Economic and Social Council
Special event on International Cooperation in Tax Matters
(New York, 28-31 May 2013)

Special meeting of ECOSOC on International Cooperation in Tax Matters (29 May 2013)

Pursuant to its resolution 2012/33, ECOSOC will hold, on 29 May 2013, a one-day meeting to consider international cooperation in tax matters, including institutional arrangements to promote such cooperation, with the participation of representatives of national tax authorities. The discussion at the meeting will be informed by a report of the Secretary-General on further progress achieved in strengthening the work of the Committee of Experts on International Cooperation in Tax Matters (E/2013/67).

The format of the meeting will be modeled on a similar meeting held by the Council on 15 March 2012, which was well received by delegations. The center piece of the meeting will be an official launch of the UN Practical Manual on Transfer Pricing for Developing Countries (the “Manual”), which was adopted by the Committee at its last session (Geneva, 15-19 October 2012). The Manual was authored by the Committee in order to help mitigate developing countries’ vulnerability to abuse and revenue loss from tax evasion in the complex area of transfer pricing, resulting from their limited and insufficient capacities and resources in this area.

Transfer pricing refers to setting of prices in international transactions, in which transfer of goods, services, capital or intangible property takes place between two related companies, i.e. parts of the same multinational enterprise, such as parent and subsidiary or two subsidiaries controlled by the same parent. Today, it is one of the most important topics in international taxation as a significant share of global trade takes place within multinationals rather than between them. Transfer pricing is not inherently illegal or abusive, but it can lead to mispricing, which can then lead to loss of tax revenue to countries. Unlike in transactions between two independent multinationals, where the market dictates the price, when trade takes place between two related companies within one multinational, they may wish to artificially distort the price in order to minimize their overall tax liability. Effectively, they would shift profits to low-tax jurisdictions while transferring losses and deductions to high-tax jurisdictions.

A way to address transfer mispricing and to avoid the resulting loss of tax revenue is to ensure that related party transactions are correctly priced. The “arm’s length” principle, which is embodied in Article 9 of both the United Nations Double Taxation Convention between Developed and Developing Countries (the “UN Model”) and the OECD Model Tax Convention on Income and on Capital (the “OECD Model”), is widely accepted internationally as the preferred basis for determining such prices. According to the “arm’s length” principle, a transfer price is acceptable if it reflects the conditions which would have prevailed if the transaction had taken place between independent multinationals acting under the same or similar circumstances. The Manual provides assistance to developing countries in practical application, within available resources and other constraints, of the “arm’s length” principle.
The launch will include panel presentations and distribution of the publication (on flash drive), as well as promotional materials (posters, press releases and flyers). The launch will be followed by a panel discussion on “Transfer pricing challenges for developing countries”, featuring presentations by country representatives, including Brazil, China and India, representing countries, which have significant experience in implementing viable approaches to applying the “arm’s length” principle despite the common challenges faced by developing countries.

The meeting will also feature a panel discussion on “International tax cooperation: Capacity development”, with the participation of major international organizations active in the tax area, such as the UN, IMF, World Bank, OECD, the Inter-American Centre of Tax Administrations (CIAT) and the African Tax Administration Forum (ATAF). Subsequently, an interactive discussion will be held on “Current issues in countering international tax avoidance and tax evasion”, which would serve to broaden the discussion on tax avoidance and evasion beyond transfer pricing, including other issues of tax base erosion and profit shifting. The panelists will include representatives of the OECD and the European Commission, as well as academia, including Prof. Philip Baker and Prof. Hugh Ault.

**Expert Group Meeting on Extractive Industries Taxation (28 May 2013)**

In preparation for the ECOSOC meeting, the Financing for Development Office (FfDO) of UN-DESA is organizing an expert group meeting with a view to advancing the current priority areas of the work programme of the Committee. Specifically, the expert group meeting will focus on taxation of the extractive industry sector, which is one of the new agenda items selected by the Committee for its 9th session (Geneva, 21-25 October 2013).

In developing countries, taxes on extractive industries often do not contribute as much as they could to public revenues. Government’s goal should be to tax rents arising from the extraction of natural resources, that is the excess of revenues over the costs of production. In reality, taxes on rents are often dissipated through subsidies or appropriated by private interest. Meanwhile, investors have to be provided with adequate incentives to explore, develop and ultimately extract natural resources. A country’s domestic tax system is just as important as international tax issues to strike the balance of attracting investment while ensuring public revenue.

Firms investing in extractive industries are likely to be multinational enterprises. This holds especially true in developing countries. Investors thus have substantive market power and are often better informed than many governments. Developing countries and especially the least developed ones on the other hand, often lack adequate skills and experience to efficiently deal with these firms and the related investments including domestic and international taxation issues. The discussions at the expert group meeting will focus on issues that developing countries face when designing and administering an extractive industries fiscal regime with a view to ensuring that the Committee’s work can further support developing countries in this important area of development.

**Technical Meeting on Tax Treaty Administration and Negotiation (30-31 May 2013)**

Following the ECOSOC meeting, FfDO is organizing, jointly with the International Tax Compact (ITC), a Technical Meeting on Tax Treaty Administration and Negotiation. The meeting is held within the context of a capacity development project, undertaken jointly by the two organizations, aimed at strengthening the capacity of Ministries of Finance (MoFs),
National Tax Authorities (NTAs), and other competent authorities in developing countries to effectively identify and assess their needs in the area of double tax treaty negotiation and administration.

The prevention or elimination of international double taxation is a significant aspect of countries’ investment climate, which is a critical factor in attracting FDI. International law places very few limits on the tax sovereignty of countries. As a result, income from cross-border investment and activities may generally be taxable both in the source country, which is the country where investment or other activity takes place, and in the residence country, which is 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 aim at preventing double taxation of this income.

Many developing countries, especially least developed ones, generally still lack adequate skills and experience to efficiently negotiate, interpret and administer tax treaties. This knowledge gap may lead to difficult, time-consuming and, in the worst case scenario, unsuccessful negotiation and application of tax treaties. Moreover, existing skills gaps may jeopardize developing countries’ capacity to be effective treaty partners, especially as it relates to cooperation in combating international tax evasion. The ultimate goal of the above-mentioned project is to support the development of a comprehensive set of capacity building tools on tax treaty negotiation and administration to be used in developing countries, which are demand driven, reflect adequately needs and level of development of these countries, and are not a duplication of any existing and available tools, but rather a useful complement to them.

The purpose of the New York meeting is to present, discuss and revise a series of draft papers on selected issues in administration and negotiation of tax treaties, which are being prepared by experts. These papers are to address the actual skills gaps and challenges faced by developing countries in administering and negotiating their tax treaties, which were identified during a meeting held in Rome on 28-29 January 2013, with the participation of 25 national experts from developing countries. Approximately 35 experts from NTAs and MoFs of developing countries will participate in the New York meeting.

It is expected that the event, comprising official and expert-level meetings, will create synergies in terms of securing participation of representatives of national tax authorities, international and regional organizations and other relevant experts, especially from developing countries.