

United Nations Capacity Development Programme on International Tax Cooperation



Progress Report

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Mandate

In its resolution 2013/24, ECOSOC reiterated and expanded the mandate given to the Financing for Development Office (FfDO) in the area of capacity development. The Council recognized the progress made by FfDO in its work in developing, within its mandate, a capacity development programme in international tax cooperation aimed at strengthening the capacity of the ministries of finance and national tax authorities in developing countries to develop more effective and efficient tax systems, which support the desired levels of public and private investment, and to combat tax evasion, and requested the Office, in partnership with other stakeholders, to continue its work in this area and to further develop its activities.

Overview

The Financing for Development Office (FfDO) has been developing its capacity development programme on international tax cooperation since 2012. ECOSOC, in its resolution 2013/24, reiterated and expanded its mandate given to FfDO in 2012. The Council recognized the progress made in FfDO's work in this area and mandated it to continue and to further develop its activities.

Owing to the fact that FfDO provides secretariat support to the Committee of Experts on International Cooperation in Tax Matters (the "Committee"), its capacity development programme draws, to a large extent, on the products of the Committee with a view to disseminating and operationalizing them as capacity development tools for the benefit of developing countries.

Accordingly, two early areas of focus of the programme have been: (1) Double tax treaties based on the 2011 *United Nations Model Double Taxation Convention between Developed and Developing Countries* (the "UN Model"); and (2) Transfer pricing based on the 2012 *United Nations Practical Manual on Transfer Pricing for Developing Countries* (the "UN TP Manual").



A more recent area of work focuses on protecting and broadening tax base of developing countries. The project is expected to provide concrete input to the third International Conference on Financing for Development mandated by General Assembly resolution 68/204 and thus to the new post-2015 financing strategy, in the area of domestic resource mobilization. The project will draw upon and complement, from a capacity-development angle, the work of the Subcommittee on Base Erosion and Profit Shifting (BEPS), as well as the work of the OECD project on BEPS, as appropriate.

FfDO is also carrying out capacity-development activities in the area of tax administration, which are undertaken jointly with the Inter-American Center of Tax Administrations (CIAT).

In devising its capacity development programme, FfDO takes full advantage of the unique expertise and networks of the Committee members, who have been providing support to this programme in a generous way on pro-bono basis. Several Committee members have been involved in almost every activity up to date.

In a new development, at its 9th session, the Committee set up an Advisory Group on Capacity Development comprising 7 members of the Committee and mandated it to make recommendations on capacity-building and the provision of technical assistance to developing countries in the area of international tax cooperation. FfDO will work closely with the Group in implementing its programme of capacity development.

During the past year, further progress has been made in developing and implementing the above-mentioned capacity development programme as reported below.

Advisory Group on Capacity Development

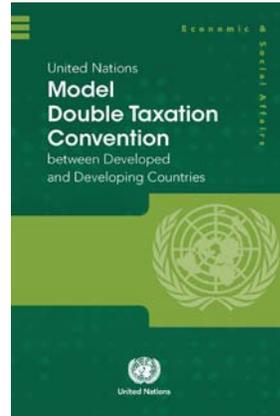
During its 9th session (Geneva, 21-25 October 2014), the Committee decided to set up an Advisory Group on Capacity Development comprising 7 members of the Committee and mandated it to make recommendations on capacity-building and the provision of technical assistance to developing countries in the area of international cooperation in tax matters. To this end, the Group is to engage with the UN capacity development programme in international tax cooperation. The Group is to ensure that the activities of the above programme adequately reflect the work of the Committee, take into account the needs of developing countries, especially the less developed ones, and do not duplicate but effectively complement existing tools and resources at the disposal of developing countries. The Group will also assess and review progress made in the implementation of the programme on an annual basis, on the occasion of the session of the Committee.

Double Tax Treaties – UN Model

Work in the area of tax treaties drawing on the UN Model continues to be most advanced. In this area, FfDO is carrying out a series of capacity development initiatives.

UN Course on Double Tax Treaties

Final technical review of the course modules



The last batch of draft modules to comprise the *UN Course on Double Tax Treaties* based on the 2011 UN Model was reviewed during the final technical review (New York, 11-13 December 2013) with the participation of 2 members of the Committee, 3 authors of the course materials and 3 representatives of relevant authorities of developing countries in Latin

America. Following the meeting, the core modules of the course were finalized.

One session of the meeting was dedicated to planning the first pilot event utilizing the course material, to be delivered for the Latin America and Caribbean region. Specific suggestions were made on how to make sure that the Course has the greatest possible impact on this multi-language audience, including securing simultaneous interpretation, translation of the Course material to Spanish and preparing glossary of technical terms in both languages. Great demand for this Course in the region was reiterated. Accordingly, the Course was translated into Spanish and is now available in two languages.



1st UN Course on Double Tax Treaties for Latin America and Caribbean

The Course was delivered, for the first time, in Panama City, Panama, on 10-14 March, with the participation of 30 treaty negotiators and administrators from 16 developing countries in Latin America and Caribbean (Argentina, Bolivia, Costa Rica, Dominican Republic, Ecuador, El Salvador, Guatemala, Honduras, Mexico, Nicaragua, Panama, Paraguay, Peru, Suriname, Trinidad & Tobago, and Uruguay). CIAT provided assistance in organizing the course.



The Course introduced the fundamentals of double tax treaties, which played a critical role in promoting international investment and provided the participants with a good understanding of the UN Model, which is one of the two international double tax treaty models most widely used by countries as a basis for negotiations of their bilateral tax treaties. The Course covered the recent updates of the UN Model, as well as the similarities with and differences from the *OECD Model Tax Convention on Income and on Capital* (the OECD Model) - the other most widely used model. In addition to analysing the personal and material scope of tax treaties, the Course dealt with the concept of permanent establishment and attribution of business profits. Moreover, it covered both independent and dependent personal services and treaty administrative provisions, such as those dealing with mutual agreement procedure and exchange of information.

The Course was delivered in a very practical way, emphasizing South-South sharing. It included practical examples and comprehensive case studies, which were discussed by the participants in small groups. In addition to instruction provided by world-renowned experts,

namely Prof. Brian Arnold, Senior Adviser, Canadian Tax Foundation, and Prof. Hugh Ault, Professor Emeritus, Boston College Law School, regional experts provided practical insights and relevant examples from their country practices throughout the Course. Together with FfDO staff they also led discussion of case studies and facilitated sharing of experiences among the Course participants. The Course was taught in English and Spanish with simultaneous interpretation. Participants took part in discussions enthusiastically, actively engaged in South-South sharing and repeatedly expressed their satisfaction with the Course.

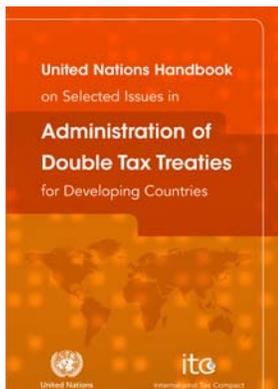
As the next steps, FfDO is foreseeing delivering the course in Caribbean region and in Asia, developing regional versions of the Course to make sure that it is relevant to the regions and carrying out a “train-the-trainer” programme in order to enable regional experts to deliver it.

Administration of Tax Treaties



Last year, FfDO concluded its joint project with the International Tax Compact (ITC), which resulted in the *UN Handbook on Selected Issues in Administration of Double Tax Treaties for Developing Countries*.

The Handbook was launched on 25 September 2013 in Paris, during the OECD Meeting with non-OECD Economies and International Organizations preceding the 18th Annual Tax Treaty Meeting. In follow up to this project, FfDO and ITC will organize a 3-day capacity-development workshop, which will be held in Berlin, Germany, in March 2015, with the participation of up to 30 national officials from developing countries in charge of administration of tax treaties. The first day of the workshop will provide participants with an overview of the issues covered by the UN Handbook. Days 2 and 3 will focus on selected chapters of



the UN Handbook, which lend themselves to more in-depth hands-on analysis and which were subject of particular interest among developing countries during the launch and presentation of the UN Handbook.

In separate but related development, CIAT is currently translating the UN Handbook into Spanish.

Negotiation of Tax Treaties

In the area of negotiation of double tax treaties, FfDO engages with the newly established Subcommittee on Negotiation of Tax Treaties, which is mandated by the Committee to develop a new practical *Manual for the Negotiation of Bilateral Tax Treaties between Developed and Developing Countries*. FfDO edited and finalized five practical papers on negotiations of tax treaties, drafts of which were presented to the Committee during its 9th session as an initial input to the Manual. The papers included: (1) Why negotiate tax treaties and (2) Tax Treaty Policy Framework and Country Model by Ariane Pickering; and (3) Preparing for Tax Treaty Negotiation, (4) How to Conduct Tax Treaty Negotiations, and (5) Post-negotiation Activities by Odd Hengsle. The summary of the above papers will be included in the new UN Manual for the Negotiation of Bilateral Tax Treaties, as agreed by the Subcommittee.

In parallel, given the urgent need for more assistance in the area of negotiation of tax treaties, FfDO published the papers in their entirety in a publication entitled *Papers on Selected Topics in Negotiations of Tax Treaties for Developing Countries*. The publication will

be launched during the special meeting of ECOSOC on International Cooperation in Tax Matters (New York, 5 June, 2014).

1st UN-OECD Practical Workshop on Negotiation of Tax Treaties

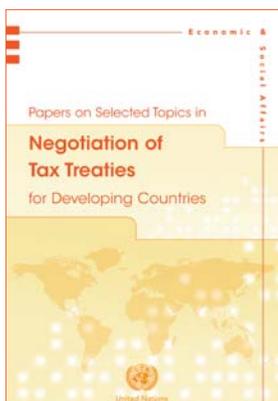
Following the recommendation by Committee members not to develop a separate UN course on negotiation of double tax treaties but rather to join forces with the OECD in delivering their well-established event on this topic, the 1st UN-OECD Practical Workshop on Negotiation of Tax Treaties was held in Vienna, Austria on 19-23 May 2014. The comprehensive training course for tax treaty negotiators was based on both the UN Model

and the OECD Model and conducted in the form of simulated tax treaty negotiation between developed and developing country in six teams led by six experienced treaty negotiators. The instructors included: David Partington, OECD Secretariat; Ron van der Merwe, South Africa; Carmel Peters, New Zealand; Odd Hengsle, Norway; Daniel Lüthi, Switzerland; and René Monfrooij, the Netherlands. The workshop was attended by 26 treaty negotiators from 22 developing countries (Bangladesh, Bahamas, Bolivia, Cambodia, Cameroon, Costa Rica, Dominican Republic, Ethiopia, Ghana, Honduras, Kenya, Lesotho, Nicaragua, Pakistan, Panama, Paraguay, Peru, Philippines, Rwanda, Samoa, Sri Lanka and Zambia).



Protecting and Broadening Tax Base of Developing Countries

FfDO is launching a new capacity development project on Protecting and Broadening Tax Base of Developing Countries which focuses on strengthening the capacity of developing countries to increase their potential for domestic revenue mobilization through protecting and broadening their tax base. The work will be focused on selected set of topics of particular relevance to developing countries, at the relevant stage of their capacity development, with a view to outlining a range of practi-



cal and feasible solutions, which could be implemented by these countries, resulting in increased tax revenues.

The project is expected to provide concrete input to the third Conference on Financing for Development mandated by General Assembly resolution 68/204 and thus to the new post-2015 financing strategy, in the area of domestic resource mobilization. It will draw upon and complement from a capacity-development angle the work of the Subcommittee on Base Erosion and Profit Shifting (BEPS), as well as the work of the OECD project on BEPS, as appropriate, with a specific focus on developing countries. The final outcome of the project will be a UN handbook, comprising a collection of papers.

UN Papers on Selected Topics in Protecting and Broadening the Tax Base of Developing Countries

- An Overview of Major Issues in Protecting the Tax Base of Developing Countries
by Hugh Ault and Brian Arnold
- The Taxation of Income from Services
by Brian Arnold
- Tax Incentives and Tax Base Protection Issues
by Eric Zolt
- Taxation of Capital Gains
by Wei Cui
- Preventing Tax Treaty Abuse
by Graeme Cooper
- Neutralizing Effects of Hybrid Mismatch Arrangements
by Peter Harris
- Limiting Interest Deductions and Other Financial Payments
by Peter Barnes
- Preventing Artificial Avoidance of PE Status
by Adolfo Jimenez
- Protecting the Tax Base in the Digital Economy
by Jinyan Li
- Transparency and Disclosure
by Diane Ring

The papers will be developed by a group of experts taking into account feedback received from developing countries during several capacity development events. The papers will scope/diagnose the current situation in developing countries in relation to each topic, using analytical framework based on the existing literature and materials developed, inter alia within the OECD project

on BEPS. The papers will also serve the purpose of translating the selected BEPS material into basic terms, in order to enable developing countries to better evaluate it from their own perspectives.

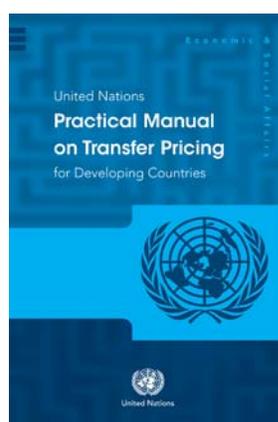
The first workshop (New York, 4 June 2014), which is organised in cooperation with the OECD, will provide a broad overview and update on the UN and OECD work in this area and then focus on several topics, as follows: (a) Preventing tax treaty abuse; (b) Taxation of income from services; (c) Protecting the tax base in the digital economy; and (d) Tax incentives and tax base protection issues.

Transfer Pricing

UN Course on Practical Issues in Transfer Pricing for Developing Countries

The first technical review by the Project's Steering Group of the sample modules to comprise the *UN Course on Practical Issues in Transfer Pricing for Developing Countries*, based on the 2012 UN TP Manual was held in New York, on 16-18 December 2013.

The Steering Group comprises 4 members of the Subcommittee on Transfer Pricing, representing 4 regions of the world, namely: Stig Sollund, Norway; Nishana Gosai, South Africa; Jose Madariaga Montes, Chile; and T.P. Ostwal, India. The Group's mandate is to ensure that the materials adequately reflect content of the UN TP Manual and the needs of developing countries.



The participants in the meeting included 4 authors, 4 members of the Steering Group, 6 representatives of relevant authorities from developing countries and a representative of the OECD. During the meeting, two sample modules of the Course, namely: "Introduction to Transfer Pricing" and "Comparability Analysis" were presented by respective authors. Following

their presentations designated country representatives served as "Discussants" and gave short presentations providing comments with a view to ensuring that the proposed materials adequately reflected needs and priorities of their countries. The remaining authors, who were just beginning their work on the respective mod-

ules provided overview of their proposed materials and raised some issues for discussion.

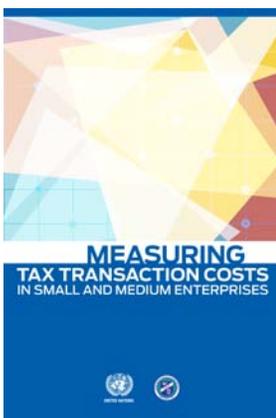
The meeting featured interactive and vibrant discussion among all participants. Many practical suggestions were made on how to improve the materials and make them more relevant to the realities of developing countries. South-South sharing aspect emerged very prominently at the meeting. All participants expressed their great interest in further work on the Course and reconfirmed demand in their regions for the UN capacity development activities in the area of transfer pricing. In follow-up a 1-day technical meeting was held in New York on 11 April, 2014 to review the Course module on “Transfer pricing methods”.



As the next step, a 2-day technical meeting is planned in the fall 2014 to review further modules of the Course.

Tax Administration

Project on Measuring Tax Transaction Costs in Small and Medium Enterprises



FfDO completed all the activities of the project aimed at strengthening the capacity of national tax authorities of developing countries in Latin America to measure Tax Transaction Costs (TTCs) in small and medium enterprises. This project, which was implemented jointly with CIAT, focused on the development and pilot testing of an empirical methodology based on a set of key indicators of TTCs, which could be applied by tax authorities on an ongoing basis to measure and assess such costs with a view to targeting reforms to reduce them.

ogy based on a set of key indicators of TTCs, which could be applied by tax authorities on an ongoing basis to measure and assess such costs with a view to targeting reforms to reduce them.

On 20-21 November 2013, a workshop was held in Panama City, Panama, to discuss and review the above-mentioned methodology, as well as the results of its pilot implementation in two countries (Costa Rica and Uruguay), with representatives from national tax authorities of 13 Latin American countries. In follow up to this meeting, the methodology was revised and fine-tuned to take into account the feedback and comments provided by the participants.

Currently, FfDO is working on finalising a publication, both in English and in Spanish, which will feature a comprehensive description of this methodology, detailed reports of its pilot implementation in Costa Rica and Uruguay, as well as a summary of the lessons learnt and relevant recommendations.



This project raised significant interest in Latin America. In addition to the pilot countries, other countries in the region committed to implement initiatives aimed at measuring and assessing TTCs with a view to reducing them. Brazil joined the project on a self-funded basis and is currently testing the application of the proposed methodology to measure TTCs in its own system. Moreover, Ecuador, Dominican Republic, Guatemala and Panama expressed their interest in undertaking work on TTCs in the near future as part of their action plans. It is also expected that the above-mentioned publication will increase awareness about the value of measuring TTCs beyond Latin America, through its circulation among developing countries in other regions. ■

In order to further advance the work in the area of capacity development on international tax cooperation FfDO is currently seeking assistance of all the interested parties to secure the required financial support. Please contact TaxffdCapDev@un.org.