

**Revenue's Role in the Quest for Inclusive Development:
What Works and What Can Work Better?
South-South Sharing of Successful Tax Practices (S⁴TP)
New York University 22-23 May 2008**

REPORT OF MEETING

A meeting entitled “Revenue’s Role in the quest for Inclusive Development: What works and what can work better? South-South Sharing of Successful Tax Practices (S⁴TP)” was held on 22 and 23 May 2008 at New York University.¹ On the evening prior to the meeting on 21 May, a reception for speakers and moderators was hosted by the Permanent Mission of Guatemala to the United Nations.

The meeting was part of a project undertaken by the Special Unit on South-South Cooperation of the United Nations Development Programme, in close cooperation with the Financing for Development Office of the United Nations Department of Economic and Social Affairs and two Non-Governmental Organisations: the New Rules for Global Finance Coalition and the Tax Justice Network.

The project on South-South Sharing of Successful Tax Practices (S⁴TP) is designed to enhance cooperation among developing countries on tax matters by sharing experiences, and also to help identify areas where cooperation among developing countries needs to be enhanced to ensure that international tax norms are shaped in their development and application by developing country perspectives, experiences and realities. It was noted that while this first meeting had been kindly seed-funded by the Special Unit on South-South Cooperation, further meetings would be subject to funding being available.

The focus on this first meeting was on sharing experiences on taxation in the following areas: extractive industries, including mining and fishing, maintaining an effective and independent judiciary, balancing the interest of various stakeholders in the tax system, transfer pricing, including the treatment of intangibles, organising and modernising tax administration, compliance and the use of technology, including possibilities for closing the “information gap” often suffered by tax authorities.

The following Report of the meeting outcomes does not imply that any particular participant of the group agreed to all the conclusions or any particular conclusion, but is reflective of the group’s thinking as a whole on the issues before it.

¹ The meeting was participated in by following experts from the governmental, academic and private sectors; Ms. Madina Abazhanova, Expert of the Specialized Unit of the Tax Committee, Ministry of Finance, Republic of Kazakhstan; Ms. Cristiane Coelho, Brazilian Federal Treasury Attorney’s Office, Mr. Robert Couzin, Counsel, Couzin Taylor LLP, Canada; Mr. Vimal Gandhi, President, Income Tax Appellate Tribunal, India; Mr. Robert Green, Caplin & Drysdale, USA; Mr. Martin Grote, Tax Specialist, National Treasury, South Africa; Mr. Brahim Kettani, Director of Legislation, Studies and International Cooperation, Directorate of Taxation, Ministry of Economy and Finance, Morocco; Mr. Mustapha Kharbouch, Chief, International Tax Treaties Service, General Tax Administration, Morocco; Mr. Pramod Kumar, Member, Income Tax Appellate Tribunal, India; Mr. Yixin Liao, Professor, Law School of Xiamen University, People’s Republic of China; Ms. Carolina Musalem, Senior Advisor on International Tax Matters to the Commissioner, Chilean Tax Administration; Mr. Sosimi Olusegun, Federal Inland Revenue Service of Nigeria, Mrs. Ifueko Omoigui-Okauru, Executive Chairman, Federal Inland Revenue Service and Chairman of the Joint Tax Board, Nigeria; Mr. David Rosenbloom, Director, International Tax Program, New York University, USA; Ms. Carolina Roca Ruano, Superintendent, National Tax Administration, Guatemala; Mr. Stig Sollund, Director General, Tax Law Department, Ministry of Finance, Norway; Mr. David Spencer, Attorney and Tax Justice Network International, USA; Mr. Vito Tanzi, former Director, Fiscal Affairs Department, IMF and former Undersecretary, Ministry of Economy and Finance, Italy; Mr. James Trowbridge, New Rules for Global Finance, Mr. Daniyar Tulegenov (presenting a paper on behalf of Mr. Tomas Balco), Kazakhstan Institute of Management, Mr. Victor Thuronyi, Senior Counsel, Legal Department, IMF; Mrs. Sabina Walcott-Denny, Commissioner, Inland Revenue, Barbados; and Mr. Michael G. Waweru, Commissioner General, Kenya Revenue Authority. H.E. Ambassador Gert Rosenthal, Permanent Mission of Guatemala to the United Nations was an observer at some of the sessions, as was Ms. Coralie Bryant, Woodrow Wilson Center for International Scholars. Mrs. Ifueko Omoigui-Okauru agreed to be Rapporteur for the meeting.

It was noted that (not in any particular order of priority):

1. This group is a pool of experience which in itself was of great value and which should be as far as possible kept together, and enlarged, to improve networks and share materials and experiences and perspectives;
2. An effective tax system, in both policy and administrative terms, is central to development, and political will and support for an effective tax system was a critical element in achieving this. This was a message highly relevant to the Doha Review Conference on Financing for Development (November 29 – December 2, 2008);
3. The “tax culture” of a country is vital to sustainable development, since there had to be confidence in the system among the various stakeholders, including the general populace. There should be greater sharing of experiences in this area, including experiences in developing and nurturing a tax culture within the education system and among taxpayers - this would be a good subject for future meetings;
4. The need to achieve an effective balance of education, assistance and strong compliance activity was central to effective tax systems and sustained development. There was therefore a need for greater cooperation in designing and implementing approaches to building relationships with taxpayers using various channels to provide tax services and encourage tax compliance, especially voluntary compliance. Educating taxpayers as to their obligations but also their rights as taxpayers was one aspect of this, as was building greater trust between business and tax authorities, though without compromising the need for strong compliance capabilities in dealing with those who did not choose to meet their lawful obligations. However, it is recognised that attempts in closing tax compliance gaps can be enhanced by improving on governments’ service delivery standards to taxpayers by speeding up reforms on the expenditure side of budgets and delivering public goods in the quantity, quality and timeliness as required by the electorate/taxpayers. This strategy must be accompanied by efforts which pay sufficient attention to governance issues regarding revenue collections and the reporting thereon;
5. The “information deficit” and the “skills deficit” (including in the sifting, analysis and connection of relevant information) were areas of great challenge for tax policymakers and administrations, and areas where sharing of successful experiences would be of particular benefit. In particular:
 - there was a need to improve information collection capabilities, including by the effective use of Exchange of Information articles in tax treaties (or of information exchange agreements where comprehensive tax treaties do not exist) and to improve the capacity for, and techniques of, analysing and managing information; and
 - The well thought out use of information technology can support improved taxpayer compliance and the costs and upheavals of such modernisation meant shared experience and advice could be of special benefit in this area;
6. The high costs of capital flight (with one speaker suggesting that 50% of cross border illicit financing flows, including tax evasion, come from developing countries) to development emphasised the need to cooperate, share experiences and address tax avoidance/evasion and cross border funds flows systematically. It was noted that funds might be “offshored” for reasons that may not relate to taxation, however;
7. The International Monetary Fund might have a greater role in taking up multilateral issues pertaining to cross border financial flows, working with others; but it was recognised that that would only happen if the possibility was put to the Executive Directors on the IMF Board and taken up by them;
8. Just as the IMF regularly produced other reports on economic developments, it could be asked to produce an annual fiscal developments report;
9. Corruption is an issue for both developed and developing countries, and experiences in countering it could usefully be shared, while noting the lack of any universal definition of what constituted “corruption”. With reference to the resources sector, initiatives such as the Extractive Industries Transparency Initiative (EITI) should be recognized as important instruments in the fight against

corruption and tax revenue authorities in developing countries should, therefore, strive for attaining higher levels of transparency in respect of revenue collections from the natural resources sector;

10. There is a need, in addressing tax related aspects of development, to consider not just how to enhance capabilities in the areas of tax policy and administration, but also how to nurture an independent and capable tax judiciary, and a transparent and effective system of related business law;

Going forward it was recognised that there is much that could be done to improve South-South cooperation in the tax sphere, both on the day to day level but also in enhancing inputs of countries generally into international tax norms that would inevitably affect them.

1. In particular participants and the organisers of the S⁴TP project should:
 - a. Share experiences on the topics of this meeting with those not at this meeting using United Nations channels (including through the proposed publication of presentations) but also using other networks in parallel;
 - b. Organise or re-organise (as may be applicable) for transfer pricing – as it was an ongoing issue of great relevance to tax systems generally. This would include:
 - i. building capacity to deal with current issues, including dealing with issues of transfer pricing involving intangibles and in the areas of service provision, but also
 - ii. ensuring that alternative ways of addressing transfer pricing issues were explored, with strong developing country input.
2. With specific reference to the Doha Review Conference on Financing for Development (November 29 – December 2, 2008), participants and organisers should ensure that Ministries of Finance are aware of the possible tax issues to be discussed, and also make sure that Foreign Ministries are aware of the importance of stable and effective tax systems to sustained and inclusive development.
3. The United Nations Tax Committee and its Secretariat, as well as those engaged in addressing tax issues in the context of the Doha Review Conference, are asked to consider:
 - a. Developing an effective process for supporting capacity building efforts in developing countries. This could include, for example:
 - i. Developing data bases of recognised (perhaps even certified) experts in particular fields – this could constitute a talent pool of diversified expertise to draw from, while recognising that such brought-in expertise was only part of the solution, and needed to be integrated into, and as far as possible internalised within, the domestic context and needs of the “expertise receiving country”;
 - ii. Promoting practical case study driven training sessions “on the ground”, working with others active in the area but recognising that to be fully effective, such training would have to be representative of the various perspectives found within the United Nations Membership, and within particular regions, rather than reflecting only a particular subset of country interests;
 - iii. Disseminating successful practices effective in developing skills and keeping expertise within tax administrations despite inevitable staff turnover (“knowledge management”);
 - iv. Promoting the need to fully understand the impact of tax incentives designed to attract investment, and to engage tax authorities at the policy and administration level in decisions granting significant special tax incentives (“understanding consequences” of so-called “tax expenditures”) as well as the importance of more explicitly indicating the policy intent of new tax incentives in the tax laws themselves, where possible. Ideally, all tax expenditures should be anchored in fiscal legislation only;

- v. Promoting ongoing beneficial exchange of experiences, both what has worked and what has not, including in areas of general administration and promoting a “tax culture” and confidence in the tax system internally and externally. This would allow decisions to be taken in an informed way that expedites improvements and efficiencies in tax systems, draws upon pooled experience and makes it a more collective and enduring resource, while allowing such informed decisions to be taken in the developmental and cultural context of particular countries;
 - vi. Addressing in practical ways the frequent mismatch of negotiation and other skills and of available information as between developed and developing countries in bilateral tax treaty negotiations and in negotiations with transnational corporations; and
 - vii. Ensuring in all the above that there is a focus on dealing (in a needs-driven way) with both technically complex areas of taxation, such as resource taxation and transfer pricing, as well as the basic tax administration curriculum and the structural and operational issues for effective tax administrations.
- b. Further work on the possibility of projects to enhance capabilities in the area of transfer pricing and related issues, including supporting developing countries in:
 - i. Addressing current issues, such as difficult transfer pricing issues, in an equitable and coherent manner;
 - ii. Examining, in particular, the impact of transfer pricing involving intangibles and in service industries (e.g., tourism);
 - iii. Considering the possible role of “safe harbours” and other simplified methods in balancing the needs for a fair outcome, an administratively workable system and greater certainty in transfer pricing cases;
 - iv. Considering the application of comparable price methodologies in small developing countries, where there is a lack of suitable comparators; and
 - v. Examining, in parallel, possibilities for an alternative and widely acceptable approach for ensuring reasonable outcomes from the perspective of tax systems and taxpayers other than the arm’s length standard, in view of the difficulties recognised on all sides with that approach;
- c. Work on developing a record of comparative tax law on key issues for publication and use in developing countries, recognising that no one model will be appropriate in all cases;
- d. The possibilities for having an International Tax Appeal Tribunal in place of arbitration clauses in Tax Treaties, as well as other options to increase cooperation amongst the “tax judiciary” internationally to increase the capabilities of a key aspect of any effective tax system;
- e. The possibility of a “model” code on taxpayer rights as well as taxpayer obligations that can be modified to specific country experience, to the benefit of both administrations and taxpayers;
- f. The potential benefits, in terms of creating confidence in a country’s tax system, of having an independent tax ombudsman charged with investigating complaints about tax administration;
- g. Exploring ways to increase the role of the United Nations as a clearing house for disseminating developing country experiences, understandings and learnings;
- h. The possibilities for further cooperative work and dialogue towards having relevant institutions develop and implement a revenue authority rating system;
- i. How best to address issues of cross border tax evasion in a forum that would include, but would not be limited to, developed country members, and would address flows from developing countries to developed countries, rather than merely focussing on flows from developed to developing countries; and

- j. In general, how best to further develop all areas covered at the conference, including issues in the taxation of resources (such as transparency and governance issues in relation to such taxation) and organisational and compliance issues for countries, with a practical approach.

The UN Secretariat agreed to send participants materials on the Doha Review Conference on Financing for Development, as well as some further information on previous work done on a Basic World Tax Code as requested at the meeting, and other relevant materials relevant to the increased cooperation with a view to effective tax systems that assist sustained development.

The UN Secretariat also agreed to further explore opportunities, with other partners in the S⁴TP project, to further the two aspects of the project - enhancing cooperation among developing countries on tax matters by sharing experiences, and also helping to identify areas where cooperation among developing countries needs to be enhanced to ensure that international tax norms are shaped in their development and application by developing country perspectives, experiences and realities.