology Products. Intellectual Property includes, but is not limited to, know-how, processes, designs, specifications, engineering standards, trade secrets, inventions, patent applications, patents, copyrights, Trademarks, however embodied (including tangible embodiments of such property, to be provided consistent with past practices of CAT), the Caterpillar Production System (CPS), customer lists, supplier lists, systems and software that relate to, and/or are necessary, useful or usable on or in connection with, the acquisition of, the inventory management of, the making, having made, purchasing, using, marketing, offering for sale, selling and/or importing of, Licensed Products and the portions thereof that are necessary, useful or usable as background technology or Trademarks relating to, or in connection with, the acquisition of, the inventory management of, the making, having made, purchasing, using, marketing, offering for sale, selling and/or importing of, CSARL Technology Products.

1.12 "**Licensed Products**" means products of the character of those in which CAT now or at any time hereafter does business, but excludes (i) CSARL Technology Products, (ii) any products for which CAT does not own or have rights to use the underlying intellectual property and (iii) components sold directly or indirectly to CAT.

1.13 "**Multilateral Netting Process**" means the monthly process whereby amounts owed among CAT and CAT Affiliates are netted to determine the amounts of receivable/payable and/or cash settlements, which are then cleared through CAT.

1.14 "**Net Sales**" means the total gross revenue recorded on sales by:

- (a) CSARL to
 - (i) Third Parties within the CSARL Territory, and
 - (ii) CAT Affiliates located outside of the CSARL Territory,
- of:
 - (1) Licensed Products, and
 - (2) CSARL Technology Products;
- (b) CBL on sales of prime product to Third Parties and/or CAT;

provided, however, that the following sales shall be excluded:

- (i) any Licensed Product and/or CSARL Technology Product that CSARL acquires from CAT or any other CAT Affiliate at a price that reflects that CSARL is acting solely as a distributor with respect to such Product, and
- (ii) any Licensed Product and/or CSARL Technology Product that CSARL acquires and resells under an arrangement that reflects that CSARL is acting solely as a purchasing agent with respect to such Product; and

provided, that adjustments shall be made to take into account the following items in total gross revenue:

- (i) trade, area and quantity discounts (including cash discounts), and
 - (ii) credits for returned items, and
 - (iii) excluding crating, packing, shipping, freight, insurance and the like; and
- (c) CSARL Limited Risk Distributors to Third Parties within the CSARL Territory.

1.15 Consistently applied CAT accounting practices shall define the time at which a sale shall be recorded. "Prepayment Amount" means, with respect to any prepayment of royalties under Section 4.3, an amount equal to the product of (x) Projected Monthly Net Sales, multiplied by (y) the number of months being prepaid, and multiplied by (z) the applicable royalty percentage under Section 4.1.

1.16 "Prepayment Discount" means, with respect to any prepayment of royalties under Section 4.3, an amount equal to the product of (x) the number of months being prepaid, multiplied by (y) the Prepayment Amount, multiplied by (z) the quotient of (i) the Discount Rate divided by (ii) twelve (12).

1.17 "Projected Monthly Net Sales" means a rolling average of Net Sales for the immediately preceding twelve- (12-) month period (excluding the current month) divided by twelve (12). For example, Projected Monthly Net Sales for a prepayment to be made in July would be an amount equal to aggregate Net Sales for the preceding July through June, divided by twelve (12).

1.18 "Third Party" means any person or Company other than CAT or a CAT Affiliate.

1.19 "Trademarks" means trademarks, service marks and trade names "CAT", "CATERPILLAR", "ACERT" and "Olympian", their respective design marks, and the power edge trade dress.

1.20 "**True-Up Amount**" means, for any calendar year, an amount representing the difference between (x) aggregate royalties for such calendar year calculated in accordance with Section 4.1, and (y) the sum of (i) the aggregate Prepayment Amount(s) for such calendar year actually remitted to CAT and (ii) the aggregate Prepayment Discount(s) for such calendar year with respect to such Prepayment Amount(s).

2. Licenses

2.1 Subject to the conditions and limitations now or hereafter imposed on CAT's right to make the grants contained herein, CAT hereby grants to CSARL nonexclusive rights and licenses to use the Intellectual Property to make, have made, purchase, use, market, offer for sale, sell and/or import (and to perform processes associated therewith) Licensed Products, and nonexclusive rights and licenses to use the portions of the Intellectual Property that are necessary, useful or usable as background technology or Trademarks to make, have made, purchase, use, market, offer for sale, sell and/or import (and to perform processes associated therewith) CSARL Technology Products, provided that the sale of such Licensed Products and CSARL Technology Products is limited to sales by (i) CSARL to CAT or to Third Parties and CAT Affiliates within the CSARL Territory, (ii) CSARL to CAT or any other CAT Affiliate for resale outside of the CSARL Territory, (iii) CSARL to any other CAT Affiliate for resale in the CSARL Territory, and (iv) CSARL to any CAT Affiliate for resale to CAT or any other CAT Affiliate for resale outside of the CSARL Territory.

2.2 Subject to the conditions and limitations now or hereafter imposed on CAT's right to make the grants contained herein, CAT hereby grants to CSARL nonexclusive rights and licenses to:

- (a) use "CAT" or "CATERPILLAR" as part of its company name,
- (b) copy, reproduce, publish (subject to Section 3.3), prepare derivative works, and use any and all works of authorship subject to any copyrights now or hereafter owned, acquired or licensable by CAT, and
- (c) use all other rights and licenses reasonably necessary for CSARL to exploit the rights and licenses specifically granted herein.

2.3 The licenses herein granted to CSARL shall not be construed to mean that CSARL has the sole or exclusive right to use any of the Intellectual Property, and CAT reserves to itself, other CAT Affiliates and its licensees the right to use any and all Intellectual Property throughout the world.

2.4 CSARL acknowledges the validity of the Trademarks licensed under this Agreement and further agrees that it will not at any time do anything or use any such Trademarks in any way that may infringe CAT's rights therein or that may be detrimental to the goodwill associated with the Trademarks or CAT.

2.5 CSARL shall not have any right to acquire the Intellectual Property after any stipulated period and shall not have and shall not represent in any way that it has any right, title or interest in or to any of the Intellectual Property or any of the registrations thereof other than as

provided for in this Agreement. All goodwill that may arise from CSARL's use of the Trademarks shall inure solely to the benefit of CAT, and neither during nor after termination of this Agreement shall CSARL or any sublicensee assert any claim to such goodwill.

3. Sublicensing, Use, Assignment and Supervision of Research Services

3.1 Except as specifically provided herein, CSARL shall not sublicense, convey, pledge, encumber or otherwise dispose of this Agreement or of any right or interest hereunder without the written consent of CAT referencing this Agreement. Any such prohibited act shall be invalid and void and, at Caterpillar's option, shall invalidate and immediately terminate this Agreement. Any assignment or transfer of this Agreement or any right or interest hereunder by operation of law shall immediately terminate and invalidate said Agreement and all rights granted hereby.

3.2 Subject to CAT's written approval and sole discretion, CSARL shall have the right to grant written sublicense(s) to CAT Affiliates, acting as a distributor, contract manufacturer, or otherwise, but without the right of such sublicensees to grant any further sublicense(s). Unless otherwise agreed to by the parties in writing, CSARL will, in the event a sublicense(s) is granted hereunder:

(a) cause the terms and conditions in this Agreement to be substantially included in each sublicense agreement, as well as in any distribution agreement or manufacturing services agreement, as may be appropriate in such case to protect CAT's rights in the Intellectual Property, subject to CAT or its designee retaining its right to (i) set quality standards, specifications and requirements with regard to quality, material standards and workmanship, (ii) inspect, (iii) test, and (iv) approve or disapprove Licensed Product(s) or other use of Intellectual Property; and

(b) provide a copy of any sublicenses or other agreements to CAT.

3.3 CSARL will maintain the Intellectual Property in confidence and use it only in accordance with the licenses granted herein. CSARL shall have no confidentiality obligation with respect to any information that, in the disclosed combination(s), is or becomes known to the public without fault of CSARL. CSARL may disclose Intellectual Property and provide technical assistance to another for the purpose of exploiting the licenses granted to CSARL hereunder; provided that CSARL or any authorized agent of CSARL shall obtain agreement in writing and ensure that such other person (i) uses the Intellectual Property and technical assistance only in accordance with the licenses granted herein, (ii) does not disclose such Intellectual Property or technical assistance to others, and (iii) secures the return of such Intellectual Property and related documents and items upon termination of this Agreement.

3.4 Subject to a right of reimbursement for costs, and except as otherwise agreed to by the parties in writing, CSARL shall assign to CAT any and all rights of CSARL to inventions and improvements developed by CSARL (by itself or jointly with others) during the life of this Agreement with respect to Intellectual Property related to Licensed Products or to any machine, equipment, method or process for manufacturing the Licensed Products. CSARL shall supply CAT with a written description of each such invention or improvement promptly after

developing or acquiring each thereof. CSARL shall also sign or have signed all papers that may be required by CAT for the filing of applications for patents for such inventions and improvements and to vest title in such inventions, improvements, patents and applications in CAT, provided that all such papers, applications and assignments shall be prepared, filed and recorded at the expense of CAT. In the event that during the life of this Agreement CSARL has the opportunity to acquire inventions and/or improvements with respect to Intellectual Property, Licensed Products or to any machine, equipment, method or process for manufacturing the Licensed Products, CSARL hereby grants CAT a right of first refusal to directly acquire such inventions and/or improvements, provided that CAT agrees that it shall exercise such right within fifteen (15) days of notice by CSARL.

3.5 Quality and Inspection

(a) CSARL shall conform strictly with the instructions and specifications supplied by CAT with respect to the use, form and manner in which Trademarks are used on or in connection with all products that use such Trademarks. CSARL shall use such Trademarks only on those products that have the qualities and characteristics that comply with such standards and requirements as may be fixed or approved by CAT.

(b) CAT, through such representatives as it may designate, shall have the right at all reasonable times to inspect and test all products that use the Trademarks before they are offered for sale and to inspect CSARL's places of business, the premises of CSARL's manufacturing service providers, and all records of products pertaining to this Agreement to verify CSARL's compliance with the requirements of this Agreement.

3.6 Trademarks used on or in connection with goods sold by CSARL shall be indicated to be registered trademarks of CAT used by the permission of CAT. All signs, circulars and other advertising published or used by CSARL displaying any such Trademark shall include wording specifying that such Trademark is registered and owned by CAT where appropriate.

3.7 CSARL shall comply with and observe all local laws and regulations with respect to marking or labeling trademarked items for all use made by it of the Trademarks licensed under this Agreement.

3.8 CSARL shall not take any steps or institute any action regarding actual or alleged infringement of any Intellectual Property without first obtaining CAT's written authorization.

3.9 Upon request from CAT and at CAT's expense, CSARL shall provide assistance to CAT in support of CAT's registration, maintenance, renewal and enforcement of the Intellectual Property. In furtherance of the registration, maintenance, renewal and enforcement of the Intellectual Property, CSARL may be required to furnish samples or evidence of use of the products that use Intellectual Property or provide testimony or affidavits concerning the use of such products or execute such other documents as may be necessary to ensure that all right, title and interest in the Intellectual Property reside in CAT.

3.10 At no time may CSARL adapt or use, without CAT's prior written consent, any variation of the Trademarks or any work or trademark or service mark likely to be similar to or confusingly similar to the Trademarks.

3.11 CAT France, CAT Belgium and/or CBL (and, where appropriate, other CAT Affiliates) will provide research and development and related engineering services for CAT pursuant to engineering services agreements with CAT. Intellectual Property arising as a result of such research and development and engineering services is licensed by CAT to CSARL under Section 2. Upon request by CAT, CSARL, as licensee of such Intellectual Property, agrees to provide supervision and oversight for CAT of the performance of such services by CAT France, CAT Belgium and/or CBL (and, where appropriate, other CAT Affiliates) under such engineering services agreements.

4. Consideration

4.1 Royalties. In consideration of the rights and licenses granted in Sections 2 and 3, CSARL hereby agrees to pay to CAT a royalty equal to the applicable percentage of Net Sales set forth below. With respect to any calendar year hereunder, where Net Sales are:

(a) less than or equal to US\$6,500,000,000, the applicable percentage for such calendar year shall be four percent (4%);

(b) greater than US\$6,500,000,000, but not greater than US\$9,000,000,000, the applicable percentage for such calendar year shall be five percent (5%); and

(c) greater than US\$9,000,000,000, the applicable percentage for such calendar year shall be six percent (6%).

4.2 Credit for Ownership of CSARL Technology Products. The royalty amount calculated under Section 4.1 shall be reduced by a credit equal to two percent (2%) of Net Sales during such period of CSARL Technology Products.

4.3 Prepayment of Royalties. So long as CSARL is not in breach of this Agreement, it shall have the option, but not the obligation, to prepay, at any time and from time to time, all or any portion of future royalties due hereunder. In such event, CSARL shall remit to CAT (i) a notice of prepayment detailing the calendar month(s) to which such prepayment applies, (ii) the Prepayment Amount less the Prepayment Discount, and (iii) supporting calculations made by CSARL in good faith. Notwithstanding the foregoing, prepayment of royalties shall not be allowed on a fractional month basis.

4.4 Annual Payment of True-Up Amount. Within thirty (30) days after the end of each fiscal year of CSARL (or any earlier termination of this Agreement), CSARL shall remit to CAT the True-Up Amount for such calendar year, along with supporting calculations made by CSARL in good faith. If the True-Up Amount for any calendar year is negative, CAT shall promptly remit to CSARL the True-Up Amount (as a positive number) for such calendar year. The obligations of the parties with respect to remittance of any True-Up Amount shall survive any termination of this Agreement.

5. Reports and Payments

5.1 CSARL shall (i) keep regular books of account and make such books available for inspection by an authorized representative of CAT at any time reasonably requested by CAT, (ii) upon the request of CAT, render reports to CAT or another as may be requested, and/or (iii) perform any other task related to reporting with respect to the manufacture, purchase and sale of products under the licenses granted to CSARL in Section 2 as may be reasonably requested by CAT from time to time.

5.2 On a monthly basis, CSARL shall in good faith calculate the royalty due to CAT as specified in Section 4.1. CSARL or its sublicensee, as provided for in Section 3.2, shall remit payments in full for the royalties specified in Section 4.1 on either a monthly or a quarterly basis, as agreed to by the parties, through the Multilateral Netting Process.

5.3 CSARL shall be responsible for all sales, use and other taxes or governmental fees that may be levied or assessed on any payments or other cash consideration to CAT under this Agreement, excluding only taxes based on CAT's net income. All payments required to be made to CAT under this Agreement shall be without deduction or withholding for or on account of any taxes or similar governmental charges, which taxes and governmental charges are referred to hereinafter collectively, and individually without distinction, as "Withholding Taxes" and are the sole responsibility of CSARL. To the extent any Withholding Taxes may be withheld from any payments or other cash consideration to CAT under this Agreement contrary to this subsection, CSARL shall promptly deliver to CAT official tax receipts or other certificates evidencing payment of such Withholding Taxes.

5.4 Payments shall be made in U.S. dollars unless otherwise agreed by the Parties.

6. Term, Termination and Nonrenewal

6.1 This Agreement shall continue in effect until January 1, 2016. Neither Party may terminate this Agreement without cause during the remaining term of this Agreement.

6.2 If at any time either Party breaches this Agreement, the non-breaching Party may, at its sole option, give notice of termination of this Agreement, which notice shall specify the Agreement provisions which are not being complied with and the failure on which such notice is based, and this Agreement shall then terminate on the expiration of one (1) month ("Cure Period") after such notice is given unless the Party in breach shall furnish evidence, prior to the end of the Cure Period, that the failure specified in such notice has been corrected and no longer exists.

6.3 Upon any termination of this Agreement for any reason:

(a) all sublicenses granted hereunder shall immediately terminate;

(b) CSARL (and its sublicensees) shall immediately cease all use of the rights licensed hereunder; provided, however, CSARL (and its sublicensees) shall be permitted to sell during the six- (6-) month period immediately following the expiration, provided that CSARL (and its sublicensees) comply(ies) with the relevant provisions of this

Agreement, its (or their) remaining inventory of products covered by this Agreement, if any, existing as of the date of expiration. CSARL (and its sublicensees) shall not produce or acquire an excessive number of such products in anticipation of expiration and selling the same during such six- (6-) month period. All of such sales shall be subject to all of the terms of this Agreement;

(c) CSARL shall as directed by CAT, promptly destroy or return to CAT all drawings, prints, designs, specifications, instructions and other documents comprising or relating to the Intellectual Property, together with all copies, summaries or abstracts thereof, and any other information or documentation furnished or delivered to CSARL under this Agreement. The obligation of CSARL shall not extend to information that is or becomes publicly available through no fault of CSARL, is in the possession of CSARL pursuant to another agreement between the Parties, or is obtained by CSARL from a Third Party who has the legal right to convey such information to CSARL; and

(d) CSARL shall promptly follow any direction of CAT concerning storage, shipment, disposal or return of raw material inventory.

7. Indemnification. CSARL shall indemnify, defend and hold harmless CAT, its subsidiaries and affiliates, its and their directors, officers and employees, from and against any and all claims, damages, costs and expenses of any nature with respect to (i) any use of Intellectual Property, (ii) any loss or damage to property, and/or (iii) any injury to or death of any person, arising out of or attributable to the manufacture or sale of products pursuant to the licenses granted under this Agreement. Such indemnification shall not extend to any claim, damages, costs and/or expenses of any nature with respect to any loss or damage to property, and/or any injury to or death of any person, arising out of or attributable to warranty claims or other obligations resulting from design defects directly attributable to Intellectual Property, but not to the extent resulting from modifications of Intellectual Property by CSARL or its transferees.

8. Disclaimers, Warranties, Protection of Intellectual Property and Limitation of Liability

8.1 Except as disclosed to CSARL, CAT has not received any notice or claim by a Third Party that materially affects CSARL's ability to exercise its rights under this Agreement.

8.2 Nothing in this Agreement shall be construed as a warranty or representation by CAT that anything made, used, offered for sale, sold, imported or otherwise disposed of pursuant to this Agreement is or will be free from infringement of the intellectual property rights of any Third Party.

8.3 CAT is not granting by implication, estoppel or otherwise any license or right under intellectual property or other intangible rights of CAT other than is required to market, make, have made, use, offer for sale, sell or import products as contemplated under this Agreement.

8.4 CSARL shall mark, and shall ensure that all products made by or for it pursuant to this Agreement are marked by manufacturers and suppliers with such legal notice of all Trademarks and copyrights which are subject to this Agreement as may be required, provided

for, or permitted by applicable laws and regulations. CSARL shall undertake any registrations of this Agreement, as required or appropriate, with the cooperation of CAT.

8.5 Upon written request by CAT furnished with reasonable advance notice, CSARL shall discontinue the manufacture of Licensed Products as CAT may designate as being obsolete or superseded, as soon as practicable following receipt of such written request or at such date in the future that CAT shall provide.

8.6 CAT is under no obligation to obtain any intellectual property right (such as by application or registration) or to maintain any such right in force.

8.7 CAT is under no obligation to bring or prosecute actions or suits against third parties for infringement.

8.8 Neither Party will be liable for any special, incidental, indirect, special or consequential damages (including, without limitation, lost profits or revenue), even if informed of the possibility thereof in advance.

8.9 In no event shall CAT be liable to CSARL or any sublicensee for any loss or damage in excess of the amount paid by CSARL or such sublicensee to CAT under this Agreement.

9. Notices. Notices hereunder shall be in writing and shall be: (i) delivered in person to the following addresses, as the case may be; (ii) sent by registered or certified mail, postage prepaid, return receipt requested addressed to the following, as the case may be; (iii) sent by facsimile to the following, as the case may be, and confirmed by the sender by mail as provided above; or (iv) sent by guaranteed overnight courier to the following, as the case may be.

To CAT:

Caterpillar Inc.
100 N.E. Adams St.
Peoria, IL 61629-7310
Attn: General Counsel
Phone: (309) 675-4428
Facsimile: (309) 675-6886

To CSARL:

Caterpillar SARL
76 Route de Frontenex
P.O. Box 6000
CH-1211 Geneva 6, Switzerland
Attn: Vice President
Phone: (41) 22849-4203
Facsimile: (41) 22849-4982

With copy to:

Caterpillar Inc.
100 N.E. Adams Street
Peoria, Illinois 61629-9510
Attn: General IP Counsel
Phone: (309) 675-5081
Facsimile: (309) 675-1236

With copy to:

Caterpillar S.A.R.L.
76 Route de Frontenex
P.O. Box 6000
CH-1211 Geneva 6, Switzerland
Attn: General Counsel
Phone: (41) 22849-4204
Facsimile: (41) 22849-4982

Such notices shall be effective, as appropriate, when: personally delivered; deposited with either the U.S. Postal Service or Swiss Postal Service; sent by facsimile; or sent by courier service. Each Party may change any of its addresses specified herein by providing notice thereof in accordance with this Agreement.

10. Provisions Surviving Termination of this Agreement. No termination of this Agreement shall relieve CSARL of any liability or obligation accrued, or arising from facts or events occurring, under this Agreement prior to such termination and, without limiting the generality of the foregoing, Sections 3, 4, 5, 7 and 8, and all others which by their own terms survive termination, shall survive such termination and continue in full force and effect with respect to such liability or obligation.

11. No Waiver. Any failure of either Party to enforce at any time any of the provisions of this Agreement or any rights or remedies with respect thereto or to exercise any election herein provided shall not constitute a waiver of any such provision, right, remedy or election or in any way affect the validity thereof or of this Agreement. The exercise by either Party of any of its rights, remedies or elections under the terms of this Agreement shall not preclude or prejudice such Party's rights to exercise at any other time the same or other right, remedy or election it may have under this Agreement. The rights of termination provided herein are in addition to any other right, remedy or election either Party may have hereunder, including the right to sue for breach without terminating.

12. No Agency. Nothing contained herein nor anything done by either Party performing under this Agreement shall be deemed to constitute either Party the agent of the other in any sense.

13. Export Control Regulations. CSARL agrees that it will not, contrary to U.S. export control regulations, re-export, directly or indirectly, any technical data furnished to it pursuant to this Agreement, or export, directly or indirectly, any direct product of any such technical data. As used herein, the phrase "technical data" means professional, scientific or technical information, written or oral, including any model, design, photograph, photographic film, document or other article or material, containing a plan, specification, or descriptive or technical information of any kind which can be used or adapted for use in connection with any process, synthesis, or operation in the production, manufacture, utilization, or reconstruction of articles or materials. As used herein, the phrase "direct product" means the immediate product (including processes and services) produced directly by use of the technical data.


14. Entire Agreement. This Agreement constitutes the entire agreement and understanding between the parties hereto pertaining to the licenses granted herein, and no term or provision of this Agreement shall be varied or modified by any prior or subsequent statement, conduct or act of either of the parties, except that hereafter the parties may amend this Agreement by written instrument specifically referring to this Agreement and executed by an authorized representative of each Party.

15. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Illinois, U.S.A., without regard to the principles of conflicts of law.

16. Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be an original, with the same effect as if the signatures thereto and hereto were upon the same instrument.

IN WITNESS WHEREOF, the parties hereto have signed this Agreement on the date(s) herein noted below and shall be effective as of the Effective Date first set forth above.

CAT
CATERPILLAR INC.

By: 

Name: James B. Buda

Title: Sr. VP and Chief Legal Officer

CSARL
CATERPILLAR SARE

By: 

Name: Thomas Zihlmann

Title: Gérant (Managing Director)



EXHIBIT A

LIST OF CSARL TECHNOLOGY PRODUCTS

- 1) Skid Steer Loaders
- 2) Compact Wheel Loaders
- 3) Hydraulic Excavators (including mini-hydraulic excavators)
- 4) Articulated Trucks
- 5) Reciprocating Natural Gas G340-16 Model Engines
- 6) WECO Drag-Line Buckets

CB

FIFTH AMENDED AND RESTATED SERVICES AGREEMENT

This FIFTH AMENDED AND RESTATED SERVICES AGREEMENT (the "Agreement"), except as otherwise provided herein, is effective as of September 1, 1999 (the "Effective Date"), and amends and restates the Services Agreement originally effective as of September 1, 1999, by and between Caterpillar Inc., a corporation established and existing under the laws of the State of Delaware (U.S.A.) ("CATERPILLAR"), and Caterpillar S.A.R.L., a société à responsabilité limitée organized under the laws of Switzerland ("CAT SARL"), as amended and restated from time to time by the parties.

WHEREAS, CAT SARL makes or has made, markets and sells heavy, earth moving machinery and other equipment outside of the United States and sells a variety of replacement parts for such equipment outside of the United States;

WHEREAS, CAT SARL desires to engage CATERPILLAR to provide the Services described in Section 1 and Schedule 1 to this Agreement on behalf of CAT SARL (or its Subsidiaries, when applicable); and

WHEREAS, CATERPILLAR can provide, directly or through agreements with other companies, the Services described in Section 1 and Schedule 1 to this Agreement.

NOW, THEREFORE, in consideration of the promises, covenants and agreements hereinafter contained and other valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto, intending to be legally bound, hereby agree as follows:

1. Services to be Provided. During the term of this Agreement, CATERPILLAR will provide, or will cause to be provided, to CAT SARL (or its Subsidiaries, when applicable) those services that are set forth on Schedule 1 to this Agreement, which may be amended by the parties from time to time (the "Services").
2. Definitions.
 - 2.1. Multilateral Netting Process. Multilateral Netting Process means the monthly process whereby all amounts owed among CATERPILLAR and its subsidiaries are netted to determine the amounts of receivable/payable and/or cash settlements which are then cleared through CATERPILLAR.

2.2. Subsidiary. Subsidiary means any separately organized legal entity that is directly or indirectly wholly-owned by CAT S.A.R.L. and is disregarded as an entity separate from its sole owner. CAT S.A.R.L. for U.S. federal income tax purposes and effective as of July 3, 2000 shall include Caterpillar of Australia Pty. Ltd., a company organized under the laws of the State of Victoria, Australia, having a place of business at 1 Caterpillar Drive, Tullamarine, Victoria 3043, Australia, regardless of whether Caterpillar of Australia Pty. Ltd. is directly or indirectly owned by CAT S.A.R.L.

3. Duties and Responsibilities.

3.1. Territory. The parties agree that CATERPILLAR shall provide the Services to CAT S.A.R.L. (or its Subsidiaries, when applicable) with respect to the territory set forth on Schedule 2 to this Agreement, which may be amended by the parties from time to time (the "Territory").

3.2. Quality Standards. CATERPILLAR shall provide the Services with reasonable care and agrees that it shall provide the Services so as to preserve the goodwill and good reputation associated with the products of CAT S.A.R.L. and its subsidiaries. CATERPILLAR agrees to comply with all applicable laws and regulations, and to obtain all necessary or appropriate regulatory approvals, related to providing the Services in accordance with this Agreement.

3.3. Compliance With Laws. CAT S.A.R.L. shall at all times cooperate with CATERPILLAR's compliance with all applicable laws and regulations, and with its obtaining all necessary or appropriate regulatory approvals, related to providing the Services in accordance with this Agreement.

4. Consideration. CAT S.A.R.L. shall pay to CATERPILLAR a service fee (the "Service Fee") calculated in accordance with the rate set forth on Schedule 3 to this Agreement for Services performed by CATERPILLAR pursuant to this Agreement.

5. Relationship of the Parties. In all matters governed by this Agreement, each party hereto shall be solely responsible for the acts of its employees, and the employees of one party shall not be considered employees of the other party. Except as otherwise provided herein, no party shall have any right, power, or authority to create any obligation, express or implied, on behalf of any other party with respect to the matters governed by this Agreement. It is the intent of the parties hereto that CATERPILLAR shall act as an independent contractor in providing the Services pursuant to this Agreement. Nothing in this Agreement is intended to create or constitute a joint venture, partnership, or agency relationship between the parties hereto or the persons referred to herein, and CATERPILLAR shall have no power to obligate or bind CAT S.A.R.L. in any manner whatsoever with respect to the matters governed by this Agreement.

6. Reports and Payments.

6.1. Reports. CAT S.A.R.L. shall keep regular books of account, make such books

available for inspection by an authorized representative of CATERPILLAR at any time requested by CATERPILLAR, provide CATERPILLAR with the necessary information to calculate the Service Fee, render reports to CATERPILLAR or another as may be requested, and/or perform any other task related to reporting with respect to the Services.

- 6.2. Payments. On a monthly basis, CATERPILLAR shall, in good faith, calculate the Service Fees due from CAT SARM as specified in Schedule 3 hereof from information provided by CAT SARM. CAT SARM shall remit payments in full for the Service Fees due hereof on a monthly or quarterly basis, as agreed to by the parties, through the Multilateral Netting Process or as otherwise directed by CATERPILLAR.
7. Indemnification. CAT SARM agrees to defend, indemnify, and hold CATERPILLAR harmless against any claims, demands, causes of action and judgments (individually and together a "Loss") arising out of CAT SARM's (or its Subsidiaries') actions or failures to act with respect to the sale, distribution, advertising, or promotion of products or with respect to providing Services under this Agreement, except to the extent such Loss arises as a result of CATERPILLAR's breach of its duties under the Section hereof entitled "Duties and Responsibilities."
8. Term and Termination.
 - 8.1. Term. The initial term of this Agreement shall be three (3) years from September 1, 1999. Unless notice is provided at least ninety (90) days from the end of the initial term, this Agreement shall automatically renew for successive terms of one year thereafter. Following the initial term, either party may terminate this Agreement upon ninety (90) days notice, which shall be given and shall be effective on the date provided in the Section hereof entitled "Notices."
 - 8.2. Termination. If, at any time, either party breaches this Agreement, the other party may, at its sole option, give notice of termination of this Agreement, which notice shall specify the Agreement provision(s) which is/are not being complied with and the failure on which such notice is based. This Agreement shall then terminate on the expiration of one (1) month ("Cure Period") after such notice is given unless the party in breach shall furnish evidence satisfactory to the other party, prior to the end of the Cure Period, that the failure specified in such notice has been corrected and no longer exists.
9. Provisions Surviving Termination of this Agreement. Termination of this Agreement shall not relieve CAT SARM of any liability or obligation accrued under this Agreement prior to such termination and, without limiting the generality of the foregoing, the Sections entitled "Indemnification" and "Provisions Surviving Termination of this Agreement" and the obligation to maintain Intellectual Property in confidence shall survive such termination and continue in full force and effect.

10. Confidentiality. From time to time prior to and during the term of this Agreement, either party ("X") has disclosed or may disclose confidential and proprietary information to the other party ("Y"). This information shall be kept strictly confidential by Y during the term of this Agreement and at all times thereafter, and shall be used solely for its own benefit in connection with providing the Services. Y shall not disclose any confidential information to any person or entity, except to its employees, agents, attorneys, accountants and other advisors who need to know such information to perform the Services or satisfy the duties and obligations hereunder.
11. Assignment. CAT SARL shall not convey, pledge, encumber or otherwise dispose of this Agreement or of any right or interest hereunder without the prior written consent of CATERPILLAR referencing this Agreement. Any such prohibited act shall be invalid and void and, at CATERPILLAR's option, shall invalidate and immediately terminate this Agreement. Any assignment or transfer of this Agreement or any right or interest hereunder by operation of law shall immediately terminate and invalidate this Agreement and all rights granted hereby.
12. Applicable Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Illinois, U.S.A., without reference to the choice of law principles thereof.
13. Information. CAT SARL shall provide, upon the request of CATERPILLAR, any information requested by CATERPILLAR that will enable CATERPILLAR to determine or verify the amount of any payment due hereunder by CAT SARL.
14. Waiver and Modification. Any failure of either party to enforce at any time any of the provisions of this Agreement, or any rights or remedies with respect thereto, or to exercise any election herein provided shall not constitute a waiver of any such provision, right, remedy or election or in any way affect the validity thereof or of this Agreement. The exercise by either party of any of its rights, remedies or elections under the terms of this Agreement shall not preclude or prejudice such party's rights to exercise at any other time the same or other right, remedy or election it may have under this Agreement. The rights of termination provided herein are in addition to any other right, remedy or election that either party may have hereunder, including the right to sue for breach without termination.
15. Severability. In the event that any term or provision of this Agreement shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other term or provision, and this Agreement shall be interpreted and construed as if such term or provision, to the extent the same shall have been held invalid, illegal or unenforceable, had never been contained herein.
16. Integration.
 - 16.1. This Agreement constitutes the entire agreement and understanding between the parties hereto pertaining to the Services provided hereunder and no term or provision

of this Agreement shall be varied or modified by any prior or subsequent statement, conduct or act of either of the parties; except that, hereafter the parties may amend this Agreement by written instrument specifically referring to this Agreement and executed by an authorized representative of each party. Corrections, referred to below, reflect the intent of the parties from the inception of the Services Agreement which was effective September 1, 1999.

16.2. The First Amended And Restated Services Agreement: expanded the definition of "Territory" to include that associated with CAT SARL's Singapore branch.

16.3. The Second Amended And Restated Services Agreement:

16.3.1. corrected the language of the Agreement to clearly reflect the parties' intent (a) to true the monthly Service Fee up to actual costs plus 5%; (b) that the Services Agreement was first effective September 1, 1999 and was not amended by the Second Amendment of Agreements executed by and between the parties effective as of September 29, 1999; and (c) that the Service Agreement applies to all finished replacement parts transferred and/or sold by CATERPILLAR to CAT SARL at acquisition cost plus uplifts;

16.3.2. expanded the definition of "Territory" to include that associated with Caterpillar of Australia Ltd. effective as of July 3, 2000; and

16.3.3 expanded the Agreement to include references to sales by Disregarded Entity Subsidiaries effective as of July 3, 2000.

16.4 The Amendment to the Second Amended And Restated Services Agreement:

16.4.1 removed from the definition of "Applicable Goods" purchased finished replacement parts that are purchased by CAT SARL from CATERPILLAR when such are acquired at CATERPILLAR's acquisition cost plus uplifts and corrected the definition of "Applicable Goods" with reference to the suppliers managed under the European Centralized Inventory Control system, whether related or unrelated; and

16.4.2. in connection with 16.4.1 removed from the definition of "Costs" the language "exclusive of CATERPILLAR's costs of performing Services associated with goods sold to CAT SARL by CATERPILLAR or a Related Party at an intercompany (arm's length) price" as (a) an adjustment in that the Agreement no longer applies to services associated with purchased finished replacement parts that are purchased by CAT SARL from CATERPILLAR and (b) as a correction in that the cost basis includes services associated with purchased finished replacement parts acquired from suppliers managed under the European Centralized Inventory Control system, whether related or unrelated.

16.5. The Third Amended And Restated Services Agreement:

- 16.5.1. corrected the references to Disregarded Entity Subsidiaries;
 - 16.5.2. expanded the definition of Territory to include the Caribbean, Central America, Mexico and South America effective as of December 1, 2001;
 - 16.5.3. expanded the Services to be provided as set forth in Schedule 1; and
 - 16.5.4. amended the definition of "Applicable Goods" as set forth in Schedule 3.
- 16.6. The Fourth Amended and Restated Services Agreement expanded the definition of the Territory to include Canada, effective as of August 30, 2002.
- 16.7. This Fifth Amended and Restated Services Agreement:
- 16.7.1. clarifies the definition of Subsidiary as it relates to Caterpillar of Australia Pty. Ltd.; and
 - 16.7.2. expands the definition of the Territory to include: the People's Republic of China, Hong Kong; and the Republic of China (Taiwan).
17. Notices. All notices, requests, demands and other communications hereunder shall be in writing and shall be sent by facsimile or by registered or certified mail, postage prepaid, to CAT S.A.R.L. and CATERPILLAR at the addresses specified below:

If to CAT S.A.R.L.:

Caterpillar S.A.R.L.
76, Route de Frontenex
1211, Geneva, Switzerland
Attn: Legal Department
Phone: (41 22) 849-4203
Facsimile: (41 22) 849-4982

If to CATERPILLAR:

Caterpillar Inc.
100 N.E. Adams Street
Peoria, Illinois 61629-9600
United States of America
Attn: General Counsel
Phone: (309) 675-4452
Facsimile: (309) 675-6886.

18. Headings. The section headings contained in this Agreement are for reference purposes only and shall not effect in any way the meaning or interpretation of this Agreement.
19. Authority to Enter into Agreement. Each party warrants and represents that it has the full power and authority to undertake the obligations set forth in this Agreement.

20. Counterparts. This Agreement may be executed in multiple counterparts, each of which will be deemed an original, but all of which constitute one instrument.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement to be effective as of the Effective Date except as otherwise provided herein.

CATERPILLAR INC.

By: _____

Title: _____

CATERPILLAR S.A.R.L.

By: Chal B. [Signature]

Title: Assistant Secretary

20. Counterparts. This Agreement may be executed in multiple counterparts, each of which will be deemed an original, but all of which constitute one instrument.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement to be effective as of the Effective Date except as otherwise provided herein.

CATERPILLAR INC.

By: *Steven Wilson*

Title: *President*

CATERPILLAR S.A.R.L.

By: _____

Title: _____

FIFTH AMENDED AND RESTATED SERVICES AGREEMENT

Schedule of Services to be Provided by CATERPILLAR

For purposes of this schedule references to CATERPILLAR shall include CATERPILLAR and any of its Subsidiaries. The Services provided by CATERPILLAR shall include, but not be limited to:

1. Creation, translation, and dissemination of service manuals, service literature, and other materials for replacement parts;
2. Inventory availability management;
3. Providing parts customer service to dealers (i.e., dealer order inquiries, dealer order expediting);
4. Providing parts pricing determinations;
5. Processing of dealer parts returns;
6. Human resources assistance;
7. Maintenance and support with respect to information systems;
8. Marketing consulting (i.e., creation and support of dealer marketing programs);
9. Strategic planning; and
10. Accounting services.

And, effective December 1, 2001, shall also include the following Services pertaining to CAT SARRL inventory in U.S. warehouses:

11. Manage and monitor inventory levels worldwide and perform expediting services;
12. Arrange for transportation of CAT SARRL goods;
13. General warehousing services and facilities for such; and
14. Inventory management services at U.S. warehouses.

FIFTH AMENDED AND RESTATED SERVICES AGREEMENT

Territory

For the purposes of this Agreement, "Territory" means Western Europe, Eastern Europe, Africa, the Middle East, the Commonwealth of Independent States, the Nordic Countries, Russia and Near Asia; and effective as of December 1, 1999 includes the following territories that are associated with CAT SARL's Singapore branch: India, Bangladesh, Korea, Lao PDR, Cambodia, Thailand, Philippines, Myanmar, Indonesia, Bhutan, Nepal, Malaysia, Singapore, Sri Lanka, Vietnam, and Mongolia; and effective as of July 3, 2000 includes, the following territories: Australia; Fiji Islands; New Caledonia; New Zealand; Papua New Guinea; Samoa, American; Solomon Islands; Tahiti and Tonga; and effective as of December 1, 2001 the following territories that are associated with Caterpillar Americas S.A.R.L.: the Caribbean, Central America, Mexico and South America; and effective August 30, 2002 includes Canada, and effective January 1, 2003, includes: the People's Republic of China, Hong Kong, and the Republic of China (Taiwan).

FIFTH AMENDED AND RESTATED SERVICES AGREEMENT

Service Fee

Beginning September 1, 2000 and for the remaining term of this Agreement unless otherwise agreed by the parties, CATERPILLAR shall charge CAT SARL for Services rendered a Service Fee as a percentage of Net Sales (as defined below) of the Applicable Goods (defined below) sold by CAT SARL (or any of its Subsidiaries, when applicable) in the Territory as set forth in Schedule 2 and established by the parties from time to time.

"Applicable Goods" are those purchased finished replacement parts that are purchased by CAT SARL (or its Subsidiaries, when applicable) from (1) Third Party U.S. suppliers; (2) suppliers managed under the European Centralized Inventory Control system, whether related or unrelated; (3) effective January 1, 2001, Shin Caterpillar Mitsubishi Ltd.; and (4) effective June 11, 2001, Third Party suppliers located outside of the U.S. when such directly ship to locations within the Territory; and that are sold by CAT SARL (or its Subsidiaries, when applicable) to Third Parties.

"Third Parties" shall mean anyone other than CATERPILLAR or any company that is controlled, directly or indirectly through one or more intermediate Companies, by CATERPILLAR. For purposes of this definition, "control" of a company means the power, direct or indirect, to direct or cause the direction of the management and policies of such company whether by contract or otherwise; and, in any event, ownership of more than 50% of the voting interests of another company shall be deemed control of that company.

"Net Sales" shall mean the total gross sales of CAT SARL (or any of its Subsidiaries, when applicable) of Applicable Goods made in the Territory, less, to the extent that they are included in the gross sales, any returns.

At the end of each year, CATERPILLAR shall determine the total of CATERPILLAR's fully burdened (i.e., including overhead) costs incurred by CATERPILLAR with respect to the Services provided by CATERPILLAR under this Agreement. If the total of the costs plus 5% for the calendar year is greater or less than the amounts charged for such year under the first sentence of this Schedule 3, the Service Fee shall be adjusted and, if greater, CAT SARL shall pay CATERPILLAR the difference and, if less, CATERPILLAR shall refund CAT SARL the difference. This adjustment shall be made during the Multilateral Netting Process as soon as possible thereafter and payable in the subsequent year.

Chuck

I. What intangible property will be transferred from Cat Inc. to COSARL under the replacement parts license?

Cat Inc. ("Cat") will grant a license to COSARL to make, use and sell Cat replacement parts to COSA's dealers. The license will include the right to sell the products under Cat trademarks.

Reg. section 1.482-4(b) (Definition of Intangible) describes an intangible as an asset that has substantial value independent of the services of any individual and that comprises any item in a specified list (Reg. section 1.482-4(b)(1)-(6)). Scanning the list, it appears that the following items are relevant to the replacement parts license: Patents, designs, trademarks, contracts, systems, procedures, know-how, methods, forecasts, estimates, and technical data.

- Patents and designs: Many of the parts incorporate patented or otherwise proprietary features or designs. Cat will make available to COSARL all such information as needed by COSARL to make, or have made for it, the licensed parts.
- Trademark: The licensed parts will be sold under the Cat trademark. Many parts have the trademark stamped on them, and the packaging will be labeled with the trademark.
- Contracts: COSARL will have the right to buy direct from suppliers that Cat has already qualified and negotiated prices and other terms with, and who are up and running as Cat parts suppliers.
- Systems and procedures: COSARL will have access to the Cat-proprietary LogNet information system for ordering parts from purchased-finished suppliers. COSARL also uses the Cat-proprietary Distribution Requirements Planning (DRP) software for materials control planning at Grimbergin.
- Know-how, methods, forecasts, estimates and technical data: Cat will make available to COSARL [Does Cat license this technology to COSARL? Or, does Cat use this technology in the context of it rendering services to COSARL?]

part of p+ss service? intang.?

preference for license

II. Best method selection for determining an arm's length royalty for the replacement parts license

The specified methods for transfers of intangibles are:

- CUT
- CPM
- Profit Split

Primary criteria for choosing the best method are:

- Degree of comparability between tested party or transaction and available comparable uncontrolled companies or transactions, and
- Quality of the data and assumptions used in the analysis.

With respect to activities performed in connection with the replacement parts license, the following is an abbreviated list of factors that could affect comparability of Cat, COSARL or the license with uncontrolled companies or transactions.

1. Functions:

A listing of functions performed should include consideration of resources employed by the company in performing a particular function, such as working capital, fixed assets or intangible assets.

The following table is where we need to end up. Either COSARL performs the functions directly, or COSARL hires Cat to perform the services for it. Either way, COSARL is attributed with performing the services (as long as the service fee is arm's length and, in particular, compensates Cat for Cat's use of any valuable intangibles, such as systems or data bases, in connection with rendering the services to COSARL).

<u>Function</u>	<u>Cat</u>	<u>COSARL</u>	<u>Other</u>
R&D	X		
Product Design/Engineering	X		
Manufacturing engineering	X		X
Product fabrication	X(worked)		X(P/F)
Purchasing		X	
Materials management		X	
Marketing & Distribution:			
Inventory management		X	
Warranty administration		X	
Advertising		X	
Dealer Management		X	
Transportation and warehousing		X	
Legal		X	
Credit and collection		X	
Accounting & Finance		X	
HR		X	

In performing its marketing and distribution function (for original equipment as well as for parts), COSARL brings significant intangible resources to bear, namely the "dealer network".

2. Risks:

This table shows where we should end up. We need to bear in mind the provisions in Reg. section 1.482-1(d)(3)(iii)(B) on the identification of the party that bears a particular risk. There are three criteria: conduct consistent with purported risk bearing; financial capacity to fund losses that could result from bearing the risk; and having managerial control over the business activities that pertain to the risk factor.

	<u>Cat</u>	<u>COSARL</u>	<u>Other</u>
Market Risks (fluctuations in costs, pricing, inventory levels)		X	
R&D Risk (i.e., risk that R&D spending will be wasted)	X		
Financial Risk (FX)		X	
Credit Risk		X	
Product Liability Risk		X	
General business risk		X	

We need to take a position on the "aggregation of transactions" provisions of Reg. section 1.482-1(f)(2)(i). That is, do we test the replacement parts royalty and the tangible property transfer prices jointly, or separately? An important consideration in this regard is the degree to which the two categories of transactions are interrelated. If they are highly interrelated, then the most reliable methodology could be to test the transactions in an aggregated format. See Example 4 of this regulation.

If we use a CPM and an aggregated test format, then the comparables should be a blended sample of distributors (for COSARL's resale business) and manufacturers (for COSARL's licensed replacement parts business).

If we separately test the parts royalty and COSARL's resale business, then we could use a CPM on the latter and (1) CPM or (2) CUT or (3) profit split on the former.

Under an aggregated format, an alternative to the CPM is profit split. Here, we would argue that COSARL's intangibles differentiate it from CPM comparables to such an extent that CPM is not best method. We need to order and read the Annual Reports for the European distributor comparables -- especially the "high intangible / dealer network" ones -- and learn as much as we can about their distribution channels to see if COSARL really is that different. Another way of exploring this would be to compute a measure of SG&A intensity, as a proxy for COSARL's investment in its dealers. Then, compare COSA to the comparables. Maybe SG&A as ratio of gross profit (?)

Under the (residual) profit split approach, we would need:

- Indicators of Cat and COSARL's respective contributions to the combined operating profit of equipment and parts sales in COSA territory. In particular, measures of each

party's relative contribution of intangible property to the relevant business activity are needed, such as market data on fair market value, or indirect measures such as the capitalized cost of developing the intangibles (less an appropriate amount of amortization based on the useful life of each intangible).

To do this, we'll need intangible development costs for Cat ((R&D? and something for the trademark(?)) and COSARL (dealer development costs).

Recommendation:

- CPM under aggregation of transactions format to determine royalty rate
- Supplement by a residual profit split analysis, again under an aggregation of transactions format
- Use one royalty rate for all licensed replacement parts
- Supplemental test / test of reasonableness of royalty through CUT and Sundstrand.

"To Do" List

Amadeus, industry reports,
web sites, other databases

- me { 1. Review Annual Report of each European comparable distributor for detailed description of its distribution network; compare and contrast this with COSARL's
- Denise } 2. Compile refined sample of European distributors comparables
- 3. Compile refined sample of European "licensee" (i.e., manufacturer) comparables
- 4. Get COSA balance sheets for last 3 years in order to make asset adjustments to the PLIs
- Chuck/Brent 5. Define and get COSA "dealer development costs" for past 3 years (for residual profit split).
- Chuck 6. Define and get Cat "intangible development costs" for past 3 years (for residual profit split).
- 7. Conduct more P&SS interviews to ascertain 1) if DBS, Antares, DRP and LogNet are really "transferred" to COSARL, or just used by Cat as it performs services to COSARL, and 2) catalog all the services that Cat will be performing for COSARL in connection with COSARL's replacement parts business, and find out how P&SS accountants allocate such costs to COSARL
- ML 8. Determine and compute a measure of "SG&A intensity" for COSA and the distributor comparables to see if there is quantifiable evidence that COSA spends more on distribution channel management than the comparable distributors.
- me 9. Refine Gene's CUT sample into the best group (i.e., eliminate commission agents and obvious non-parts agreements, etc.)
- me 10. Summarize Sundstrand into a one-page piece that discussed the relevance of that case to the COSARL licensed replacement parts situation.
- 11. Think about other mktg co's
Cat Africa excluded

Mktg - GET

6/24/99
per Tom: license would not include U.S. worked
P&SS - for worked parts, transfer at std cost to COSARL

- ex. Honda supply, CUTS from Filtech, etc. kmh
- 12. check warranty - i/c provisions v. 3rd party ; licensees, suppliers liability for design flaws at Cat Inc.? Cat std supply agreement
- 13. identifying "parts system" development costs at P&SS
- 14. expanding model to whole world