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**Committee of Experts on International
Cooperation in Tax Matters
Twenty-sixth session**

New York, 27-30 March 2023

Item 3 (e) of the provisional agenda

Transfer Pricing

Co-Coordinator's Report

Summary

Since its formation at the Twenty-third Session, the Subcommittee on Transfer Pricing has been working on drafting interstitial guidance in six workstreams: (a) transfer pricing during the COVID-19 economic downturn; (b) transfer pricing compliance assurance; (c) transfer pricing of carbon offsets and credits; (d) industry/sector guidance for primary products; (e) industry/sector guidance for the pharmaceutical industry; and (f) dispute avoidance and resolution.

The Subcommittee's Co-coordinators are hereby: providing a short progress report on the work undertaken; *presenting for first consideration* the papers produced in Workstreams (a) through (c); and seeking *comments and guidance* on the work undertaken in Workstreams (d) through (f).

Background information

1. At its Twenty-third Session, the Committee of Experts on International Cooperation in Tax Matters (the Committee) established the Subcommittee on Transfer Pricing as a multi-stakeholder body. At the Twenty-fifth Session, the Subcommittee sought guidance and approval from the Committee on its proposed work program. The proposed work program consists of six workstreams that have previously been approved by the Committee: (a) transfer pricing during the COVID-19 economic downturn; (b) transfer pricing compliance assurance; (c) transfer pricing of carbon offsets and credits; (d) industry/sector guidance for primary products; (e) industry/sector guidance for the pharmaceutical industry; and (f) dispute avoidance and resolution.

2. Since the Twenty-fifth Session, the Subcommittee on Transfer Pricing held several meetings to advance its work. On 14 November 2022, the Subcommittee met virtually to discuss the work undertaken in the workstream on transfer pricing during the COVID-19 economic downturn. The meeting gave Subcommittee participants the chance to comment on the work undertaken and provided the drafters with feedback and input. From 13 to 15 February 2023, the Subcommittee met in person on the campus of Vienna University of Economics and Business. Drafting groups presented their work and received valuable inputs from Subcommittee participants. The Subcommittee also coordinated with others, most notably the Subcommittee on Environmental Taxation and the Subcommittee on Extractive Industries Taxation, as well as the Working Group on Dispute Resolution and Avoidance, to ensure aligned approaches and avoid duplication.

Progress report

3. The Subcommittee's Co-coordinators are hereby providing a short progress report on the work undertaken and *presenting for first consideration* the papers produced in Workstreams (a) transfer pricing during the COVID-19 economic downturn; (b) transfer pricing compliance assurance and (c) transfer pricing of carbon offsets and credits. In addition, they are *seeking comments and guidance* from the Committee on the Workstreams (d) industry/sector guidance for primary products, (e) industry/sector guidance for the pharmaceutical industry, and (f) dispute avoidance and resolution.

4. **Transfer pricing during the COVID-19 economic downturn**

- Progress has been made by the Subcommittee to advance the work in this workstream, reflected in the development of a paper for first consideration by the Committee, which is attached to this note as Annex A.

5. **Transfer pricing compliance assurance – an end-to-end toolkit**

- Progress has been made by the Subcommittee to advance the work in this workstream, reflected in the development of a paper for first consideration by the Committee, which is attached to this note as Annex B.

6. **Transfer pricing of carbon offsets and credits**

- Progress has been made by the Subcommittee to advance the work in this workstream, reflected in the development of a paper for first consideration by the Committee, which is attached to this note as Annex C.

7. Industry / sector guidance for primary products

- Progress has been made by the Subcommittee to advance the Workstream on industry guidance on primary products (e.g., agriculture), reflected in the development of a preliminary paper with a focus on the coffee industry, which was circulated and discussed during the February 2023 Subcommittee meeting.
- The paper focuses on the global value chain of the coffee industry and then goes on to apply the concepts described in the UN Transfer Pricing Manual (2021) to the industry. The paper seeks to describe the typical controlled transactions in the industry, identifies where transfer pricing disputes are likely to arise and discusses industry-specific factors affecting the selection and application of transfer pricing methods. It then presents industry-specific cases.
- The drafting group has received valuable inputs and comments from Subcommittee participants during their meeting and is also seeking additional input from industry experts and governmental experts in this area. The paper is not appended, as it is still being actively developed and drafted. It will be presented to the Committee at the Twenty-seventh Session.

8. Industry / sector guidance for the pharmaceutical industry

- Progress has been made by the Subcommittee to advance the Workstream on industry guidance for the pharmaceutical industry, reflected in the development of a preliminary paper, which was circulated and discussed during the February 2023 Subcommittee meeting.
- The paper focuses on the global value chain and then goes on to apply the concepts described in the UN Transfer Pricing Manual (2021) to the industry. Special consideration is given to specificities of the industry such as regulations (for example price and import controls and approval processes) and the role of intangibles. The paper also includes cases.
- The drafting group has received valuable inputs and comments from Subcommittee participants during their meeting and is also seeking additional input from industry experts in this area. The paper is not appended, as it is still being actively developed and drafted. It will be presented to the Committee at the Twenty-seventh Session.

9. Dispute avoidance and resolution in transfer pricing matters

- In light of activities other workstreams, the work on dispute avoidance and resolution has not advanced since the Twenty—fifth Session. The Subcommittee has noted the interest in the topic and the valuable feedback that has been received from the Committee and observers at the Twenty-fifth Session and will advance this workstream going forward.

Next steps and organization of work

10. The Subcommittee is grateful for the chance to receive feedback from the Committee and observers on all of the workstreams, with a focus on those that have presented a paper for first consideration by the Committee, i.e. Workstreams (a), (b) and (c). It plans to submit the papers presented during the Twenty-sixth Session for final approval at the Twenty-seventh Session, after taking into account comments made and guidance provided at this Session and prior to the twenty-seventh Session. In addition, the Subcommittee plans to submit to the Twenty-seventh Session, for first consideration, the papers for the remaining Workstreams (d), (e) and (f). The drafting is performed by smaller groups that benefit immensely from the generous input of expertise and time of representatives from international organizations, the business community, governmental representatives and academics. The Subcommittee was also supported by the Transfer Pricing Center at Vienna University of Economics and Business that very effectively hosted the Subcommittee meeting.