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August, 8, 2025 – Protocol 1
Intervention by Tony Salvador, TWN

Thank you, Madam/Mister Chair. I have the honor to speak on behalf of Tax and Fiscal Justice Asia, and of the Global Alliance for Tax Justice, of which TAFJA is a proud member.

My statement shall address the issue of transfer pricing databases that have been suggested as means of enhancing dispute resolution by improving access to comparables. Our position as civil society is that this approach is inadequate and continues to reinforce existing systems that have been proven to be inadequate.

Multinational corporations and their subsidiaries operate as a single enterprise and should therefore be taxed as such, with their *consolidated net taxable income* distributed to the different jurisdictions where they operate, virtually or otherwise, based on an agreed formulary apportionment under a unitary tax regime. The application of the arm's length principle and the use of comparables particularly in the digital economy has shown the inadequacy of these international tax principles. The prevalent use of hard to value intangibles, the massive role of data and user contributions in generating revenue for digital companies has shown that the FAR analysis and even new rules such as DEMPE are still inadequate.

Therefore,

This would address the controversies surrounding yet another dysfunctional system that enables profit shifting: tax planning methods that employ transfer pricing to shift revenues and expenses among different jurisdictions and the transfer pricing rules that govern them, which yet again cannot keep up with the developments in the provision of cross-border digitalized services.

Protocol 1: Taxation of income from cross-border services in an increasingly digitalized and globalized economy, while vital primarily for developing countries, is also important for many developed and industrialized countries, including members of the European Union.

Due to the nature of their business, digital companies can provide services in market jurisdictions without any physical presence or permanent establishment, and therefore incur no income tax liability in those jurisdictions.

Thus, the outdated standard of permanent establishment or physical presence should be replaced with the concept of SIGNIFICANT economic presence, with taxing rights allocated among jurisdictions based on revenues generated in the market jurisdiction, as well as other factors such as assets and personnel located outside that jurisdiction.

In any event, developing countries and even developed countries may want to rightfully address their inability to impose **income taxes** on non-resident digital companies by imposing digital services tax or final withholding tax on gross revenues. Their right to do so should be respected. They should not be targets of trade sanctions or other retaliatory tax measures.

Furthermore, we note that multinational corporations and their subsidiaries operate as a single enterprise and should therefore be taxed as such, with their *consolidated net taxable income* distributed to the different jurisdictions where they operate, virtually or otherwise, based on an agreed formulary apportionment under a unitary tax regime.

This would address the controversies surrounding yet another dysfunctional system that enables profit shifting: tax planning methods that employ transfer pricing to shift revenues and expenses among different jurisdictions and the transfer pricing rules that govern them, which yet again cannot keep up with the developments in the provision of cross-border digitalized services.

Failure to address these issues will allow the persistence of an utterly untenable situation where there is transfer of wealth from society to a small corporate elite and from developing countries to rich nations.

Thank you.