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**Committee of Experts on International Cooperation  
in Tax Matters**

**Eighth Session**

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Item 3 (b) of the provisional agenda:

**Practical Manual on Transfer Pricing**

**PRACTICAL MANUAL ON TRANSFER PRICING FOR DEVELOPING COUNTRIES**

*Summary*

**The Subcommittee on Transfer Pricing – Practical Issues** was constituted by the Committee of Experts on International Cooperation in Tax Matters at its annual session in 2009. The Subcommittee was mandated to develop a practical manual on transfer pricing, based on the following principles:

- (a) It should reflect the operation of article 9 of the United Nations Model Convention, and the arm's-length principle embodied in it, and be consistent with relevant commentaries of the United Nations Model Convention;
- (b) It should reflect the realities for developing countries at the relevant stages of their capacity development;
- (c) Special attention should be paid to the experience of other developing countries;
- (d) It should draw upon the work being done in other forums.

This short note represents a final report by the Coordinator of the Subcommittee, Mr Stig Sollund, as requested by the Committee at its 2011 annual session. It accompanies the draft Manual prepared by the Subcommittee which is available at <http://www.un.org/esa/ffd/tax/eighthsession/index.htm>, and which is for consideration by the Committee at this annual session.

## **PRACTICAL MANUAL ON TRANSFER PRICING FOR DEVELOPING COUNTRIES**

### **Preface**

1. The Subcommittee on Transfer Pricing – Practical Issues (“the Subcommittee”) was constituted by the Committee of Experts on International Cooperation in Tax Matters (“the Committee”) at its annual session in 2009 and was mandated to:

“develop a practical manual on transfer pricing, based on the following principles:

- a) That it reflects the operation of Article 9 of the United Nations Model Convention, and the Arm’s Length Principle embodied in it, and is consistent with relevant Commentaries of the U.N. Model.
- b) That it reflects the realities for developing countries, at their relevant stages of capacity development.
- c) That special attention should be paid to the experience of other developing countries.
- d) That it draws upon the work being done in other fora.”

2. The Subcommittee was requested by the Committee to present a complete draft manual for adoption to the eighth annual session in 2012<sup>1</sup>. The Subcommittee mandate was then reconfirmed at the seventh annual session of the Committee in 2011<sup>2</sup>.

3. The Subcommittee has been by far the largest in the Committee’s history and has benefitted greatly from the breadth and depth of experience of the Members. It has met regularly and has worked diligently between meetings to meet its very ambitious mandate. The task of providing a simplified and coherent guide to developing countries on practical transfer pricing has nevertheless proven a great challenge, and the Manual as it stands remains an important, though necessarily imperfect, response to these issues for developing countries. It is conceived of as a living work, however, which will be improved and added to over time by drawing upon further experiences and expertise.

### **History of the Subcommittee’s work**

4. The Subcommittee first met in Kuala Lumpur, Malaysia on 16-17 June 2010, a meeting which was hosted by the Inland Revenue Board of Malaysia. It then met in New Delhi, India,

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<sup>1</sup> The completion date was extended at the 2010 annual session from 2011 to 2012.

<sup>2</sup> E/2011/45 at paragraph 42.

from 2 to 4 February, 2011, hosted by the Indian Ministry of Finance. The Subcommittee met again from 27 to 29 September 2011 in Tokyo, Japan, this time hosted by the Ministry of Finance of Japan, and from 14 to 16 February 2012 in Johannesburg, South Africa, hosted by the South African Revenue Service.

5. The Final Meeting was held in Shanghai, People's Republic of China from 14 to 16 June 2012. It was hosted by the State Administration of Taxation. Since the Shanghai meeting, a great deal of effort has been made to integrate the perspectives of Subcommittee members into the proposed draft. This has benefitted from the valuable editorial work of Hafiz Choudhury, whose services were provided by the European Commission, and whose presence in Shanghai was made possible by the assistance of the Norwegian government.

### **The Draft Manual**

6. The draft Manual is therefore commended to the Committee as the product of a great deal of effort from a very large and representative Subcommittee. The draft represents, in accordance with the Subcommittee's mandate, a complete draft covering the central policy, administrative and technical issues likely to be relevant for developing countries in this area. It has become clear, however, that the Manual would benefit from further, more detailed, examination of issues such as the treatment of intangibles and services. Not all users of the Manual will seek such additional detail, but many will, reflecting the fact that developing countries are at many different stages on their respective transfer pricing "journeys".

7. This further elaboration would represent a natural "Phase 2" of the Manual's life, rather than a current incompleteness, and the Committee may wish to consider providing the Subcommittee with a mandate to continue work on such more detailed examination of relevant issues, and on making proposals for the updating and continuous improvement of the Manual, with an initial view to putting forward proposals to the 9th Session of the Committee in 2013. This will only improve the Manual's relevance to users and its significance as a work that can be relied upon in the capacity building efforts of the United Nations and others that are so needed in this field.

8. The Secretariat has also commissioned a report on training opportunities available in the area of Transfer Pricing. This will be made available to the Committee separately with a view to its being transformed into an Annex to the Manual.

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