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Special meeting on international cooperation in tax matters

Summary record of the 21st meeting
Held at Headquarters, New York, on Thursday, 5 June 2014, at 3 p.m.

President: Mr. Oh Joon (Vice-President) . . . . (Republic of Korea)

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In the absence of Mr. Sajdik (Austria), Mr. Oh Joon (Republic of Korea), Vice-President, took the Chair.

The meeting was called to order at 3 p.m.

International cooperation in tax matters (*continued*)

General discussion (*continued*)

1. **Mr. de Sainte Lorette** (France) said that the base erosion and profit shifting project being undertaken by the Organisation for Economic Co-operation and Development (OECD) at the request of the Group of 20 (G20) had been launched at the initiative of France and the United States. It was to be hoped that the project would yield ambitious results.

2. Transfer pricing must be consistent with the economic substance of transactions and organizations, and taxation of the digital sector must be a priority, given its growing importance and particular characteristics. His Government believed that international regulations specific to the digital sector would ensure fair taxation, at the source of value creation, and hoped that the work of the OECD Task Force on the Digital Economy would lead to further regulatory change. As many States as possible should join the base erosion and profit shifting project to establish clear and effective rules, with coherent results for all; the OECD Development Assistance Committee was the stage for active participation by developing States in that work.

3. France had been promoting greater fiscal transparency, including through peer review by members of the Global Forum on Transparency and Exchange of Information for Tax Purposes, and backed the automatic exchange of information, to begin in 2017 based on data collected as of 31 December 2015. National legislation requiring country-by-country reporting had already been passed, but international standards in the field were also necessary.

4. The establishment of the Subcommittee on Base Erosion and Profit Shifting Issues for Developing Countries was a welcome move as coordinated efforts to combat tax fraud were vital for development. Unilateral measures against tax evasion might increase tax resources in the short term but, in the absence of international coordination, they could also result in double taxation, thereby hindering international investment. The United Nations, which brought together tax experts from many different economies, had a major role to play in the establishment of a single, clear international standard and effective procedures for settling disputes. Capacity-building was also vital to help the Governments of developing countries to mobilize their tax resources. In that regard, more than 400 French experts participated each year in cooperation missions in developing and emerging countries.

5. **Ms. Derderian** (United States of America) said that her Government saw the exchange of tax information as an important tool for the full and fair enforcement of its domestic tax laws. It would continue to assist countries to develop capacity in that area in order to help build a stronger, more stable and more accountable global financial system. The United States was not in favour of the establishment of an intergovernmental body at the United Nations for international cooperation in tax matters, including by upgrading the existing Committee of Experts on International Cooperation in Tax Matters, owing to the substantial overlap between the work proposed for such a body and work already done by the International Monetary Fund (IMF), World Bank, African Tax Administration Forum, Inter-American Center of Tax Administrations (CIAT) and OECD, which already took into account the policy positions of both developed and developing countries.

Panel discussion on current issues in domestic resource mobilization for development: base erosion and profit shifting

6. **Mr. Ault** (Professor Emeritus, Boston College Law School), moderator, welcomed the panellists and said he hoped that the delegations who had attended the recent joint United Nations-OECD workshop on tax base protection for developing countries would contribute to the ensuing discussion.

7. **Ms. Peters** (Coordinator, Subcommittee on Base Erosion and Profit Shifting Issues for Developing Countries, Committee of Experts on International Cooperation in Tax Matters) said that the Subcommittee had a dual mandate: to monitor developments in base erosion and profit shifting issues and to communicate on them with officials, especially in less developed countries. Given the importance of communication, it had prepared a short document, available through the Internet, which explained and exemplified the issues in question. It identified deficient domestic and international tax rules, transfer

pricing issues, tax arbitrage between different countries' sets of rules and treaty abuse as the main causes of base erosion and profit shifting, and explained the policy implications of the issue, particularly in terms of the knock-on effects that certain domestic tax policies could have on other countries. The document also addressed issues of competitiveness and unfairness, with their implications for voluntary compliance.

8. The Subcommittee provided input to the related work of the United Nations and OECD. Since the goal of the OECD Action Plan on Base Erosion and Profit Shifting was not to change the existing international standards on the allocation of taxing rights on cross-border income, the Subcommittee expected that the information it obtained from developing countries was likely to be more relevant to the work of the United Nations, although it also aimed to be able to provide input to the OECD Action Plan, particularly in order to focus attention on those actions that were a priority for developing countries and to ensure that the solutions proposed were useful to them.

9. A short questionnaire, first circulated when the information document had been published, would be recirculated owing to the low response rate. The feedback received had confirmed the importance of the United Nations outreach effort to developing countries. The respondents had highlighted as priorities the need to limit base erosion using interest deductions; transfer pricing; disclosure of aggressive tax planning; methodologies for collecting data; and treaty abuse. Other respondents had also referred to harmful tax practices, permanent establishment issues and hybrid mismatches, in addition to the wider issue of the allocation of taxing rights between source and residence, taxation of capital gains, automatic exchange of information and loss of revenue through tax incentives.

10. **Mr. Arnold** (Senior Adviser, Canadian Tax Foundation) said that, as part of the new project on tax base protection for developing countries undertaken by the Financing for Development Office, a series of papers would be prepared by international tax experts to address certain base erosion and profit shifting issues from the perspectives of developing countries. There would be an overview paper and five specific themes selected from among those identified as action points by OECD. Three additional papers on topics not addressed in the OECD Action Plan would deal with the taxation of services, including the tax treatment of fees for technical, consulting and management services; tax incentives; and the taxation of capital gains on property located in developing countries.

11. In the light of the other work being carried out on base erosion and profit shifting, the importance of the project lay in its complementary aspects, particularly its focus on capacity-building to help developing countries protect their tax bases by providing them with information and raising awareness of potential problems. The work was intended to be intensely practical and responsive to the diverse needs of developing countries, but did not aim to provide specific recommendations. It would be carried out in parallel with the work of the Subcommittee on Base Erosion and Profit Shifting Issues for Developing Countries and that of OECD.

12. It was encouraging that the Committee of Experts had approved work on a new article concerning the treatment of fees for technical services, to be added to the United Nations Model Double Taxation Convention between Developed and Developing Countries. Given that the use of such fees by multinational enterprises to shift profits from a high-tax developing country to a low-tax country led to base erosion, the Committee's decision was an important step towards enabling developing countries to protect their tax bases appropriately.

13. **Mr. Saint-Amans** (Director, Centre for Tax Policy and Administration, Organisation for Economic Co-operation and Development (OECD)), reiterating the complementary nature of the work of the United Nations, OECD and G20 on base erosion and profit shifting, said that the Action Plan responded to challenges identified by OECD in a February 2013 report, which had noted that the global issue of base erosion and profit shifting was a greater challenge for developing than developed countries because corporate income tax represented a higher proportion of total tax revenue in the former. The Action Plan aimed to address the issue comprehensively, because the world was made up of tax sovereignties, which limited cooperation and resulted in major differences in tax systems, leading to friction, double taxation and gaps, and thus facilitating double non-taxation. Although tax sovereignty must be accepted, because tax lay at the core of parliamentary regimes and State-building, tax cooperation could address challenges by eliminating

double taxation, as well as avoiding gaps that led to double non-taxation.

14. The Action Plan was built on three pillars. The first involved bridging the gaps between different tax systems. Because of the current lack of international standards, that required new work to be done, offering a huge opportunity to develop new standards in such areas as hybrid mismatches, controlled foreign corporations, interest deductibility and harmful tax practices. The second pillar focused on instruments to avoid double taxation that had not kept up with changes in business operating practices arising from financial and trade globalization. The current definition of permanent establishment was deficient, leading to treaty shopping, and actions would be undertaken in the area of transfer pricing to overcome those deficiencies. The third pillar, relating to tax cooperation between taxpayers and Governments, covered disclosure regimes and the country-by-country reporting template, which was of particular importance for developing countries.

15. Three horizontal actions would bring all the related work together: challenges arising from the digitalization of the economy would be addressed; efforts would be made to improve the mechanisms for eliminating double taxation; and a multilateral instrument would be developed to allow the rapid implementation of many of the new measures, obviating the need for the individual renegotiation of myriad bilateral tax treaties. Most of the actions set out in the OECD Action Plan should be completed by September 2015.

16. To ensure that the views of developing countries were taken into account in work relating to base erosion and profit shifting, regional consultations had been held in the Republic of Korea, Colombia, South Africa and France, and the inputs received from over 100 countries had been compiled in a report presented to the G20 Development Working Group. The views expressed had also fed into the work of the various OECD working parties in charge of developing the Action Plan in such areas as tax treaties, transfer pricing and hybrid mismatches. The OECD Task Force on Tax and Development and the various OECD Global Forums engaged with developing countries on a regular basis. Furthermore, the Action Plan itself referred to the role of the United Nations in providing useful insights regarding the particular concerns of developing countries.

17. **Ms. Sangasubana** (Head, International Tax Division, Bureau of Tax Policy and Planning, Revenue Department, Thailand), accompanying her remarks with a digital slide presentation, commended the United Nations for reflecting the concerns of developing countries in its work on taxation, and welcomed in particular the joint initiative by the United Nations and the Organisation for Economic Co-operation and Development (OECD) to take into account the views of developing countries on tax base protection.

18. The largest investment flows into Thailand came from China, Japan, Malaysia, the Netherlands and the United States, while the largest investment outflows went to the Cayman Islands, Hong Kong, Japan and the United States. Base erosion and profit shifting was therefore a significant risk for Thailand. Previously its focus had been on double taxation agreements, but there had been a shift towards international cooperation through the exchange of information and mutual agreement procedures. Exchange of information was at the core of international cooperation. Thailand had met the minimum international standard of exchange of information on request but only 10 out of 57 treaty partners had granted automatic exchange of information. A proper information technology infrastructure would be needed to support automatic exchange of information.

19. Transfer pricing was one of the main base erosion and profit shifting issues for Thailand. As a developing country with foreign subsidiaries, Thailand found it difficult to determine the arm’s length prices for intangible assets received. Profit shifting was also a risk when intangibles were transferred to another country. Value chain analysis was therefore needed to determine arm’s length prices, and each entity’s real economic activity should be looked at using substance over form. Business restructuring sometimes led to functions being moved from Thailand to another jurisdiction even though sales or the physical flow of goods remained in its territory. In the future, Thailand would also have to focus on industries, such as extractive industries, where the potential for profit shifting was high. Thailand wanted to introduce new regulations that would require documentation on transfer pricing to be submitted in addition to the corporate income tax return. Regarding country-by-country reporting and the two-tiered structure, the master file would enable Thailand to better evaluate potential profit shifting and conduct a risk assessment. Because its subsidiaries were tested

parties, local comparables were preferred. Bilateral safe harbours were an alternative to the application of the arm's length price in certain industries. Thailand was preparing transfer pricing legislation and had begun to decentralize transfer pricing auditing. Efforts would also be made to set up a separate international tax unit, and advance pricing agreement guidelines would be reviewed.

20. Another issue related to base erosion and profit shifting was that tax planning schemes could result in the avoidance of permanent establishment status. In the attribution of profits, functions, assets and risk analysis should be based on actual economic activities. However, at present Thailand still applied paragraph 3 of article 7 of the United Nations Model Convention to determine the profits attributable to a permanent establishment. Manipulating the definition of permanent establishment and the related exemptions might also lead to artificial avoidance of that status. Although the Model Convention did not cover value added tax (VAT), Thailand considered that there should be a link between VAT registration and permanent establishment.

21. With regard to anti-avoidance measures, Thailand still lacked legislation to deal with controlled foreign corporations and thin capitalization; however, the thin capitalization ratio could not exceed 3:1 for companies granted tax incentives by the Board of Investment. Thailand planned to reform its international tax law, introducing general anti-avoidance rules and incorporating United Nations and OECD recommendations in all new legislation. It sought to counter treaty abuse within the double taxation agreement framework and, in that regard, intended to cooperate with treaty partners to obtain proof of residence, agreed by both partners, for those wishing to obtain treaty benefits. While some treaties between Thailand and treaty partners included a "limitation of benefits" or "main purpose" test clause, the Thai model included a "miscellaneous provisions" clause enabling treaty partners to apply domestic tax rules on tax avoidance. That effectively denied treaty benefits in instances of treaty shopping.

22. The digital economy had given rise to issues relating both to stateless income and to base erosion and profit shifting, which were difficult to deal with under existing rules. Taxation issues involved income tax and VAT problems, including the characterization of income, and difficulties under double taxation agreements, such as permanent establishment status, profit shifting through the relocation of intangibles and core activities, and manipulation of the information technology (IT) system. Her Government welcomed the work of OECD on the digital economy and supported the implementation of a withholding tax using financial institutions as collection agents; the proposed review of the definition of permanent establishment, which should encompass all businesses, not just the digital economy; and the issue of VAT registration. An emerging issue was the taxation of high-net-worth individuals, who were very mobile and could easily move their assets to tax havens. Political support was needed to counter base erosion and profit shifting by providing an adequate legislative, organizational and IT infrastructure; international cooperation was also vital. As a capital-importing country, Thailand needed to strike a balance between creating a positive investment climate and designing an effective tax collection policy.

23. **Ms. Carayanides** (Australia) said that, during its presidency of the G20, Australia had decided to focus on base erosion and profit shifting — an issue that affected countries across all regions and levels of development — because effective revenue collection was a means of delivering services and promoting job creation and investment growth. The G20 Development Working Group was analysing the impact of base erosion and profit shifting on low-income and low-capacity countries and developing a road map for developing countries to participate in the automatic exchange of tax information. She would appreciate more information on the key challenges for developing countries in the area of base erosion and profit shifting, as well as on measures to overcome those challenges.

24. **Mr. Molefe** (South Africa) said that it was essential for the views of developing countries to be taken into consideration and it was the responsibility of those countries to make their voices heard. Given that the response rate to questionnaires was low, it was time to think of other ways of obtaining data, including by asking specific questions at global forums such as the current meeting. It was important to move from the design phase to the implementation phase. While the forthcoming series of papers would be useful, consideration should also be given to how to move on from discussion, workshops and training to practical implementation. The United Nations and other international organizations could sponsor bilateral

contacts on taxation and enable practical lessons to be drawn from exchanges between developed and developing countries and between countries in different regions. They could also make country visits and organize practical training courses.

25. **Ms. Peters** (Coordinator, Subcommittee on Base Erosion and Profit Shifting Issues for Developing Countries, Committee of Experts on International Cooperation in Tax Matters) said that one of the key lessons from base erosion and profit shifting was that, while tax rules had historically been set by Governments, business could drive a wedge through those rules that resulted in double non-taxation. The development of new tax rules should take that lesson into account. Traditionally, States of residence had not concerned themselves with whether income was taxed by source countries, and vice versa. That situation could not be allowed to continue because it led to double non-taxation. The guidance and solutions provided by the OECD Action Plan on Base Erosion and Profit Shifting and the work of the United Nations needed to be realistic and should take into account the limited administrative capacity of developing countries. While questionnaires were indeed somewhat old-fashioned, the responses received had been extremely useful since they allowed the views of relevant experts to be heard. It was therefore important, wherever possible, for questionnaires to be completed and returned.

26. **Mr. Arnold** (Senior Adviser, Canadian Tax Foundation) said that capacity-building was the key issue for most developing countries, which needed to be able to understand and deal with highly complex tax issues. The frustration expressed by South Africa was understandable and there was indeed a need to move away from mere theoretical identification of problems and possible general responses, and start providing technical assistance that met the specific needs of individual countries. However, such assistance was much more expensive and difficult to deliver.

27. **Mr. Saint-Amans** (Director, Center for Tax Policy and Administration, Organisation for Economic Co-operation and Development (OECD)) said that developing countries also faced challenges in such areas as tax incentives, capital gains and taxation of services. Responding to the comments by the representative of South Africa, he said that, in view of the very active engagement of developing countries in the regional consultations carried out as part of the base erosion and profit shifting project, OECD would continue to hold regular consultations with regional tax administrations, in which other organizations were also welcome to participate.

28. Although capacity-building was not part of its mandate, OECD drew on the knowledge of other actors working with developing countries, since it was essential to incorporate implementation aspects in the standards being developed. Some elements of the Action Plan on Base Erosion and Profit Shifting, including country-by-country reporting, certain aspects of transfer pricing, and efforts to neutralize the effects of hybrid mismatch arrangements, were more relevant to developing countries than others. It was to be hoped that the Australian presidency of the G20 would help provide information and raise funds for follow-up on the base erosion and profit shifting project and the work on automatic exchange of information.

29. **Ms. Sangasubana** (Head, International Tax Division, Bureau of Tax Policy and Planning, Revenue Department, Thailand) said that, while capacity-building was certainly a challenge, the amendment of tax legislation was also challenging, for Thailand at least. The last amendment, of VAT legislation, had taken place over 20 years earlier, but there were plans to draft an amendment of transfer pricing legislation before the end of 2014, followed by other anti-avoidance measures. Political support was needed for the amendments, but the outlook was positive.

Panel discussion on extractive industries taxation issues for developing countries

30. **Mr. Lennard** (Chief, International Tax Cooperation Unit, Financing for Development Office), moderator, said that the issue of extractive industries taxation was important to both developed and developing countries. The Committee of Experts had formed a new Subcommittee, which had met recently in South Africa, to provide guidance on extractive industries taxation issues for developing countries. Extractive industries did not always produce the expected benefits for developing countries. While tax rules could be part of the solution, they were also part of the problem when they granted unnecessary incentives and tax holidays. The Subcommittee worked with other bodies, such as IMF, the World Bank Group and OECD, and had multiple stakeholders, including Governments, business representatives and advisers; it was also the first Subcommittee in which

non-governmental organizations (NGOs) had been invited to participate.

31. **Ms. Kana** (Head, Department of International Taxation, Internal Revenue Service, Chile), accompanying her remarks with a digital slide presentation, said that the establishment of the new Subcommittee was a welcome development. The mining sector had long been one of the pillars of the Chilean economy and Chile accounted for over one third of the world's copper output. As the result of a nationalization process initiated in the 1960s, the world's largest copper mine was in the hands of the Chilean State-owned company Codelco, which paid normal income taxes plus an extra 10 per cent tax, while all distributions went to the Chilean treasury.

32. The State had also promoted private investment in extractive industries. Some 12 per cent of gross domestic product came from foreign investment, approximately half of it in the mining industry. The Chilean Government had been able to attract so much foreign investment thanks to its enactment of the Foreign Investment Statute Decree Law 600 in 1974. That ground-breaking legislation guaranteed the safety and stability of foreign investment by establishing clear and transparent rules for foreign investors, who could sign a contract with the State and gain the right to repatriate profits and capital. It did not seek to regulate or restrict foreign investment and, in that sense, it was a precursor to the bilateral investment treaties and free trade agreements that Chile had later signed. Although it had perhaps outlived its usefulness and might soon be repealed, in the 1970s it had been a very powerful instrument. Under Decree Law 600, foreign investors had been offered certain tax benefits, including the option of paying tax at an invariable rate, which, at 42 per cent, was higher than the usual 35 per cent tax rate for foreign investors, but offered stability in sectors such as the mining industry where cash flow must be calculated over a very long period. Investors had often paid the higher rate for the first 5 or 10 years of a project and then opted out once profitability rose. Other benefits under the Decree Law included exemption from value added tax on imports of certain goods on a list published by the Ministry of the Economy and a guarantee that legal provisions established at the outset of the investment project could be maintained over its entire lifetime.

33. Subsequent legislation enacted in 2005 had introduced a new tax to be levied on the operating income of mining companies and on any sales exceeding 50,000 tonnes of fine copper. It had also amended Decree Law 600 and large mining companies currently paid a flat tax rate of 4 or 5 per cent under the investment contracts. Once those contracts expired, which could be after 10 or 20 years, the companies in question would be subject to the new mining tax rate of 5 to 34.5 per cent, with an effective rate of 14 per cent. The period over which tax benefits applied was of key importance. Although it was necessary to provide investors with confidence and stability when dealing with large investments over long periods, it was also vital to get the timing right since there needed to be some flexibility to change tax rules. Before the rules had been changed in 2005, successful negotiations had been held with foreign investors to amend the investment contracts.

34. Domestic law had also been amended in 2012 to allow the taxation of indirect capital gains on the sale of immovable property in Chile, including immovable property owned through a company. The right to tax capital gains on the sale of companies had always been retained in tax treaties, but had not been available under domestic law before that year.

35. In order to beat the "resource curse", Chile had established a Copper Stabilization Fund in 1985, which had been replaced in 2007 by an Economic and Social Stabilization Fund regulated by law. The Fund received excess income in good years and could be drawn upon during a downturn or in the event of emergencies such as the 2010 earthquake.

36. **Mr. Sollund** (Director-General, Deputy Head of Tax Law Department, Ministry of Finance, Norway), accompanying his remarks with a digital slide presentation, said that over the previous four decades, Norway had developed and maintained a tax regime for oil and gas production on its continental shelf. The Government's choice of fiscal instruments for that industry had changed over time. Crude oil prices had fluctuated since 1971, when oil and gas production began, as had Government resource revenue.

37. The manner in which risk and reward from extractive industries were shared between a Government and private companies varied depending on the kinds of fiscal instruments chosen by the Government. Some of those instruments would provide the State with early revenue, meaning that companies bore the risk to a large extent; in other cases, a net

profit taxation instrument would leave risk to be borne by the State, which would receive income at a much later stage.

38. In the early years of its experience with extractive industries, Norway had been in a position akin to that of many developing countries at present, with no expectation of the profits the industry would eventually yield. Initially, oil and gas production had been taxed using an ordinary corporate income tax, and royalties, a portion of the gross value of early production, had been paid to the State. When oil prices had risen dramatically in 1975, Norway had introduced a special petroleum tax to capture excess profits. As oil profits had increased, Statoil, the national oil company established in 1972, had become a major player in the Norwegian economy.

39. Between 1985 and 1988, cash flow from State participation in oil licences had been negative, which meant that the State had been investing beyond its financial capability in petroleum-related activities. That investment had subsequently become profitable and, since 2000, the petroleum tax, a net profit tax combining corporate tax and special petroleum tax, had become the main fiscal instrument, meaning that the State was now bearing most of the risk. The royalty system had been abolished, leaving the Norwegian Government to rely on the net profit tax. The tax system effectively operated like a partnership between the State and companies, with the State bearing 78 per cent of the cost and receiving a combined 78 per cent of all net profits from oil and gas production. For their part, companies bore 22 per cent of the cost and retained 22 per cent of the value created. The ordinary corporate tax was levied on each company, without the application of any “ring fence” system, and they were required to pay tax only when they had generated a net profit. Other fiscal instruments used by the Norwegian extractive industries taxation regime included an environmental tax on emissions from offshore platforms and a tax on the use of gas for power generation, providing incentives to reduce the amount of gas used on offshore platforms. That simple taxation regime had proved successful, producing good revenue for Norway and allowing its Government to explore, exploit and develop continental shelf resources. Moreover, the stability and reliability of the tax system had encouraged companies to continue making long-term investments. With regard to the Norwegian petroleum fund, it was a sovereign wealth fund that consisted of all State tax revenues from oil and gas production; it currently stood at $850 billion. Only the real return from the fund was used to balance the annual budget, in order to ensure that the economic impact of oil and gas revenue remained stable.

40. While it was not the intention of Norway to promote its system as a model for other countries, it did run an oil for development programme with the objective of sharing its experience in resource management, revenue creation and management, and environmental management with developing countries possessing oil and gas resources, in a coordinated manner and based on good governance principles. His Government also ran a tax for development programme, which entailed cooperation between the Norwegian tax administration and developing countries possessing mineral resources.

41. **Ms. Perry** (Assistant Director, Fiscal Affairs Department, International Monetary Fund (IMF)), accompanying her remarks with a digital slide presentation, said that countries needed a fiscal regime for the extractive industries that differed from the ordinary corporate tax regime for several reasons. First, the surplus profit generated by extractive industries made them an attractive tax base on equity and efficiency grounds. Second, given the volatility of oil prices, the inaccuracy of many forecasts and the fact that oil and gas were finite resources, it was necessary to establish funds to ensure that revenues from extractive industries were being transformed into other assets and not spent all at once.

42. The Fund’s priorities in designing extractive industries fiscal schemes for countries were to maximize the present value of net Government revenues, as well as to take environmental and job creation objectives into account. Risk must be balanced between investors and the Government, with a substantial focus on progressivity, namely, the extent to which the Government share of economic rents increased as the rate of return or pre-tax net present value rose. However, a very progressive regime might be less desirable for countries unable to bear the risk. Furthermore, from a sociopolitical standpoint and for reasons of perceived and real fairness, it was important for a taxation regime to allow the Government to capture a substantial proportion of the windfall resulting from a price spike. It must also be made clear that the country’s resource assets did not become the investor’s property.

43. In the light of those considerations, the fiscal instruments proposed by IMF included bonuses, with bidding for the right to start exploration and extraction; royalties amounting to a percentage of production; a regular corporate income tax; and explicit rent taxes. IMF assisted countries in conceiving a fiscal regime by assessing the existing situation and advising countries on how to assess their own situation.

44. The Fiscal Analysis of Resource Industries modelling system provided a way to estimate the Government tax take under alternative prices and scenarios, using indicators that related to such criteria as the average effective tax rate and progressivity. It was most effective for countries to use a combination of measures. Transparent rules and contracts were also vital; including rent taxes reduced the pressure to renegotiate or make unilateral changes and gave investors greater certainty that the deal they had concluded would hold.

45. Measures taken to promote transparency included the publication of the IMF Guide on Resource Revenue Transparency. Although the Extractive Industries Taxation Initiative had succeeded in improving transparency in resource extraction, it remained the case that many contracts were not made public, making it difficult to forecast or provide assistance. The lack of transparency could also create political economy problems, as people were not allowed to understand or learn about contracts concluded by their Government in respect of a major resource.

46. The process of bidding for contracts should be designed with progressivity in mind. Abusive transfer pricing must be prevented, and regional coordination would be crucial in that and other respects. IMF ran an active research programme to support the advice it provided to countries in that area and disseminate knowledge and thinking on relevant issues, as well as undertaking technical assistance missions, the number of which had doubled since 2012. It had also published a practical book on international issues in fiscal regimes for extractive industries and was revising the Guide on Resource Revenue Transparency. While IMF would continue to provide guidance on fiscal regimes, it must refrain from becoming involved in negotiations between countries and investors; countries should seek assistance elsewhere with that process.

47. **Mr. Mensah** (Coordinator, Subcommittee on Extractive Industries Taxation Issues for Developing Countries, Committee of Experts on International Cooperation in Tax Matters) said that the Subcommittee had decided at its first meeting in May 2014 that the scope of its work was overly broad and that it should prepare an overview note to address key issues faced by developing countries, to be developed into guidance notes on policy and administrative issues. The guidance notes would be practical, balanced and focused in form and content.

48. Among the key matters that the Subcommittee had resolved to address between June 2014 and the forthcoming annual session of the Committee of Experts in October 2014 were capital gains taxation of assets in the extractive industries, including the policy issue of indirect disposals of local interests through sales of foreign entities; tax treatment of environmental reclamation and rehabilitation; valuation of commodities, especially with regard to fluctuating prices; double taxation; tax incentives for extractive industries; and the knowledge and expertise deficit in the fiscal administrations of developing countries.

49. With regard to transfer pricing in the extractive industries, the Subcommittee had decided that, while transfer pricing as such fell under the purview of the Subcommittee on Article 9 (Associated Enterprises): Transfer Pricing, it could provide input to that body regarding extractive industries. Moving forward, the Subcommittee aimed to prepare one or two draft guidance items for adoption by the Committee at its annual session, and a few additional draft guidance notes for consideration in semi-finished form. Tanzania had offered to host the next meeting of the Subcommittee, to be held in August 2014, at which the final points on the paper for the Committee would be presented and circulated.

50. Turning to the rationale behind the establishment of the Subcommittee, he noted that, while the work of the World Bank and IMF on extractive industries taxation had been enormously helpful, a dedicated United Nations subcommittee would enjoy broader legitimacy among developing countries and could tailor the work already done in that area to address the specific needs of those countries. The Subcommittee membership brought together a wide range of actors, including members of the Committee, civil society organizations, and representatives of private industry and international taxation bodies, with a view to ensure that the views of all stakeholders were taken into consideration.

51. **The President**, providing an overview of the proceedings, said that the special meeting had underscored the fact that international tax cooperation could play a significant role in broadening the tax base and combating tax evasion and avoidance as well as illicit financial flows from developing countries, in order to foster domestic resource mobilization. Various regional and international organizations involved in international taxation had demonstrated their readiness to further enhance their mutual cooperation despite their differences in membership and mandates. In particular, the United Nations and OECD had taken steps toward increased collaboration, resulting in multiple joint capacity development initiatives. Such action would help promote complementarities, avoid duplication of efforts, and thereby better serve the interests of developing countries.

52. The interactive discussion on the topic “Current issues in domestic resource mobilization for development: base erosion and profit shifting” had given an overview of international initiatives to address those areas of concern, including the work of the Subcommittee on Base Erosion and Profit Shifting Issues for Developing Countries. The discussion had left no doubt about the importance of international cooperation in countering international tax avoidance and tax evasion, issues which must remain priorities on the agendas of all international organizations.

53. The panel discussion on the issues faced by developing countries in taxing their extractive industries and the ways in which the United Nations might assist them in overcoming those challenges had been instructive. The Chilean experience with minerals taxation would be useful for developing countries, while the Norwegian experience with petroleum taxation provided key insights into the long-term perspective of resource wealth inherent in extractive industries.

The meeting rose at 5.55 p.m.

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