



Programme

Informal Meeting on Practical Transfer Pricing Issues for Developing Countries

New York, 7-8 June 2011
UNHQ-NLB-Conference Room E

Tuesday, 7 June

9:45–10:00 **Registration of Participants**

10:00–10:20 **Welcome Remarks**

Werner Puschra, Director, Friedrich-Ebert-Stiftung, New York Office

Alexander Trepelkov, Director, Financing for Development Office, UN-DESA

10:20–1:20 **Agenda Item 1: The Role of the UN in International Tax Cooperation, the impact of transfer pricing on sustainable development and possible responses**

Chair:

Armando Lara Yaffar, General Director, Ministry of Finance and Public Credit, Mexico, Chairperson, UN Tax Committee

10:20–11:10 **Broader International Tax Cooperation Issues**

- There is a current background of discussions of the role the UN should have in global governance. Considering the UN's global legitimacy and convening power, what role should the UN have in matters of international tax cooperation?
- Can the UN take advantage of its special situation to bring into sharper focus connections between mobilization of domestic resources and other policy realms (e.g. trade and investment)?

Panelists:

HE Ambassador Eduardo Galvez, Deputy Permanent Representative of Chile to the United Nations (TBC)

Alexander Trepelkov, Director, Financing for Development Office, UN-DESA

Peter Baumgartner, Chairman of Swiss Holdings and ex-Chair International Chamber of Commerce, Taxation Commission, France

Kwame Adjei-Djan, Member of the Board of Directors of the Ghana Revenue Authority

Aldo Caliari, Director, Rethinking Bretton Woods Project, Center of Concern

11:10–11:30 **Coffee Break**

11:30–12:40 **Specific Transfer Pricing Issues**

- How does transfer pricing impact on development, including the different views on the magnitude of the losses and effective taxation of South-North capital flows?
- What are the options for developing countries to address transfer pricing issues?
- What is the role of South-South cooperation in dealing with these issues?
- What reforms are required in statistical practices?
- What is the potential of country-by-country reporting in facilitating progressive taxation?
- What role can NGO's and business play?
- What role should the UN Committee of Experts on international cooperation in tax matters have in transfer pricing issues?
- An EC perspective: the EC Inception Report on Transfer Pricing

Panelists:

Juan Carlos Campuzano Sotomayor, Economist, Internal Revenue Service, Ecuador

Jim Henry, Senior Adviser, Tax Justice Network

Ricardo Barrientos, Adviser, Instituto Centro Americano de Estudios Fiscales (ICEFI)

Stig Sollund, Deputy Head of Tax Law Department, Ministry of Finance, Norway and Coordinator of UN Tax Committee Subcommittee on Practical Transfer Pricing Issues

Jesse Drucker, Journalist, *Bloomberg Business Week*

Francisco Bataller-Martin, Economic Governance and Budget Support, European Commission

12:40–1:20 **General Discussion**

1:20–2:15 **Lunch** (boxed lunches provided)

2:15–2:25 **Address by Jomo Kwame Sundaram**, Assistant Secretary-General for Economic Development, UN-DESA

2:25–3:30 **Agenda Item 2: The Business framework to transfer pricing**

Chair:

Marcos Valadao, Coordinator-General of International Relations, Ministry of Finance, Brazil

- The theory of the firm and the reason for the existence of multinational enterprises
- Transfer pricing and transfer mis-pricing in MNEs
- Duties to shareholders versus wider duties
- Duties to comply with law
- Practical ways of assisting developing countries in internalising and acting on the necessary business understanding
- From the development perspective, who is responsible for the “exploitation” of weak law; who is responsible for fixing it?
- Commenting on the draft Chapter

Panelists:

Johann Müller, International Tax Manager, A.P. Møller - Maersk group, Denmark

Stig Sollund, Deputy Head of Tax Law Department, Ministry of Finance, Norway and Coordinator of UN Tax Committee Subcommittee on Practical Transfer Pricing Issues

T.P. Ostwal, Partner, T.P. Ostwal & Associates, India

David McNair, Senior Economic Justice Adviser, Christian Aid

Discussion

3:30–3:45 **Coffee Break**

3:45–4:45 **Agenda Item 3: The General Legal Environment**

Chair:

Jose Madariaga Montes, Advisor, Internal Revenue Service, Chile

- Aspects of the general legal environment that need to be considered when addressing transfer pricing, including administrative measures to prevent disputes such as advance rulings or the possible use of “safe harbour” provisions
- Building law that works in the domestic legal context
- Practical ways of assisting developing countries in policy and administrative dimensions of this issue
- Commenting on the draft Chapter

Panelists:

Prabhakar Reddy, Joint Director of Income Tax, Transfer Pricing, Ministry of Finance India

Kwame Adjei-Djan, Member of the Board of Directors of the Ghana Revenue Authority

Monique Van Herksen, Partner, Ernst & Young, Netherlands

Discussion

4:45–6:15 **Agenda Item 4: Establishing Transfer Pricing Capability in Developing Countries**

Chair:

Kwame Adjei-Djan, Member of the Board of Directors of the Ghana Revenue Authority

- The importance of setting up of policy capacity on transfer pricing in developing countries relevant to their expressed needs
- The steps required to assess administrative needs and capability and set up a transfer pricing capability
- Drawing from the experience of developed and developing countries and the possibility of “staged” approaches
- Commenting on the draft Chapter

Panelists:

Julius Bamidele, Director of Taxes, Federal Inland Revenue Service, Nigeria

Martin Hearson, Policy Adviser, ActionAid

Jose Madariaga Montes, Advisor, Internal Revenue Service, Chile

Juan Carlos Campuzano Sotomayor, Economist, Internal Revenue Service, Ecuador

Discussion

Wednesday, 8 June

10:00–11:30 **Agenda Item 5: Methods of achieving arm’s length pricing**

Chair:

Armando Lara Yaffar, General Director, Ministry of Finance and Public Credit, Mexico, Chairperson UN Tax Committee

- Methods that can be used to determine an arm’s length price and how to apply these methods in practice
- Practical ways of assisting developing countries in achieving “arm’s length” approaches within the context of their administrative realities and priorities
- Commenting on the draft Chapter

Panelists:

Monique Van Herksen, Partner, Ernst & Young, Netherlands

Marcos Valadao, Coordinator-General of International Relations, Ministry of Finance, Brazil

Stig Sollund, Deputy Head of Tax Law Department, Ministry of Finance, Norway and Coordinator of UN Tax Committee Subcommittee on Practical Transfer Pricing Issues

David Spencer, Senior Advisor, Tax Justice Network

Chris Lenon, Group Strategic Adviser, Tax Policy, Rio Tinto plc.

Roberto Schatan, Senior Adviser at the OECD's Centre for Tax Policy and Administration

Discussion

11:30–11:45 **Coffee Break**

11:45–1:00 **Agenda Item 6: Comparability**

Chair:

Juan Carlos Campuzano Sotomayor, Economist, Internal Revenue Service, Ecuador

- Operationalising the concept of comparability analysis when selecting the most appropriate transfer pricing method as well as arriving at the “correct” arm’s length prices
- Commenting on the draft Chapter

Panelists:

Prabhakar Reddy, Joint Director of Income Tax, Transfer Pricing, Ministry of Finance India

Roselle Sakhon, Transfer Pricing Expert, South African Revenue Service, South Africa

Johann Müller, International Tax Manager, A.P. Møller-Maersk Group, Denmark

Discussion

1:00–2:00 **Lunch** (boxed lunches provided)

2:00–3:15 **Agenda Item 7: Dispute resolution**

Chair:

David Rosenbloom, James S. Eustice Visiting Professor of Taxation, Director International Tax Program, New York University

- How to resolve complex transfer pricing disputes in a way that avoids double taxation, but is fair to developing countries?
- This issue involves aspects such as: how to improve the Mutual Agreement Procedure under treaties, and the pros and cons of mediation and arbitration for developing countries at particular stages
- Issues of cost, foreign exchange, availability of developing country experts, familiarity with developing country situations
- Commenting on the draft Chapter

Panelists:

Carol Dunahoo, Partner, Baker and McKenzie LLP

Michael Lennard, Chief, International Tax Cooperation Unit, FfDO, UN-DESA

Kwame Adjei-Djan, Member of the Board of Directors of the Ghana Revenue Authority

Prabhakar Reddy, Joint Director of Income Tax, Transfer Pricing, Ministry of Finance India

Discussion

3:15–3:30 **Coffee Break**

3:30–5:00 **Agenda Item 8: Audit and risk assessment**

Chair:

Stig Sollund, Deputy Head of Tax Law Department, Ministry of Finance, Norway and Coordinator of UN Tax Committee Subcommittee on Practical Transfer Pricing Issues

- One of the key issues in developing countries is that of risk assessment; where to apply their limited audit capacity most efficiently, especially in the early years of a transfer pricing regime.
- Commenting on the draft Chapter.

Panelists:

Roselle Sakhoo, Transfer Pricing Expert, South African Revenue Service, South Africa

Carol Dunahoo, Partner, Baker and McKenzie LLP

Julius Bamidele, Director of Taxes, Federal Inland Revenue Service, Nigeria

Kiyoshi Nakayama, Adviser, FADAI, International Monetary Fund

Discussion

5:00–5:25 **Summary of the Meeting and Next Steps**

5:25–5:30 **Close of the Meeting**