

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.

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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.