



# Recommendation on the Determination of Transfer Prices between Associated Enterprises

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## Background Information

The Recommendation on the Protection of Critical Information Infrastructures was adopted by the OECD Council on 30 April 2008 on the proposal of the Committee for Information, Computer and Communications Policy (now called Committee on Digital Economy Policy). The Recommendation aims to set out a high-level framework to guide the development of national strategies to protect critical information infrastructures (CII) at domestic level and across borders. The Recommendation identifies the need for strengthened international cooperation to address cross border issues given the importance of the internet as a global infrastructure. It also identifies the need for a national operational infrastructure security capability, a willingness and ability to share information, close cooperation with the relevant parts of the private sector, and a strong culture of security in the face of rapid technological growth, and consequential social changes. The draft Recommendation therefore calls on Member countries to adopt a common approach in a number of areas to enable progress on some of these issues. Further, although the Recommendation is addressed to governments, it stresses the need for collaboration with the private sector.

**THE COUNCIL,**

**HAVING REGARD** to Article 5(b) of the Convention on the Organisation for Economic Co-operation and Development of 14th December 1960;

**HAVING REGARD** to the Declaration of 21st June 1976 adopted by the Governments of OECD Member Countries on International Investment and Multinational Enterprises and the Guidelines annexed thereto [Doc. No. C(76)99(Final)];

**HAVING REGARD** to the Report of the Committee on Fiscal Affairs of 12th March 1979 on the determination of transfer prices between associated enterprises [Doc. No. CFA(79)1];

**CONSIDERING** that transactions between associated enterprises (i. e. between parent and subsidiary enterprises or enterprises under common control) may take place under conditions differing from those taking place between independent enterprises;

**CONSIDERING** that the prices charged in such transactions between associated enterprises (usually referred to as transfer prices) should, nevertheless, for tax purposes be in conformity with those which would be charged between independent enterprises (usually referred to as arm's length prices) as provided in Article 9 (paragraph 1) of the OECD Model Convention for the avoidance of double taxation with respect to taxes on income and capital;

**CONSIDERING** that problems with regard to transfer prices in international transactions arise mostly between the various entities of multinational enterprises and assume special importance in view of the substantial volume of such transactions;

**HAVING REGARD** to the considerations in the Report referred to above regarding the methods to be followed for the correct determination of transfer prices for goods, technology, trade-marks and services and of interest rates on loans between associated enterprises;

**HAVING REGARD** to the need to achieve consistency in the approaches of tax authorities, on the one hand, and of associated enterprises, on the other hand, in the determination of transfer prices for the purposes of ensuring correct taxation of profits and avoidance of double taxation;

**I. RECOMMENDS** to the Governments of Member countries:

1. that their tax administrations take into account, when reviewing, and if necessary, adjusting transfer prices between associated enterprises for the purposes of determining taxable profits, the considerations and methods set out in the Report referred to above for arriving at arm's length prices when goods, technology, trademarks and services are provided or supplied or loans granted between associated enterprises;
2. that they give the Report referred to above publicity in their country and have it translated, where appropriate, into their national language (s);
3. that they develop further co-operation between their tax administrations, on a bilateral or multilateral basis, in matters pertaining to transfer pricing;

**II. INSTRUCTS** the Committee on Fiscal Affairs:

1. to pursue its work on issues pertinent to transfer pricing and to the assessment of taxable profits of associated enterprises in general;
2. to report periodically to the Council on the results of its work in these matters together with any relevant proposals for improved international co-operation.

In adopting this Recommendation, the Council:

1. **NOTED** the Report by the Committee on Fiscal Affairs of 12th March 1979, referred to above;
2. **AGREED** that this Report and the Recommendation should be published.

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