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Special meeting on international cooperation in tax matters

Summary record of the 13th meeting
Held at Headquarters, New York, on Wednesday, 29 May 2013, at 3 p.m.

President: Mr. Osorio. . . . . (Colombia)

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The meeting was called to order at 3.10 p.m.

International cooperation in tax matters (*continued*)

1. **Mr. Marcus** (France) said that fighting tax evasion and the erosion of the tax base were crucial issues for his country. Some wealth created by businesses went untaxed, and profits were shifted to countries with low tax rates. That was a problem for both States and businesses, creating uncertainty and unfavourable tax competition. As a form of fraud that was detrimental to development, tax evasion was particularly problematic for developing countries. The World Bank estimated that financial flows illegally leaving the poorest countries were ten times greater than the total of official development assistance.

2. It was especially necessary to adapt international tax rules for the digital sector in a targeted way, in order to tax profits where value-creating activities were carried out.

Launch of the United Nations Practical Manual on Transfer Pricing for Developing Countries

3. **Mr. Trepelkov** (Director, Financing for Development Office, Department of Economic and Social Affairs) said that transfer pricing referred to the setting of prices for cross-border transactions between related parties belonging to the same multinational enterprise group, such as parent and subsidiary companies or companies under common control. Transfer pricing therefore had an impact on the income of both parties to the intra-group cross-border transaction, influencing the tax base in the relevant countries.

4. The conditions of transactions between the related parties were subject to market and group-driven forces that differed from open market conditions operating between independent entities. Although transfer pricing did not inherently imply tax evasion, there was a risk that prices declared for such transactions did not reflect their real economic value. Income might be underreported in a given country, or the expenses reported might be inflated. Transfer pricing was therefore a key international tax issue for Governments in developed and developing countries. The role of multinational groups in global trade had increased significantly in recent years, and transfer pricing was becoming more important for developing countries.

5. If a parent company resident in a developed country bought goods from a subsidiary resident in a developing country, the transfer price would have an impact on the profit reported in the countries of residence and on the amount of tax paid. If the transfer price approximated the open market price, a fair amount of profit would be payable in each country. However, if the transfer price was lower than the open market price, a smaller profit would be taxable in the developing country. The tax revenue then available to that country to fund its development would be reduced, jeopardizing domestic resource mobilization.

6. If the developed country was in a lower tax jurisdiction than the developing country, the parent company could deliberately set a transfer price lower than the open market price. Part of the profit would then be shifted to the developed country, where tax rates were lower, thus artificially reducing the total tax paid and the amount of tax revenue available to both countries.

7. Transfer pricing could have an impact on financing for development, promoting foreign direct investment through an enabling investment climate. If a parent company set a transfer price lower than the price that would be paid between independent entities, a smaller amount of profit would be taxable in the developing country and a larger amount in the developed country. If the tax authority in the developing country challenged the price set and adjusted the price to reflect open market conditions, the taxable profit would increase. Only if the tax authority in the developed country made a correlated adjustment in its taxation of the transaction, reducing the profit taxable there, could double taxation be avoided. Otherwise, part of the profit might be taxed twice. If that occurred, investment would be discouraged in the developing country, hampering development.

8. The prevailing approach for determining transfer pricing was called the arm’s length principle. Under that principle, conditions of transactions within the same group were the same as conditions for independent entities. If the principle was observed, each country would receive the appropriate revenue from the transaction, and the risk of double taxation would be reduced. The arm’s length principle was enshrined in article 9 of both the United Nations Model Double Taxation Convention between Developed and Developing Countries and the Organisation for

Economic Co-operation and Development (OECD) Model Tax Convention on Income and on Capital. The article allowed for profit adjustments if the conditions of the transaction between related parties were different from open market conditions. It also provided for an appropriate correlative adjustment to avoid double taxation.

9. Application of the principle could be complex, especially for developing countries. Transfer pricing methods for determining arm's length required specialized knowledge, which could put strains on the tax authorities in countries where resources were scarce and appropriate training not readily available. Transfer pricing was reliant on data that might not exist for certain local markets. Developing countries had expressed the need for clearer guidance on the policy.

10. **Mr. Yaffar** (Chair of the United Nations Committee of Experts on International Cooperation in Tax Matters) said that a Subcommittee on Transfer Pricing had been established to assist developing countries with application of the arm's length principle. Members of the Tax Committee had sought support for the work on transfer pricing from various stakeholders, including OECD and other organizations, as well as the private sector.

11. The Manual had had a completely practical focus from the start. It took into account the points of view of all stakeholders, although they frequently had been quite divergent and differed from what was set out in the Model.

12. Some topics had not been discussed because they were highly complex and technical aspects were still being worked out. One objective had been to harmonize the United Nations and OECD documents, which were based on the same principles. The work had been done with very limited resources, and more resources were needed.

13. **Mr. Sollund** (Committee of Experts on International Cooperation in Tax Matters) said that the global community needed the Manual to assist with the application of the arm's length principle contained in the United Nations Model Double Taxation Convention. Determining the right amount of profit was important to a country's tax base, and a balance must be struck to avoid double taxation while supporting the tax base. The arm's length principle allowed tax authorities to tax profits as if there was no special relationship between associated enterprises.

14. Comparisons had to be made with similar transactions between independent parties in comparable circumstances, and such comparisons required knowledge about relevant transactions and conditions. An analysis should take into account the characteristics of the property or service transferred; the functions of the parties and the risks they undertook; contractual terms; economic circumstances; and business strategies.

15. Methods used depended on available facts and known comparables. Sometimes direct comparison with commodity or service prices was possible; sometimes profit margins were compared; and sometimes the only reliable indicators were found in available data on net profitability of other players in a relevant market. Transaction-based analysis was challenging. Often the key value drivers were intangible property, whose value was unique and difficult to compare with other data. Access to relevant data and skills was crucial for conducting comparisons and applying the arm's length principle. In many countries, qualified tax officials and other resources were scarce. It was thus important to organize transfer pricing units, audit case selection and prioritize resources.

16. Certain rules must be enforced in domestic law for the arm's length principle to be enforced, and there must also be domestic rules on reporting and documentation, to give tax authorities access to necessary information. Domestic rules must establish administrative procedures for assessment and auditing and the possibility of appeals and litigation. Double taxation agreements provided for information exchange between tax administrations, dispute resolution mechanisms and rules on corresponding adjustments to avoid double taxation.

17. The Manual provided explanations and examples on application of the arm's length principle. It reflected the realities of developing countries, explained various value chain structures and described basic value chain analysis. It described how transfer pricing was managed in a multinational enterprise and gave examples of how countries had legislated rules and procedures to address transfer pricing.

18. The Manual gave advice on a how a transfer pricing unit could be set up; covered the relationship between policy and administration; evaluated needs and gaps; and discussed relevant professional

expertise, training, information strategies and cultural and integrity issues.

19. Comparability and transfer pricing methods were central to the arm's length principle. The Manual provided a thorough explanation of what and how to compare and gave comparability factors and analysis. It explained the significance of functional and factual analysis and of relevant market economic circumstances and described how to find and select comparables and make adjustments to enhance comparability. It explained, with examples, the concepts of comparable price, cost plus pricing, resale prices, transactional net margin and profit split methods.

20. The Manual explained how to select and prioritize audit cases and how to conduct risk assessments, audits, examinations and decision-making. It also emphasized the importance of understanding the business the taxpayer was engaged in. It featured a chapter on how to avoid and handle disputes, both domestically and across borders. Finally, it contained a special chapter on some country practices, including a fixed margins system in Brazil; China's and India's use of location savings and location-specific advantages; and challenges South Africa had encountered in finding comparables and making comparability adjustments.

21. **Mr. Manolescu** (Romania) said that, with reference to the OECD publication entitled *Addressing Base Erosion and Profit Shifting*, it appeared that the main challenge had to do not with differences between the United Nations Model Double Taxation Convention and the OECD Model Tax Convention on Income and on Capital, but rather with multinational enterprises' aggressive tax policies. The root of the problem was that multinationals did not see the world as consisting of developed and developing countries, but were simply interested in identifying areas where they could realize tax advantages. He wondered whether there was a possibility of pooling efforts to bring the two models closer together to face common challenges.

22. **Mr. Yaffar** (Chair of the United Nations Committee of Experts on International Cooperation in Tax Matters) said that he did not foresee such a cooperative effort. The United Nations had fewer resources than did OECD to tackle the issue effectively and furthermore the organizations had different structures. The issue of base erosion and profit shifting was not currently on the agenda.

23. **Mr. Sollund** (Committee of Experts on International Cooperation in Tax Matters) said that there was broad consistency between the two models with regard to the arm's length principle and transfer pricing. However, there were also many differences between them that went far beyond the issue of base erosion and profit shifting. It was unlikely that the two models would be fully merged in the near future. The United Nations model placed greater emphasis on source State taxation, with a different balance between the resident and the source States. That issue was unrelated to base erosion and profit shifting, and the differences would remain.

24. **Ms. Noras** (Finland) expressed appreciation for the clear and practical approach taken by the United Nations on the issue under discussion.

25. **Mr. Sharma** (Nepal) said that tax administration capacity was lacking in developing countries. His Government's main challenge was to bring the informal economy into the formal sector and control tax avoidance and evasion. It was developing guidelines on transfer pricing, which was an emerging issue in his country. However, transfer pricing legislation was weak, with a limited number of comparables and inadequate documentation. The Manual would definitely prove useful.

26. Nepal had a five-year strategic plan and a three-year reform plan to improve the tax system and tax administration. The country was receiving technical assistance from the International Monetary Fund, the Government of Germany and the International Finance Corporation, but more assistance was required, not only for Nepal, but for developing countries generally.

Panel discussion on transfer pricing challenges for developing countries

27. **Mr. Lennard** (Chief, International Tax Cooperation Unit, Financing for Development Office, Department of Economic and Social Affairs) said that transfer pricing was particularly challenging for developing countries. It required determining where value was created in global value chains and the place of developing countries in those chains. It also involved issues related to valuing intangibles, such as intellectual property, and assigning it between countries.

28. Transfer pricing was information-dependent and skills-dependent. It involved risks for developing countries, as well as opportunities created when the value created in developing countries was recognized.

29. **Ms. Sangsubana** (Head, International Tax Division, Bureau of Tax Policy and Planning, Revenue Department, Thailand) said that following the issuance of a departmental instruction containing regulations and guidelines on transfer pricing under the national tax code in 2002, her Government had established a transfer pricing division under the national tax authority in 2003. In 2005, an advanced pricing arrangement committee had been established, consisting of officials from various offices. The first two advanced pricing arrangements had been concluded in 2008, and the first corresponding adjustment cases had been concluded in 2012.

30. There was no specific transfer pricing provision in the law. The Government currently applied legal provisions that addressed gratuitous transfer and transfer with unreasonably low consideration. The departmental instruction referred to earlier was a guideline on how to apply the arm’s length principle. It contained methodologies for determining the market price and transfer pricing documentation, and it provided for the application of advanced pricing arrangements.

31. The departmental instruction had originally been seen as a short-term measure. However, as there had been very little litigation at the time when it was issued, it had served successfully for longer than expected. Practical difficulties in application of the departmental instruction had arisen later, especially with regard to transfer pricing adjustments.

32. A study conducted in 2011 had recommended the adoption of a transfer pricing law containing provisions on the arm’s length principle and adjustment procedures, with the possible inclusion of safe harbours for certain transactions, a statute of limitations of five years for audit and refund and an advance pricing arrangement. The Ministry of Finance had just approved the development of a draft law.

33. The key transfer pricing issues identified by the tax auditors in Thailand were, in fact, common to developed and developing countries. They included cost sharing, intangible assets, business restructuring and comparability analysis. There were questions regarding determining an appropriate arm’s length price for intangible assets; the recognition and valuation of intangible assets; and how income should be handled under double tax agreements, whether as royalties or business profits. It was necessary to determine how to identify transactions that created marketing intangibles and how to share benefits and expenses between related parties. If there was no royalty payment, it was necessary to determine whether the royalty should be included in the price of goods or services.

34. There were few cases of business restructuring in the country, but substantial profit was being shifted abroad, with fiscal flows and sales remaining in Thailand. A risk assessment conducted had focused on identifying the substance of entities’ business functions and risk. Consideration was also being given to the question of permanent establishment and the profits attributed thereto. If an entity created outside of Thailand was registered for value added tax in Thailand, there was an intent to do business in Thailand, and it was necessary to establish whether or not the entity had a place of business in the country. A policy was in effect to decline applications for advanced pricing arrangements for business restructuring cases until there was a clearer understanding of how such cases should be handled.

35. The business model in Thailand for multinationals usually consisted of a subsidiary and contract manufacturer. Electronics, electrical goods, automobile parts and pharmaceuticals were the sectors most often involved. Comparability and functional analyses needed to be practical and to reflect the actual conditions of business in Thailand. There was the possibility of domestic profit shifting owing to investment promotion schemes, but it was hoped that the introduction of a consolidated tax return filing system would eradicate that.

36. The policy of pursuing only bilateral advanced pricing arrangements was an interesting feature of the system in Thailand. The purpose was to eliminate double taxation and provide certainty for taxpayers. During negotiations, representatives of Thailand often found themselves facing counterparts who were more skilled and experienced. Bilateral advanced pricing arrangements were time-consuming and required substantial resources. There was a need for Thailand to clear the backlog of advanced pricing arrangements cases.

37. Despite the negative aspects, a decision had recently been taken to continue the policy of exclusively bilateral advanced pricing arrangements, as it helped to reduce the transfer pricing risk. Also, it was valuable to speak with representatives of the other State involved, to expose them to Thailand's side of the argument. Useful information could be obtained through bilateral negotiations as well.

38. There was a shortage of skilled personnel. The transfer pricing audit was centralized and focused on multinational enterprises, with no permanent body responsible for transfer pricing. The advanced pricing arrangement programme was run by a team consisting of an economist and double taxation agreement expert, a lawyer and an accountant/auditor, with one staff member frequently performing several functions, hence the need for restructuring. There were plans to create an international tax division separate from all other offices and create a mutual agreement procedure office within that division to handle advanced pricing arrangement cases.

39. **Mr. Valadão** (Brazil) said that the Brazilian transfer pricing methodology currently in use was based on domestic legislation adopted in 1996, which had introduced a simplified version of the arm's length principle in an attempt to deal with tax evasion through fraudulent transfer pricing schemes. The law prohibited the Transactional Profit Method, the Profit Split Method and the Transactional Net Margin Method, while allowing use of the Comparable Uncontrolled Price Method, the Cost Plus Method and the Resale Price Method.

40. Fixed margins had been introduced in order to avoid the uncertainty and judicial instability that resulted from conventional use of the Resale Price Method and the Cost Plus Method, which were implemented by the taxpayer without previous consent or summary review by the tax authorities. However, in Brazil the Resale Price Method and the Cost Plus Method with fixed margins were not safe harbours, but instead a simplification of the traditional methodology.

41. Transactions governed by the Brazilian transfer pricing regulations included import and export of goods, services and rights with related parties, payments, and credits or interest paid or received on loans to related parties. The definition of related parties in the Brazilian system was broader than the one set out in the OECD Model Tax Convention on Income and on Capital. Moreover, Brazilian transfer pricing regulations were not applicable to royalty payments, technical assistance or scientific and administrative fees; those expenses were subject to restrictions, limited deductions and social tax.

42. Under the existing Brazilian regulations, the traditional Comparable Uncontrolled Price Method; the Resale Price Method, with a 20 per cent gross profit margin or other margins for specific economic sectors; and the Cost Plus Method, with a 20 per cent markup margin, were used in import transactions. The same methods were employed in export transactions, but they were subject to more detailed regulations. The taxpayer had the option of using the method which suited the transaction, except when it involved commodities, in which case the taxpayer could use the Comparable Uncontrolled Price Method but not the Transactional Net Margin Method or the Profit Split Method.

43. Following the 2012 amendment to the Brazilian law on transfer pricing, the fixed margin for resale price varied depending on the sector, retaining a fixed margin of 20 per cent of the resale price for general transactions. That simplification of the traditional Comparable Uncontrolled Price Method — whereby the market price is deemed to be the arm's length price in transactions involving multinational enterprises for goods available in organized markets — was particularly useful, as it saved time on the search for a comparable transaction when there was a defined and stable organizing market that set the price for certain types of goods globally.

44. Regarding fixed margins, compulsory profit and markup margins were contained in the law and varied according to the transfer pricing methods and to whether the transaction was inbound or outbound. The law granted the Minister of Finance the authority to change those margins for specific sectors. Furthermore, the taxpayer or the association representing the given economic sector might ask for a change in the margin if the margin did not accurately reflect the market or the average market price. However, the law also provided for the possibility of modifying those margins, by a request submitted by the taxpayer, to be decided on by the Minister of Finance.

45. Fixed margins methodology had several strengths. It dismissed the availability of specific comparables; it did not distort competition among

enterprises in a specific country since they were subject to the same tax burden and had access to the same information; it was adequate for countries with scarce human resources and technical knowledge of specific transfer pricing issues; it was easy for tax authorities and taxpayers to implement; and it was a low-cost system for companies and tax administration, one with a strong emphasis on practicality. Its disadvantages, while potentially significant — such as the possibility of double taxation without access to a competent authority for relief — were outweighed by its advantages.

46. The Brazilian methodology, then, consisted of the Comparable Uncontrolled Price Method, a simplified version thereof for commodities, and the Resale Price Method and the Cost Plus Method with fixed margins. Its safe harbour provisions included the instance in which net profit from export sales to related parties, before taxes on Brazilian income, amounted to 10 per cent or more; no transfer adjustments applied in that case. Also, Brazilian taxpayers were not subject to transfer pricing on exports when net export revenues were equal or less than five per cent of total net revenues. Neither safe harbour was applicable when the relevant sales were made to tax havens or jurisdictions with low taxation. Lastly, Brazilian taxpayers were not subject to transfer pricing regulations if the average sales price in international controlled transactions to related parties was equal to or higher than 90 per cent of the average sales price in uncontrolled transactions with unrelated parties in the Brazilian market. That safe harbour was not applicable for commodities, in which case the simplified Comparable Uncontrolled Price Method would apply.

47. **Ms. Kapur** (India) said that when India had enacted a law to incorporate the arm's length principle into its transfer pricing legislation, it had established a definition of international transactions and recognized five transaction methods, with no hierarchy among them. A sixth method had been added recently.

48. The Indian Government had decided to issue guidance notes to officers for consistency and certainty of tax treatment, and to retrain transfer pricing auditors in tax administration. Existing information flows permitted the creation of robust databases used at the domestic level. The Indian taxation authorities selected transfer pricing cases that were high risk for non-compliance. In order to build an efficient transfer pricing regime, it would be necessary to assess the efficiency of audits — in particular, to determine whether the audits conducted were collecting more revenue and resulting in deterrence. Putting in place an effective system had had its share of challenges, as technology was making business models more complex, which, in turn, made it difficult to ascertain at what point value was added and profit shifted; against that backdrop, issues of base erosion became more significant. As a result, transfer pricing was becoming a fact-intensive exercise that required an exceedingly technical approach in order to determine where profits actually arose and where they ended up. To achieve the necessary comparability analysis, the comparables had to be identified first. The difficulty arose because a transfer pricing audit would require the business being audited to be willing to share information, though businesses tended to adopt strategies that were not in the public domain in order to survive in a difficult market.

49. Other issues that arose in transfer pricing audits included the pricing of intra-group services, and the question of how to assess the contribution of India to the production process in order to determine whether the existing contractual terms represented the actual nature of assets used, functions performed and risks taken. At the administrative level, India was working to establish parameters for officers that would allow them to take a consistent position. It would also be necessary to decide how to define intangibles, how to allocate intangible-related income, and how to ascertain whether the intangible should be attributed to the local jurisdiction or to the part of the enterprise that financed its creation.

50. India had been working on methodologies to distribute any extra profit resulting from location savings; the Indian transfer pricing administration had set out its definition in chapter 10 of the Practical Manual on Transfer Pricing for Developing Countries. Among the country's advantages were its access to vast markets and its skilled manpower; it remained to be seen whether transfer pricing should identify those advantages.

51. Public anger over unethical tax behaviour was likely to drive future developments in the transfer pricing system in India. Moreover, the growing importance of corporate social responsibility, the size of the market for some countries and future growth perspectives would all play a role in preventing base erosion through transfer pricing in those countries.

India's transfer pricing network was extensive, and the country was attempting to scale up its taxation administration in order to handle all the challenges it posed.

52. **Mr. Yuan** Shanwu (Subcommittee on Transfer Pricing, Committee of Experts on International Cooperation in Tax Matters) said that he wished to stress that he no longer spoke on behalf of the Chinese Government, and that his remarks on the positions of that Government on intangibles and risks represented neither his personal views nor those of his current employer. Given the disparity in numbers — with China having to sell 800 million shirts in order to purchase a single aircraft from the United States of America — the Chinese State Administration of Taxation had concluded that intangibles were an overpriced result of the high leverage of capital in Western countries, and as such, were used by developed countries to extract value from developing countries. The Administration held that local Chinese affiliates of multinational enterprises might develop local intangibles over time and must be compensated for them in some way. Moreover, the Administration proposed that the royalty initially paid by a local affiliate to the multinational enterprise for the use of an intangible when it began operations should decrease over time, since the usefulness of the intangibles themselves would decline as well.

53. As multinational enterprises could easily shift intangibles to more favourable locations in order to minimize their tax bills, feeding into base erosion and profit shifting, the Administration contended that labour should once again be recognized as the primary factor in value-making. Intangibles could not be consumed separately but must be compensated out of the prices consumers paid; therefore, in the absence of a market, there would be no value. In the case of market intangibles, such as trademarks and trade names, they had value but did not create value; the item sold had the value and the trademark of the brand enhanced the value of the item. In contrast, trade intangibles might create or enhance value, as technologies might create new value that did not exist in the past.

54. The Administration's approach to intangibles was holistic, grouping transfer pricing, withholding tax and payee taxation together and putting all intangible-related transactions into the framework of transferring intangibles in order to avoid the distortion caused by the form of the transactions. Their view was that, where intangible-related transactions existed, there was always a transfer of intangibles. If multinational enterprises were allowed to choose between the use and the transfer of intangibles, it would create uncertainty for revenue authorities and distort the economy, because the different forms of transactions multinational enterprises chose might have different consequences for transfer pricing and other processes, for instance withholding tax. Like most developing countries, China imposed withholding tax on the transfer or the use of intangibles in the country. It was easier for the Administration to collect withholding tax if the transaction took the form of a transfer of intangibles. If a multinational enterprise claimed to the Administration that the marketing intangibles, like trademarks, were not transferred to local affiliates, overseas firms would use them to derive returns from the Chinese market. The Administration might regard the principal as carrying out business activities in China, because marketing intangibles were highly dependent on the market, and China could tax the principal on the grounds that it constituted the payee in China.

55. As mobile as intangibles, risks were at the root of many transfer pricing controversies. In the Practical Manual on Transfer Pricing for Developing Countries, the Administration had stated that it generally respected the limited risk characterization of sole function entities in China. However, where multiple sole function entities existed in China, they must be viewed in combination in attributing risk among them and determining returns from them. In particular, where a majority of the workforce and tangible assets were located in China, the risk-based approach might not be appropriate, leading the State Administration of Taxation to seek other alternatives.

56. In general, the State Administration of Taxation disliked the notion of risks because they were fluid and nebulous. Like intangibles, they were difficult to define. Furthermore, risk could easily be shifted between jurisdictions with contracts, facilitating tax avoidance. The Administration reasoned that it was functions and assets, not risk, that generated profits. Risks were merely by-products of profits that enterprises had to deal with. With the increase in risk in China, the Administration's fear was that risk should align with functions and assets of the enterprise, with the result that the greater the assets of an enterprise,

the less risk could be attributed to it. The Administration believed that the OECD Transfer Pricing Guidelines for Multinational Enterprises and Tax Administrations supported its view because, according to those guidelines, it would be necessary to assess whether risk allocation was arm's length and who had control of the risks, which pertained to function, and who had the financial capacity to assume the risks, which pertained to assets.

57. **Mr. Sollund** (Subcommittee on Transfer Pricing, Committee of Experts on International Cooperation in Tax Matters) said that in terms of possible future developments in the Practical Manual on Transfer Pricing for Developing Countries, the arm's length principle was likely to remain the cornerstone of transfer pricing, both at the global level and within the United Nations context. Since the purpose of the arm's length principle and transfer pricing in taxation was to diminish double taxation in international cross-border trade and investment, action was already being taken in order to make that principle work better. For instance, OECD aimed to make recommendations for documentation rules that were better targeted, more useful to tax administrations and less costly and burdensome for the taxpayers. However, since base erosion and profit shifting were the main theme of the discussion, what the comprehensive action plan would be remained to be seen. Transfer pricing was one of the pressure areas identified in the OECD report on base erosion and profit shifting, and the action plan currently being developed would have three pillars, namely, coherence, substance and transparency. The pillar of substance, in particular, was key, as it aimed to better link the jurisdiction to tax to real economic activity, which would have consequences for how countries dealt with intangibles and transfer pricing.

58. He hoped that the United Nations Practical Manual on Transfer Pricing for Developing Countries would usher in a series of Organization-wide changes. The future members of the Committee of Experts on International Cooperation in Tax Matters would surely continue to work on the issue of transfer pricing and enhance the manual, adding additional explanation and guidance on intangibles. Chapters on services and cost contribution arrangements might also be added. Moreover, the feedback that the Committee would receive from developing countries would further improve the manual. The common consolidated corporate tax base proposed by the European Commission, while it would not replace the arm's length principle, might be useful for the development of a new methodology under the arm's length principle.

59. **Mr. Yuan** Shanwu (Subcommittee on Transfer Pricing, Committee of Experts on International Cooperation in Tax Matters) said that the Chinese State Administration of Taxation believed that the BRICS countries (Brazil, the Russian Federation, India, China and South Africa), as large developing countries that enjoyed the advantage of having huge markets and high growth rates, should take the lead in shaping roles for international taxation and negotiating better deals for all developing countries, since smaller developing countries lacked bargaining power against multinational enterprises and feared that their aggressive stances might cause those enterprises to pull out of markets. The positions proposed by the Chinese Government in the Practical Manual on Transfer Pricing for Developing Countries stood to benefit both large and small developing countries. However, in order for smaller countries to benefit, an international consensus must be reached and appropriate regulations must be put in place.

60. **The President**, providing an overview of the proceedings, said that the outcome document of the Rio+20 Conference had recognized the need to mobilize resources through taxation policies in order to promote sustainable development. The fight against tax evasion was therefore an important part of development efforts, and international taxation was a complex area requiring greater cooperation among member States, with special attention to the needs of developing countries. Institutional arrangements must be reinforced in order to strengthen cooperation and build the capacities of developing countries.

61. The adoption of the United Nations Practical Manual on Transfer Pricing for Developing Countries was a significant achievement of the Committee of Experts on International Cooperation in Tax Matters as the publication provided an important resource for developing countries. The debate had demonstrated the value of South-South cooperation and shared experiences in that area, and there was a clear need for more contributions from developing countries for the next edition of the Manual. Such meetings highlighted the central role of the Economic and Social Council in strengthening the work of the Committee and provided a valuable opportunity to establish a broad and inclusive dialogue on taxation matters.

The meeting rose at 5.50 p.m.