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"Treatment of Intercompany Transfer Pricing for Tax Purposes--
A Survey of Legislative and Administrative Issues"
by Yuichi Ikeda

Tax authorities in several countries have intensified their surveillance of transfer pricing in recent years. Concurrently, international discussions on methods for determining "arm's-length" prices are being renewed, especially the application of "fourth methods" and the valuation of intangible property where existing international rules do not provide sufficient guidelines.

Developments have also taken place in tax administration practices for monitoring transfer prices. More centralized administrative systems and more powerful administrative tools--for example, longer time limitations and some extraterritorial measures for collecting foreign-based information--have been introduced in some countries.

This paper reviews the legislative and administrative issues relating to the treatment of intercompany transfer pricing for tax purposes. It notes that one argument against the existing approaches to transfer pricing is that it is difficult to apply the pricing rules to actual cases and to determine precisely the arm's-length prices. In light of this, some systems for improving the predictability of taxation together with a prudent attitude on the part of tax authorities in their transfer pricing examination practices are essential. The system of advance pricing agreements involving preliminary discussions between competent authorities could be particularly important.

In spite of these efforts, application of the arm's-length price rule continues to be difficult and unpredictable. Unitary apportionment, a frequently proposed alternative to international income allocation, will remain an important topic in international tax circles, although it is unlikely that there will be an international consensus for a move to this approach.

The design and application of transfer pricing provisions is an important issue for developed and developing countries alike. For the developing countries, there are additional practical difficulties in applying transfer pricing concepts, owing to their limited tax administration resources. It is important therefore that ongoing discussions on international transfer pricing rules and practices take account of the experiences and practices of developing countries in dealing with transfer pricing problems.