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

Geneva, 19-23 October 2015

Agenda Item 3(b) (i)

**Issues for the next update of the United Nations Practical Manual  
on Transfer Pricing for Developing Countries**

**Subcommittee on Article 9 (Associated Enterprises):  
Transfer Pricing**

**Report of the Coordinator**

The Committee of Experts on International Cooperation in Tax Matters (“the Committee”) began its work on the United Nations Practical Manual on Transfer Pricing for Developing Countries (“the Manual”) in 2009, when it established its first Subcommittee on Transfer Pricing. The Manual was adopted by the Committee during its 2012 annual session and was issued in print form in 2013. As the former membership of the Committee was dissolved at the end of June 2014, so did the Subcommittees formed by that Membership.

The Subcommittee on Article 9 (Associated Enterprises): Transfer Pricing (“the Subcommittee”) was thus created at the first annual session of the current membership of the Committee in 2013 with the goal to take the Committee’s work in this area forward.

At the last annual session, the Committee agreed to changes to the Commentary on Article 9, as suggested by the Subcommittee. The Subcommittee also outlined the scope of its work, i.e. an additional chapter on the treatment of transactions relating to intangibles, an additional chapter on intra-group services and management charges, additional text or a chapter on business restructuring and an annex on available technical assistance and capacity-building resources. In drafting the additional chapters and materials, the Subcommittee gives due consideration to the outcome of the Group of 20/OECD Action Plan on Base Erosion and Profit Shifting as concerns transfer pricing and pays attention to the fact that the Manual shall reflect the special situation of less developed economies.

The Subcommittee is comprised of Members from tax administrations with wide and varied experience in dealing with transfer pricing as well as Members from academia, international organizations and the private sector, including from multinational enterprises and advisers.

### **Subcommittee Membership**

The members of the Subcommittee and their affiliations at the time of writing (although membership is in a personal capacity) are:

#### ***Members of the Committee who are also Subcommittee Members***

- Mr. Stig Sollund, Coordinator
- Ms. Noor Azian Abdul Hamid
- Mr. Johan Cornelius de la Rey
- Mr. Toshiyuki Kemmochi
- Mr. Henry Louie
- Mr. Enrico Martino
- Ms. Pragya Saksena
- Mr. Christoph Schelling
- Ms. Xiaoyue Wang
- Ms. Ingela Willfors

#### ***Other Members***

- Mr. Marcos Valadao (Secretariat of the Federal Revenue of Brazil)
- Mr. Ganapati Bhat (Indian Revenue Service)
- Ms. Caroline Silberstein (Baker & McKenzie)
- Mr. Giammarco Cottani (Ludovici & Partners)
- Mr. Joe Andrus
- Ms. Jolanda Schenk (Shell)
- Mr. Michael Kobetsky (University of Melbourne)
- Mr. Michael McDonald (Department of Treasury, USA)
- Ms. Monique van Herksen (EY)
- Ms. Nishana Gosai (South African Revenue Service)
- Mr. TP Ostwal (TP Ostwal & Associates)
- Mr. Toshio Miyatake (Adachi, Hendersen, Miyatake & Fujita)
- Ms. Ying Zhang (State Administration of Taxation, China) (assisted by Mr. Cao Houle)
- Mr. George Obell (Kenya Revenue Authority)
- Mr. Julius Bamidele (Federal Inland Revenue Service, Nigeria)
- Mr. Jose Madariaga Montes (Deloitte, Chile)
- Mr. Carlos Perez-Gomez Serrano (SAT Mexico)
- Ms. Melinda Brown (OECD)<sup>1</sup>
- Mr. Hafiz Choudhury (addressing editorial matters)

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<sup>1</sup> Member as of 23 September 2015.

## **Subcommittee Meeting**

### ***Third Meeting: New York***

After successful meetings in New York and Rome, the third meeting of the Subcommittee, in April 2015, took again place at the United Nations Headquarters in New York. The first two days of the Subcommittee gathering were dedicated to separate meetings of the various drafting groups. In smaller groups, led by the respective drafting group leaders, the Subcommittee discussed new materials, which chapters would need to be updated and assigned drafting roles.

During the second part of the meeting, also comprising two days, the Subcommittee met in plenary. Discussions focused on Intra-Group Services. The Subcommittee also touched upon the issue of Cost Contribution Arrangements, Intangibles and Business Restructuring.

### ***ECOSOC Special Meeting on International Cooperation in Taxation: New York***

The abovementioned Subcommittee meeting was divided into two separate parts by the Special Meeting of the UN's Economic and Social Council (ECOSOC) on International Cooperation in Taxation. While not specifically discussing transfer pricing, one interactive panel discussed the taxation of intellectual property rights and other intangibles with a special focus on developing countries. Among other things, the representatives from tax administrations and business examined the difficulties in administering transfer pricing of intangibles, including the unique nature of many transactions and intangibles, which makes it hard or impossible to find comparable transactions. The panel informed ECOSOC and the representatives of national tax authorities about the current work undertaken by the Subcommittee and assessed current international reform processes from the point of view of developing countries with the aim to demonstrate practical and feasible solutions on both the national and international level to address this issue.

## **Progress Report and Subcommittee Work Plan**

At the time of writing, the chapter on Intra-group Services was distributed to a smaller drafting group before being made available to the Subcommittee and subsequently to the Committee. Drafts for the new chapter on Intangibles and a sub-chapter on Business Restructuring are currently being prepared and will be distributed to the Subcommittee before its next meeting. The re-draft of the Documentation chapter has already been distributed to the Subcommittee members. The new sub-chapter on cost-contribution arrangements will also be on the agenda of the next Subcommittee meeting and is currently being drafted.

The next meeting of the Subcommittee is scheduled for 16 to 18 November 2015 and will take place in Santiago, Chile. Next to discussions of the abovementioned chapters and sub-chapters, the Subcommittee will decide on the need to update further chapters of the Transfer Pricing Manual and the way forward.

As outlined in the Subcommittee's mandate, the intention of the Subcommittee is to present an updated version of the Manual at the twelfth annual session of the Committee in 2016 for approval. Draft material will be made available in due course.

The Subcommittee would like to thank the government of Chile for their generosity in hosting a meeting of the Subcommittee and encourages other governments to consider hosting further meetings. A lack of funding continues to be an issue and the Subcommittee will proceed to seek support for the work that it is undertaking including to enable Subcommittee members from developing countries and the Secretariat to participate at upcoming meetings.

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