



## **UN Course on Double Tax Treaties Dakar, Senegal, 9-13 November 2015**

### **BACKGROUND NOTE**

#### **Introduction**

International law places very few limits on the tax sovereignty of countries. As a result, income from cross-border investments and activities may generally be taxable both in the country where investment or other activity takes place, and in the country of the investor or trader, according to their respective domestic tax laws. Double tax treaties are bilateral agreements between two countries, which allocate taxing rights over such income between these countries and, thus, prevent double taxation of this income. The prevention or elimination of international double taxation is a significant aspect of countries' investment climate, which is essential for investment flows between countries, the exchange of goods and services, the movement of capital and persons, as well as the transfer of technology. Moreover, double tax treaties enhance cooperation among tax administrations, especially in tackling international tax evasion.

Double tax treaties are concluded by countries as a result of bilateral negotiations, in which each country usually follows its own "country model", which reflects the country's policy priorities and rationale. Country models are usually based on model double taxation conventions developed and maintained by international organizations. The two international model conventions most widely used as part of the continuing international efforts aimed at eliminating double taxation are: (1) the United Nations Model Double Taxation Convention between Developed and Developing Countries (UN Model Convention); and (2) the OECD Model Tax Convention on Income and on Capital (OECD Model Convention). These models formed the basis for most of the tax treaties currently in force, thus providing a profound influence on international tax treaty practice.

The similarities between these two leading models reflect the importance of achieving consistency where possible. On the other hand, the divergences between them reflect the different membership and priorities of the two Organizations. The key differences relate, in particular, to the issue of to what extent a country should forego, under bilateral tax treaties, taxing rights, which would be otherwise available to it under domestic law, with a view to avoiding double taxation and encouraging investments. In general terms, the UN Model Convention tends to preserve a greater share of taxing rights for the source country (that is to say, the country where investment or other activity takes place). The OECD Model Convention, on the other hand, favours retention of a greater share of taxing

rights for the residence country (that is to say, the country of the investor or trader). Thus, the UN Model Convention would normally allow developing countries more taxing rights on income generated by foreign investments in these countries. By protecting the specific interest of developing countries to retain a greater share of taxing rights over the income sourced in these countries, the UN Model Convention-based treaties contribute to generating revenue, which can be used to meet sustainable development needs. On the other hand, however, the provisions of the UN Model Convention take into consideration that taxation in the source country should not be too high, in order not to discourage investment, and recognize the appropriateness of the sharing of revenue with the country providing the capital.

Many developing countries lack adequate understanding of the provisions of the UN Model Convention, especially of its latest update which aims to provide assistance to developing countries in negotiating modern bilateral double tax treaties with developed countries, with a view to both promoting investment and generating tax revenue for sustainable development purposes. Moreover, many developing countries lack adequate skills and experience to efficiently negotiate, interpret and administer tax treaties. This may result in difficult, time-consuming and, in the worst case scenario, unsuccessful negotiation (or re-negotiation) and/or application of tax treaties. Also, gaps in the interpretation and administration of existing (or newly negotiated or re-negotiated) tax treaties may jeopardize developing countries' capacity to be effective treaty partners, especially as it relates to cooperation in combating international tax evasion.

### **UN Capacity Development Programme in International Tax Cooperation**

In order to disseminate and operationalize the UN Model Convention as a practical tool to support developing countries in dealing with tax treaty matters, the United Nations capacity development work in the area of international tax cooperation focuses on implementing activities aimed at strengthening the capacity of national tax authorities in these countries, including through the development of practical toolkits in the area of tax treaties, such as the United Nations handbook on selected issues in the Administration of Tax Treaties for Developing Countries. This contributes also to a broader objective, which is to strengthen the capacity of these countries to develop more effective and efficient tax systems, which support the desired levels of public and private investment, and to combat tax evasion.

In several resolutions, ECOSOC has recognized the work and progress made by the Financing for Development Office (FfDO) in developing, within its mandate, a capacity development programme in international tax cooperation. Lately, in its resolution 2014/12, ECOSOC requested FfDO, in partnership with other stakeholders, to continue its work in this area and further develop its activities.

To this end, FfDO focuses on cooperation with regional organisations of tax administrations. Due to their network and knowledge of tax systems and tax

administrations in their respective regions, they are uniquely positioned to best identify the demand for capacity development activities, with a view to making them as relevant and effective as possible for the beneficiaries. Moreover, their engagement in providing ongoing assistance to countries in their regions to steadily increase these countries' capacity to achieve their revenue objectives ensures a sustainable impact of common efforts aimed at delivering such activities.

### **Joint UN-ATAF Workshop on Tax Treaties**

Accordingly, FfDO is partnering with the African Tax Administration Forum (ATAF) in organising a 5-day Course on Double Tax Treaties (the Course) for the benefit of tax officials from a number of countries in Africa who work in this area, with a view to strengthening their capacity to administer and interpret tax treaties, drawing on the United Nations UN Model Convention. The Course will be held in Dakar, Senegal, on 9-13 November 2015, and be hosted by the Senegal Revenue Authority.

The Workshop will focus on presenting the UN Course on Double Tax Treaties which will provide the participants with a good understanding of the UN Model Convention and cover its recent updates, as well as the similarities with and differences from the OECD Model Convention. In addition to analysing the treaty rules for the allocation of taxing rights between countries over cross-border income, the Course will deal with treaty provisions for the elimination of international double taxation and administrative provisions aimed at ensuring effective application of tax treaties. The Course will also comprise practical examples and case studies to enable participants to gain confidence in applying the knowledge and skills acquired.

This event will be attended by officials from relevant authorities in a number of countries in Africa, such as the tax officials from ministries of finance and/or national tax administrations in ATAF member countries and other developing countries in Africa, who are directly responsible for, and involved in interpreting, negotiating and administering tax treaties.

The Workshop will be delivered in English through expert facilitators. ATAF will provide simultaneous interpretation from/into French during all the sessions. Printed training and resource materials will be made available to participants in English and French. In addition, each participant will receive a copy of the *United Nations Model Double Taxation Convention between Developed and Developing Countries* and *United Nations handbook on selected issues in the Administration of Double Tax Treaties for Developing Countries* (both available in English only).