



Subcommittee on Article 9: 21st Session Update

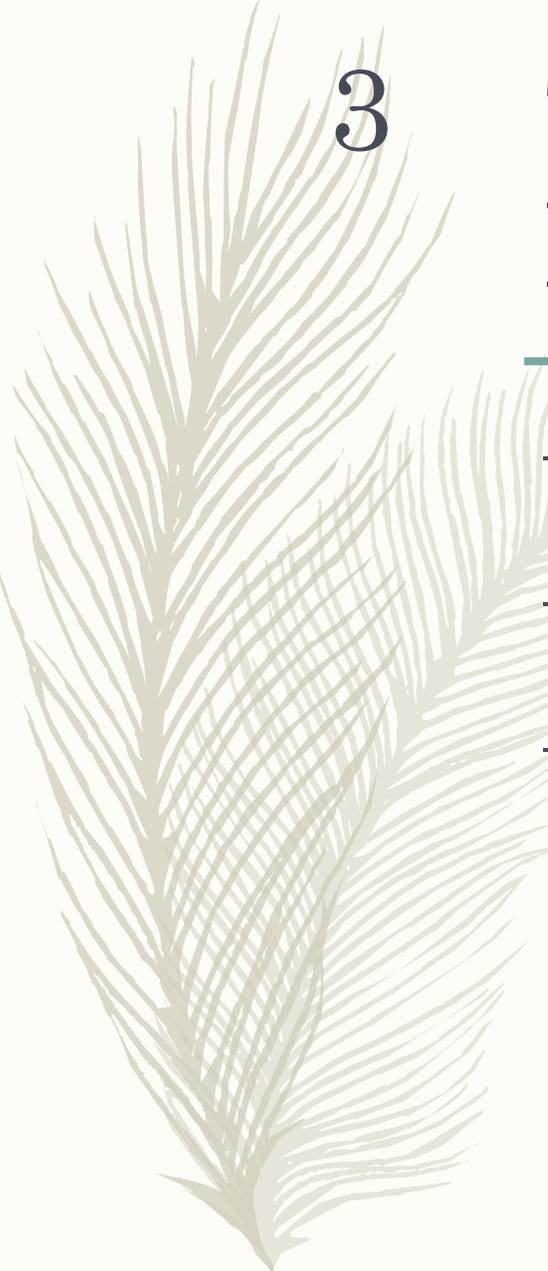
Ingela Willfors and Stig Sollund



2

Mandate

- Article 9 and the arm's length principle;
- Consistent with relevant Commentaries of the UN Model Convention;
- Realities and needs of developing countries;
- Experience of developing countries and issues and options of most practical relevance to them;
- Aware of work in other fora;
- OECD/G20 Action Plan on BEPS;
- Special situation of the least developed countries;
- Seeking the last of the "final approvals" at the 21st Session.
- [Main Paper is CRP.40](#)
- [Also CRP.40 Add.1 \(China and Kenya Country Positions\)](#)



3

The Transfer Pricing Manual's Approach

- Highly important for avoiding international double taxation ... that a common understanding prevails on how the arm's length principle should be applied;
- ... and that the two Model Conventions provide a common framework for preventing and resolving transfer pricing disputes;
- With that aim in mind the Committee has developed the United Nations Practical Manual on Transfer Pricing for Developing Countries:
 - Which pays special attention to the experience of developing countries;
 - Reflects the realities for such countries at their relevant stages of capacity development;
 - And seeks consistency with the guidance provided by the OECD Transfer Pricing Guidelines.



4

Value Added by the Subcommittee Work

- **A multi-disciplinary, multi-stakeholder approach:**
- **With special reference to developing country experience, priorities, capabilities:**
- **The areas of focus;**
- **The examples;**
- **The feedback loop with UN capacity building work.**



5

Members and Meetings

- **27 members (of which 7 are members of Committee of Experts);**
- **Several drafting groups;**
- **Subcommittee meetings since 19th Session:**
 - **Nairobi, December 2019;**
 - **Vienna, February 2020;**
 - **No meetings since – state of workplan and COVID-19.**



6

Key Workstreams

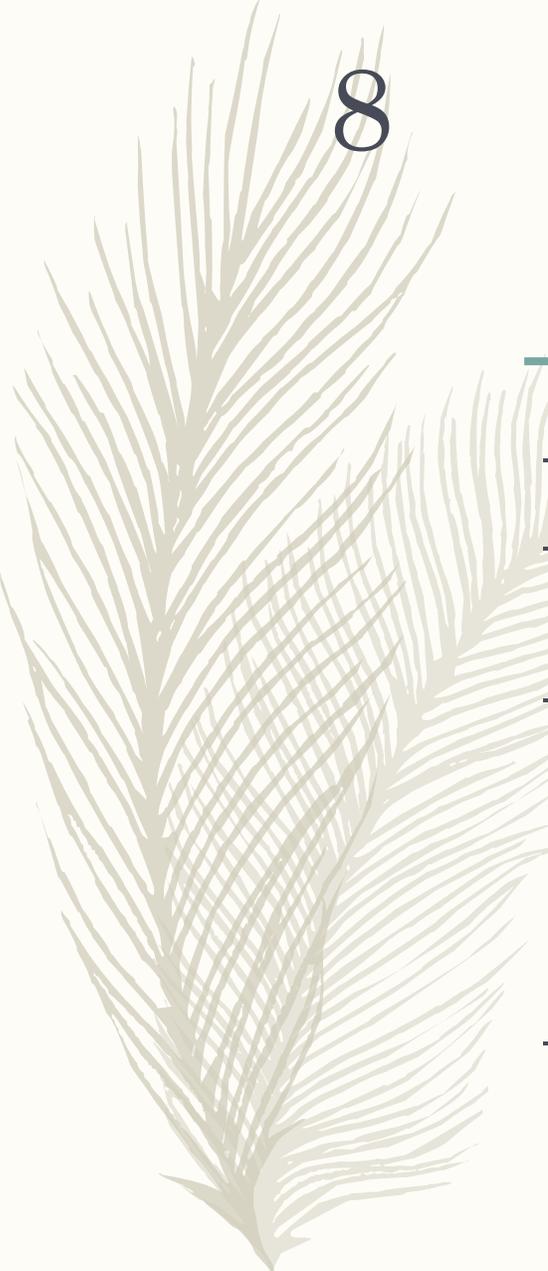
- **Financial Transactions;**
- **Transactional Profit Split Method;**
- **Centralised Procurement Functions;**
- **Comparability Issues;**
- **Update and Revision on Specific Chapters;**
- **General Update;**
- **Relationship between Transfer Pricing and Customs Valuation;**
- **Part D Country Practices (does not purport to represent Committee views, so left to countries to draft).**



7

For your Approval (1)

- Documents for a second consideration and approval :
- **Part A: Transfer Pricing in a Global Environment** revised to reflect, in particular, the nature and impact of new business models in a digitalized environment. **(Attachment A)**;
- **Chapter B.1: Introduction** revised to improve focus and avoid unnecessary overlaps and repetitions. **(Attachment B.1)**;
- **Revised Chapter B.4.2.7: Relationship Between Transfer Pricing and Customs Valuation.** Updates for new version of World Customs Organization guidance and clarifies relationship **(Attachment B.3)**;



8

For your Approval (2)

- Documents for a second consideration and approval
- **Chapter B.4.2.10.1-7:** Additional targeted and focused guidance on Centralized Sales Functions. **(Attachment B.5);**
- **Chapter B.8 on Financial Transactions (examples only)**
 - **(In the attachments referred to as B.9, but to be fully renumbered)** reflecting and making more practical and understandable the guidance already approved by the Committee (to B.9.3.) or for which a final approval is sought at the 20th Session (B.9.4). **(Attachment B.7); and**
- **Revised Chapter C.6.)** (formally C.4): Dispute Avoidance and Resolution. **(Attachment C).** Updated and streamlined.

Committee Consideration completed (19 th Session) – only included for context	Committee Consideration completed (20 th Session) – only included for context.	Projected final consideration at 21 st Session	
Component Part	First Reading Session	Approval Session	Attachment
A: Transfer Pricing in a Global Environment	20th	21st	A
B.1: Introduction	20th	21st	B.1
B.2: Comparability	19th	20th	B.2
B.2.4.7: Transfer pricing and customs valuation	20th	21st	B.3

10

Committee Consideration completed (19th Session) – only included for context	Projected final consideration at 20th Session	Projected final consideration at 21st Session
--	---	---

B.3.3: Profit Splits	18th	19th	B.4
B.4.2.10.1-7: Additional Guidance on Centralized Sales Functions	20th	21st	B.5
B.5: Group Synergies and Centralized Procurement	19th	20th	B.6
B.8: Financial Transactions (formerly and in attachments as B.9) (excluding B.9.4 (guarantees) and the examples)	18th	19th	B.7

Committee Consideration completed (19 th Session) – only included for context	Projected final consideration at 20 th Session	Projected final consideration at 21 st Session	
B.8: Financial Transactions (guarantees) (included in attachments as B.9.4)	19th	20th	B.7
B.8: Financial Transactions (the examples) (formerly and in attachments as B.9)	20th	21st	B.7
C.1: merging and updating former Chapter B.8 on the General Legal Environment and former Chapter C.1. on Establishing and Updating Transfer Pricing Regimes	19th	20th	C (All chapters in Part C are in a single attachment)

Committee Consideration completed (19 th Session) – only included for context	Projected final consideration at 20 th Session	Projected final consideration at 21 st Session	
C.2: Establishing Transfer Pricing Capability (previously C.5) NB, C.3 on Documentation was C.2.	18th	19th	C
C.4: Risk Assessment (Previously part of C.3.)	18th	19th	C
C.5: Transfer Pricing Audits. (A new Chapter, but basically picking up former C.3.4 to C.3.8).	18th	19th	C
C.6 (formerly C.4) Dispute Avoidance and Resolution	20th	21st	C

Part D (Country Practices) and Next Steps

- Finalize Country Practices (Part D) – in printed Manual or link to an online page – Committee Decision required;
- NB Part D contributions do not purport to be Committee approved;
- Attachments D.1 (South Africa); D.2 (Mexico); and (in [CRP.40 Add.1](#)): D.3 (China); D.4 (Kenya);
- India – awaited; Brazil – unchanged;
- Draft Foreword attached for information (Attachment E);
- Subcommittee meeting?
- Editing work;
- Seeking electronic and paper publication in English (initially) at 22st and final Session of this Membership;
- Secretariat will be seeking Spanish and French translations ASAP.