



**UN Primer on Transfer Pricing  
Lusaka, Zambia, 17-18 June 2015**

**BACKGROUND NOTE**

**Introduction**

Advances in technology, transportation and communication have given rise to a large number of multinational enterprises (MNEs), which have the flexibility to place their companies and activities anywhere in the world. A significant volume of global trade nowadays consists of international transfers of goods and services, capital and intangibles (such as intellectual property) within an MNE group. Such transfers are called “intra-group transactions”. There is evidence that intra-group trade is growing steadily and arguably accounts for more than 30 per cent of all international transactions. The structure of transactions within an MNE group is determined by a combination of the market and group-driven forces, which can differ from the open market conditions operating between independent entities. A large and growing number of international transactions are therefore no longer governed entirely by market forces, but driven by the common interests of the entities of a group.

Transfer pricing refers to the mechanism by which cross-border intra-group transactions are priced. In itself, it is a normal incident of an MNE’s operations – it allows the MNE to determine which parts of the group are profit- or loss-making, for example. However, if the method used to determine the price of such transactions, for whatever reason, does not reflect their real value, profits might effectively be shifted to low-tax or no-tax jurisdictions and losses and deductions to high-tax jurisdictions. This unfairly deprives a country of tax revenue, reducing the amount of resources available for funding its development objectives. Apart from tax base erosion and profit shifting, it can also lead to double taxation, which might undermine the investment climate, which is a critical factor for the promotion of foreign direct investment.

Both the *United Nations Model 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) embodied in Article 9 (Associated Enterprises) the so called “arm’s length principle” as the guiding principle to establish acceptable transfer prices. Under this principle, cross-border transactions within a MNE are compared to transactions between unrelated entities under comparable circumstances and adjustments may occur if transfer prices are found to deviate from comparable arm’s length transactions.

Transfer pricing is particularly important for developing countries as MNEs often operate in their economies. The difficulty is in applying the arm's length principle in practice, especially as many MNEs have unique and hard to value intangibles or engage in complex transactions involving many different elements that would not be replicated in any market. Addressing these practical complexities relies heavily on the availability of data and expert skills, often posing special difficulties for developing countries, with the relevant data often being not available, too expensive, and requiring special skills to be adjusted or otherwise properly interpreted.

### **UN Practical Manual on Transfer Pricing for Developing Countries**

In response to the above-mentioned challenges faced by developing countries, the United Nations Committee of Experts on International Cooperation in Tax Matters (the Committee) included the practical issues in transfer pricing as one of its main areas of work. This resulted in a major output, namely the *United Nations Practical Manual on Transfer Pricing for Developing Countries* (the UN TP Manual), which was adopted by the Committee during its 2012 annual session (Geneva, 15-19 October 2012) and launched during a special meeting of the United Nations Economic and Social Council (ECOSOC) on "International cooperation in tax matters" (New York, 29 May 2013).

This hands-on tool addresses the difficulties faced, especially by developing countries, in applying the arm's length principle and some of the *OECD Transfer Pricing Guidelines for Multinational Enterprises and Tax Administrations*, as well as the need for clear and practical guidance for these countries on the policy and administrative aspects of applying transfer pricing analysis to some of the transactions of MNEs.

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

In order to disseminate and operationalize the UN TP Manual as a practical tool to support developing countries in dealing with transfer pricing issues, 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 to apply the arm's length principle, which is reflected in both the UN and OECD Models, drawing on the Manual. 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 Transfer Pricing**

Accordingly, FfDO is partnering with the African Tax Administration Forum (ATAF) in organising a 2-day Workshop on Transfer Pricing (the Workshop) for the benefit of tax officials from a number of countries in Africa who work in this area, with a view to providing them with a comprehensive introduction to the fundamentals of transfer pricing. It will be held in Lusaka, Zambia, on 17-18 June 2015, and be hosted by the Zambia Revenue Authority.

The Workshop will focus on presenting the *UN Primer on Transfer Pricing*, which provides a general overview of basic concepts of transfer pricing. It will discuss the arm's length principle and processes for analyzing transfer pricing issues, including functional and comparability analysis and transfer pricing methods. In addition, it will cover documentation and access to information issues, as well as special issues and industries (for instance, intangibles, intra-group services, commodities and extraction industries). Finally, the Workshop will feature 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.

This event will be attended by tax officials from relevant authorities in a number of countries in Africa, 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 participate.

The Workshop will be delivered in English through an expert facilitator. 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. Selected materials, including presentations and a case study, will be available also in French. In addition, each participant will receive a copy of the *United Nations Practical Manual on Transfer Pricing for Developing Countries* (available in English only).

