



Economic and Social Council

many companies, in part, due to advances in information and communication technologies. Developing countries are increasingly concerned that they do not receive adequate compensation for intangibles, which were developed and received its value from economic activity and value-creating activities in their jurisdictions. One concern is that legal ownership of intangibles and risks involved can easily be contractually transferred abroad, resulting in base erosion, for example through royalty payments.

Tax administrations are also struggling with mixed contracts, i.e., contracts covering intangibles and other elements, between domestic companies and their counterparts abroad, which make it hard to ascertain the true nature of the transactions. Difficulties in administering transfer pricing⁵ of intangibles include the unique nature of many transactions and the intangibles involved therein making it hard or impossible to find comparable transactions, especially for developing countries with low administrative capacity and limited access to databases. The increasing focus on the “profit-split method⁶”, while an important way of responding to the lack of comparables, can put an additional strain on developing countries’ tax administrations, depending on the split factors to be used. There is a need for more guidance on how to conduct profit splits that adequately reflect value creation and do not lead to double taxation of profits.

The interactive discussion on this topic will serve to inform ECOSOC and the representatives of national tax authorities about th5.9htr-4.5J15.541a1