



United Nations Capacity Development Programme on International Tax Cooperation

Progress Report

Newsletter of FfDO/DESA

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Highlights

- *UN Handbook on Tax Base Protection for Developing Countries*—forthcoming in Summer 2015
- *UN Practical Portfolios*—tools for developing countries needed to address selected problems of base erosion and profit shifting
- *Capacity development activities for the African region, in cooperation with ATAF*
- *New website for the UN Capacity Development Programme on International Tax Cooperation*—<http://www.un.org/esa/ffd/topics/capacity-development-tax-cooperation.html>
- *A series of on-line courses for government officials free of charge. The first course will focus on double tax treaties.*

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Overview

The Financing for Development Office (FfDO) has been developing its capacity development programme on international tax cooperation since 2012. ECOSOC, in its resolution 2014/12, 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.

A distinct feature of this United Nations programme, comprising a collection of capacity development tools, activities and other resources on international tax cooperation, is that it has been developed as a result of a unique collaborative engagement between government representatives from developing countries, members of the Committee of Experts on International Cooperation in Tax Matters (Committee), a diversified group of world-renowned experts, relevant international and regional organizations and FfDO.

Owing to the fact that FfDO provides secretariat support to 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* (UN Model); and (2) Transfer pricing based on the 2012 *United Nations Practical Manual on Transfer Pricing for Developing Countries* (UN TP Manual).



A more recent area of work focuses on protecting and broadening tax base of developing countries. The project provides concrete input to the outcome document of the Third International Conference on Financing for Development (Addis Ababa, Ethiopia, 13–16 July 2015), in the area of domestic resource mobilization. The project draws upon and contributes to the work of the Subcommittee on Base Erosion and Profit Shifting (BEPS) of the Committee, as well as the work of the Organisation for Economic Co-operation and Development (OECD) project on BEPS, as appropriate.

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.

FfDO also engages with the Advisory Group on Capacity Development comprising 7 members of the Committee, which is mandated to make recommendations on capacity-building and the provision of technical assistance to developing countries in the area of international tax cooperation. FfDO reports to and consults with the Group on bi-annual basis.

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

Mandate

In its resolution 2014/12, 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.

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.



Relationship with regional organizations

In its capacity development activities FfDO partners with regional organisations of tax administrations. Due to their networks 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. FfDO has a long-standing working relationship with CIAT. The two organizations successfully delivered several joint projects and events. Two joint UN-CIAT events are planned for this year. This year, FfDO also established a close working relationship with ATAF. The two organizations are planning two joint UN-ATAF events for the African region, on transfer pricing and tax treaties.

UN Course on Double Tax Treaties

The UN Course on Double Tax Treaties (UN Course) introduces the fundamentals of double tax treaties, which play a critical role in promoting international investment and provides 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 UN course covers 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*, which is the other most widely used model. In addition to analyzing the treaty rules for the allocation of taxing rights between countries over cross-border income, the UN Course deals with treaty provisions for the elimination of international double taxation and administrative provisions aimed at ensuring effective application of tax treaties. It includes practical examples and case studies to enable participants to gain confidence in applying the knowledge and skills acquired during the course.

The UN Course was developed as a result of a unique collaborative engagement between a diversified group of authors and contributors comprising world-

renowned experts in the field of international taxation, numerous members of the Committee and FfDO.

The UN Course is delivered in regional setting over the period of 5 days. In addition to instruction provided by world-renowned experts and FfDO staff, regional experts are invited to provide practical insights and relevant examples from their country practices throughout the course. The UN Course combines theoretical aspects with large amount of practical material in the form of examples and cases studies, which are discussed in small groups. The interactive nature of UN Course and inclusion of regional aspects facilitates South-South sharing among participants.

The UN Course was delivered, for the first time, in Panama City, Panama, in March 2014, with the participation of 30 treaty negotiators and administrators from 16 developing countries in Latin America and Caribbean. The Inter-American Center of Tax Administrations (CIAT) provided assistance in organizing the course. The UN 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 UN Course.

Building on the success of that event, FfDO is planning to deliver the UN Course two more times during 2015.

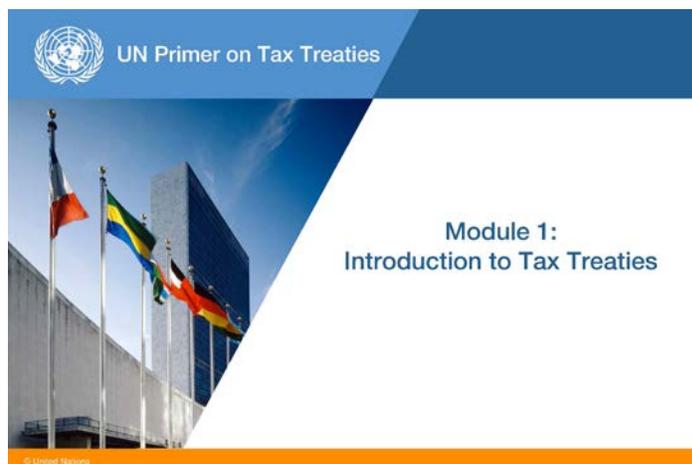
In the first week of June 2015, the UN Course will be delivered in Panama City, Panama for countries in Latin America and the Caribbean. This time the focus will be on taxation of income from services. In November 2015, the UN Course will be delivered for the first time in the African region, in cooperation with the African Tax Administration Forum (ATAF).

FfDO is now collecting nominations from government representatives from developing countries to attend these Courses at TaxffdCapDev@un.org.

UN Primer on Double Tax Treaties

The UN Course is accompanied by the *UN Primer on Double Tax Treaties* (UN Primer), which provides a brief introduction to the basic aspects of tax treaties. It is intended for tax officials with no prior experience in this area. It also serves as a pre-requisite for participants in the UN Course, with a view to providing them with some common basics and enabling them to fully ben-

efit from the UN Course. The UN Primer is delivered during 1 day.

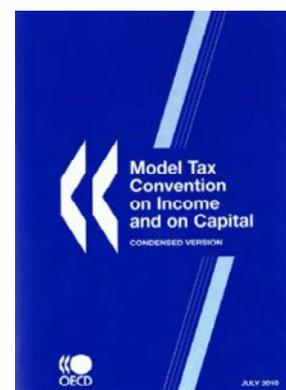
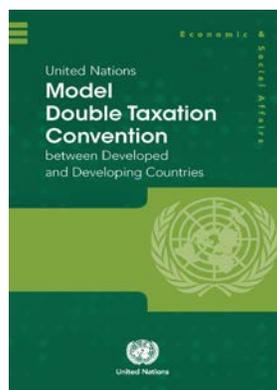


The UN Primer deals with the following issues: legal nature and legal effects of tax treaties; the types of treaties dealing with tax matters; process for negotiating tax treaties; the history and differences between the UN and OECD Models; content of a typical bilateral tax treaty; interaction between tax treaty articles; relationship between tax treaties and domestic law; objectives and purposes of tax treaties; and interpretation of tax treaties.

FfDO is currently working on on-line version of the UN Primer, which will be offered to the tax officials from developing countries free of charge.

Negotiation of Tax Treaties

UN-OECD Practical Workshop on Negotiation of Tax Treaties



This 5-day comprehensive training course provides tax treaty negotiators from developing countries with practical experience in tax treaty negotiations and exposes them

to problems commonly experienced during negotiation, application and interpretation of tax treaties. The course is based on both the UN Model and the OECD Model and conducted in the form of simulated tax treaty negotiation of all the provisions of a bilateral convention with respect to taxes on income and on capital between two fictitious countries (developed and developing). The negotiations are based on fictitious treaty models, recent treaties and descriptions of the tax legislation of the two countries.

Participants are divided into teams supported by experienced treaty negotiators who act as technical advisors for the teams. Participants are asked to head the actual negotiations of each treaty provision and each participant has an opportunity to head the discussion on, at least, two or three treaty articles during the week.

The course is intended for developing country officials who are, or will be, involved in the negotiation of tax treaties for their country.

Following on the success of the 1st UN-OECD Practical Workshop on Negotiation of Tax Treaties, which was held in Vienna, Austria in May 2014, with the participation of 26 treaty negotiators from 22 developing countries, this event is now delivered on a biennial basis. The next one is planned for May 2016.

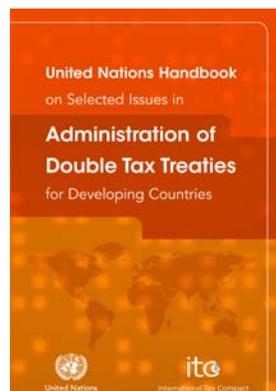
UN Manual for the Negotiation of Bilateral Tax Treaties between Developed and Developing Countries

FfDO, in context of its capacity development programme, provides support to the Committee's Subcommittee on Negotiation of Tax Treaties — Practical Manual, which is mandated to develop a practical manual on negotiation of bilateral tax treaties and present it for adoption to the Committee at its 11th session in 2015. The draft of the Manual is currently undergoing consultation within the Committee and will be presented for the adoption by the Committee in October 2015. FfDO will assist with editing and publishing of the Manual.

Administration of Tax Treaties

The main tool in this area is the *UN Handbook on Selected Issues in Administration of Double Tax Treaties for Developing Countries* (the Handbook), which was developed as part of a project implemented jointly by FfDO and the International Tax Compact (ITC). Its ten chapters were drafted by renowned international tax experts on the basis of the inputs provided by officials from national tax authorities in 35 developing countries, representing all regions of the world. Through a novel demand-driven approach, it provides practical guidance

to developing countries to effectively implement double tax treaties, especially those drawing upon the UN Model, having regard to the specific needs and interests of these countries.



In order to further disseminate the Handbook, FfDO and ITC are organizing a 3-day capacity development workshop, which will be held on 1–3 December 2015 in Berlin, Germany, with the participation of up to 30 national officials from developing countries in charge of administration of tax treaties. The first part of the workshop

will provide participants with an overview of the issues covered by the Handbook, while the second part will focus on selected chapters of the Handbook of particular interest to developing countries. It will deal with practical case studies, country experiences and good practices.

Translation into Spanish of the Handbook is now available thanks to contribution by CIAT. The French translation is forthcoming thanks to contribution by ITC.



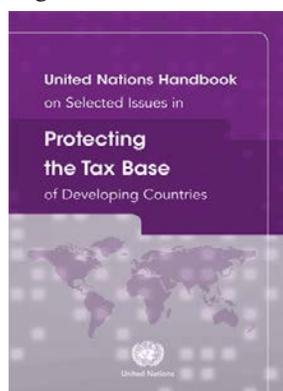
Protecting Tax Base of Developing Countries

FfDO is carrying out a project focused on strengthening the capacity of developing countries to increase their potential for domestic revenue mobilization through enhancing their ability to effectively protect and broaden their tax base. The work of the project covers a number of topics of particular interest and relevance to developing countries, at their stage of capacity development, with a view to supporting them in:

- Engaging and effectively participating in relevant decision-making processes;
- Assessing relevance and workability of options to protect and broaden their tax base; and

- Successfully implementing the most suitable options, thus fully benefiting from them.

The project draws upon and contributes to the work of the Committee and its relevant Subcommittees, including the Subcommittee on Base Erosion and Profit Shifting (BEPS), as well as the work of the OECD project on BEPS, as appropriate, with a view to complementing that work from a capacity development angle.



The final outcome of the project will be a UN handbook, comprising a collection of papers developed in a novel demand-driven manner taking into account inputs from developing countries. As the first step, 10 draft papers were developed on topics selected in consultation with members of the Committee, representatives of developing countries and other experts. These papers systematize and summarize relevant information and materials, including those developed by the Committee and its relevant Subcommittees, as well as within the OECD project on BEPS. They aim at simplifying those materials, with a view to providing information geared towards the needs of developing countries, including through the provision of practical examples tailored to the realities of these countries.

To this end, special efforts have been made, throughout the project, to seek inputs and feedback from developing countries, members of the Committee, as well as relevant international and regional organizations. Two designated workshops were held (New York in June 2014; and Paris in September 2014) with the participation of these stakeholders, with a view to reviewing and discussing the draft papers. Both workshops featured intense, interactive discussions of major concerns for developing countries with a view to ensuring that these are taken into account by the papers.

The *UN Handbook on Selected Issues in Protecting the Tax Base of Developing Countries* is expected to be issued in Summer 2015 and will subsequently be used to deliver technical cooperation activities at the country level. It will also serve as input to the outcome document of the Third Conference on Financing for Development (Addis Ababa, Ethiopia, 13–16 July 2015).

United Nations Handbook on Selected Issues in Protecting the Tax Base of Developing Countries

- Chapter I: Protecting the tax base of developing countries: an overview
By: Brian J. Arnold and Hugh J. Ault
- Chapter II: Taxation of income from services
By: Brian J. Arnold
- Chapter III: Taxation of non-residents' capital gains
By: Wei Cui
- Chapter IV: Limiting interest deductions
By: Peter A. Barnes
- Chapter V: Neutralizing effects of hybrid mismatch arrangements
By: Peter A. Harris
- Chapter VI: Preventing tax treaty abuse
By: Graeme S. Cooper
- Chapter VII: Preventing avoidance of permanent establishment status
By: Adolfo Martín Jiménez
- Chapter VIII: Protecting the tax base in the digital economy
By: Jinyan Li
- Chapter IX: Tax incentives: protecting the tax base
By: Eric M. Zolt
- Chapter X: Transparency and disclosure
By: Diane M. Ring

UN Practical Portfolios on Protecting the Tax Base of Developing Countries

As the next step, FfDO, on the basis of selected chapters of the *UN Handbook*, is developing and testing the *UN Practical Portfolios on Protecting the Tax Base of Developing Countries* (UN Practical Portfolios). These Portfolios comprise practical materials aimed at providing developing countries with the necessary tools intended to assist these countries in addressing selected problems of base erosion and profit shifting.

The UN Practical Portfolios are being developed as a result of collaborative engagement between a diversified group of authors and contributors comprising world-renowned experts and practitioners in the relevant field, representatives of relevant authorities in developing countries, numerous members of the Committee and FfDO.

These tools will then be revised and used to deliver technical cooperation activities at the country level.

UN Practical Portfolios on Base Eroding Payments

Deductible payments made to non-residents by residents of developing countries may significantly erode the tax base of these countries. Therefore, such payments are one of the primary concerns of developing countries related to the protection of their tax base. The types of payments that are most important from the perspective of base erosion are payments for services (especially management, technical and consulting services), royalties and interest.

The *UN Practical Portfolios on Base-Eroding Payments* are being developed to assist these countries in implementing rules to deal with the above-mentioned base-eroding payments.

The Practical Portfolios will provide a framework for the analysis of the provisions of a country's domestic law and tax treaties dealing with base-eroding payments. In addition to examining the relevant risks of base erosion, they will identify the various options for changes in domestic legislation and tax treaty policy to counter base-eroding payments. Moreover, the Practical Portfolios will discuss the administrative approaches which could be adopted to effectively deal with the risks of base erosion.

These Practical Portfolios will be tested and discussed with the representatives of developing countries during workshops: in Panama City, Panama on 4–5 June 2015, organized in cooperation with CIAT; and in Berlin, Germany, on 1–3 December 2015, organized jointly with ITC.



UN Practical Portfolio on Tax Incentives

Tax incentives are used by governments in developed and developing countries to attract new investment. In some cases, tax incentives have clearly played an impor-

tant role in attracting new investment that contributed to substantial increases in growth and development. In other cases, however, tax incentive regimes have resulted in little new investment, with substantial tax base erosion. The effectiveness of tax incentives largely depends on their design and implementation, as well as their interaction with other non-tax related incentives. Tax incentives rules need to be focused and interface properly with general tax rules. A lack of targeting and coordination can create uncertainty, allow for abuses and pose significant challenges in the administration of tax incentives.

The UN Practical Portfolio on Tax Incentives comprises practical materials, intended to provide the government officials with the information and tools, which will allow them to decide whether to use tax incentives to attract investment and how to best design and administer these incentives with a view to increasing their effectiveness and minimizing tax base erosion. These materials also provide guidance for developing methodologies for estimating the costs and benefits of tax incentives, with the view to assessing the effectiveness of past, current and proposed tax incentive regimes.

This Practical Portfolio will be tested and discussed with the representatives of developing countries during a two day workshop on “Tax Incentives and Base Protection” (New York, 23–24 April 2015) with the participation of 20–25 representatives of national tax authorities, Ministries of Finance and Ministries of Investment or Trade in developing countries.

The workshop will draw from the experiences of representatives of developing countries which deal with tax incentives and from regional contributions by regional organizations of national tax administrations, such as ATAF and CIAT. Case studies will provide an opportunity for country representatives to share their experiences in designing and implementing tax incentives and to identify the areas of greatest challenge. The participants will be asked to take specific roles in designing and negotiating a tax incentive project for a potential investor.

Transfer Pricing

UN Course on Practical Issues in Transfer Pricing for Developing Countries

The *UN Course on Transfer Pricing* (UN TP Course) is a training tool, developed by FfDO in the area of transfer pricing, which is intended for tax officials from relevant

authorities, who are responsible for and/or are involved in transfer pricing audits or technical advice and who have a basic understanding of transfer pricing issues. Tax officials in large taxpayers' offices, as well as in offices responsible for special sectors, who normally deal with transfer pricing, might also benefit from the Course.

The UN TP Course aims at strengthening the capacity of developing countries in applying the “arm's length principle” in taxing multinational companies utilizing the UN TP Manual.

The UN TP Course has been developed as a result of a unique collaborative engagement between a diversified group of authors and members of the Subcommittee on Transfer Pricing of the Committee comprising world-renowned experts in the field of transfer pricing, and FfDO.

The last technical review of the final modules of the UN TP Course was held on 10-12 December in Panama City, Panama with the participation of the members of the Steering Group formed for this project, all authors of the course modules and 12 representatives of developing countries. CIAT provided assistance in organizing the meeting.



The UN TP Course is delivered in regional setting over the period of 5 days. In addition to instruction provided by world-renowned experts and FfDO staff, regional experts are invited to provide practical insights and relevant examples from their country practices throughout the course. The UN TP Course provides an overview of transfer pricing principles and methodologies and deals with the main practical issues faced by developing countries in applying these principles and methodologies. The course comprises several examples and a comprehensive integrated case study to enable participants to gain confidence in applying the skills acquired. The course consists of 9 modules, corresponding to the chapters of the UN TP Manual.

The UN TP Course will be delivered for the first time in Panama City, Panama on 24–28 August 2015 for the representatives of developing countries from the Latin American and Caribbean region. **FfDO is currently collecting nominations from government representatives to attend the Course at TaxffdCapDev@un.org.**

The UN Course is complemented by the *UN Primer on Transfer Pricing*, which is intended for officials with very limited or no experience in transfer pricing in order to bring them up to speed and allow them to fully benefit from the UN TP Course.

UN Primer on Transfer Pricing

The *UN Primer on Transfer Pricing* (UN TP Primer) provides a brief introduction of the basic aspects of transfer pricing. It is intended for tax officials from relevant authorities, who are/will be involved in transfer pricing audits or technical advice and who have a very limited or no prior knowledge of transfer pricing issues. Tax officials in large taxpayers' offices as well as in offices responsible for special sectors, who normally deal with transfer pricing, might also benefit from the Primer. The UN TP Primer also serves as a pre-requisite for participants in the UN Course on Transfer Pricing, with a view to providing them with some common basics and enabling them to fully benefit from the course.

The UN TP Primer provides a general overview of basic concepts of transfer pricing. It addresses the “arm's length principle” and processes for analyzing transfer pricing issues, including functional and comparability analysis and transfer pricing methods. In addition, it covers documentation and access to information issues, as well as special issues and industries (for instance, intangibles, intra-group services, commodities and extraction industries). Finally, it features an introduction to transfer pricing audits, risk assessment and dispute avoidance and resolution mechanisms, as well as a practical case study to enable participants to gain confidence in applying the skills acquired during it.

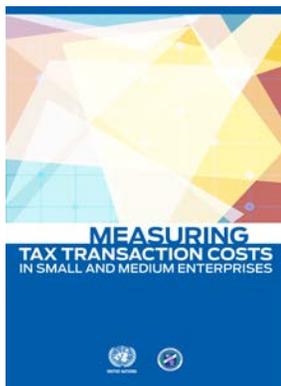
The UN TP Primer was pilot taught for the first time in the context of a capacity building event, which was held in Panama City, Panama, on 10-12 December 2014, with the participation of tax officials from twelve developing countries representing Africa, Asia, Latin America and the Caribbean, as well as representatives from ATAF and CIAT. Subsequently, the Primer was

revised taking into account feedback received from the participants of the event.

The UN TP Primer will be delivered during an event, organized in partnership with ATAF, with the participation of officials from African countries. It will be held in Lusaka, Zambia, on 17–18 June 2015, and be hosted by the Zambia Revenue Authority. **FfDO is currently collecting nominations from government representatives in African countries to attend the Course at TaxffdCapDev@un.org.**

Tax Administration

Project on Measuring Tax Transaction Costs in Small and Medium Enterprises



The main modality used by the Financing for Development Office (FfDO) to advance its work in this area has been a Development Account project, undertaken jointly with the Inter-American Center of Tax Administrations, aimed at strengthening the capacity of national tax administrations (NTAs) in developing countries in Latin America to measure tax transaction costs (TTCs) in small and medium enterprises. Undertaking reforms aimed at reducing these costs with a view to fostering greater tax compliance could lead to more effective and efficient tax systems supporting the desired level of investment, and result in sustainable increase in government revenues available to fund countries' development goals.

Undertaking reforms aimed at reducing these costs with a view to fostering greater tax compliance could lead to more effective and efficient tax systems supporting the desired level of investment, and result in sustainable increase in government revenues available to fund countries' development goals.

During its first phase, the project focused on the development of an empirical methodology to assess TTCs for taxpayers and tax institutions, which could assist in identifying possible reforms aimed at reducing these costs. Following extensive discussions with representatives of NTAs of 10 Latin American countries, the methodology was revised and fine-tuned to take into account the feedback received.

During the second phase of the project, the methodology was pilot-tested in Costa Rica and Uruguay, with the support of local teams of officials from the respective NTAs.

The project raised significant interest in Latin America. In addition to the pilot countries, the Brazilian NTA engaged with the project and pilot tested the methodology in its own system on a self-funded basis. In follow up, the NTAs of Ecuador, Dominican Republic, Guatemala and Panama expressed their interest in making use of the methodology. Moreover, in a later development, the NTA of Chile planned to use the methodology to conduct measurements of TTCs, with partial financial support from the Institutional Cooperation Programme between European Union and Latin American Administrations (Eurosocial II – Promotion of Social Cohesion in Latin America).

In order to further disseminate the results of the project, a summary publication entitled "*Measuring Tax Transaction Costs in Small and Medium Enterprises*" was issued in English and Spanish. ■

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.



UN Course on Double Tax Treaties - pilot delivery for Latin America and the Caribbean (Panama City, Panama, 10-14 March 2014).