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**United Nations Capacity Development Programme
on International Tax Cooperation**

Progress Report

Summary

This note provides an update on progress in implementation of the United Nations capacity development programme on international tax cooperation under the responsibility of the Financing for Development Office (FfDO) of the United Nations Department of Economic and Social Affairs.

1. Mandate

In its resolutions 2013/24 and 2014/12, the Economic and Social Council (ECOSOC) reiterated and expanded the mandate given to 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.

2. Relationship with the Committee

Owing to the fact that FfDO provides secretariat support to the Committee of Experts on International Cooperation in Tax Matters (Committee), its programme of capacity development on international tax cooperation draws, to a large extent, on the outputs of the Committee with a view to disseminating and operationalizing them as capacity development tools to the benefit of developing countries.

In practice, this means developing training materials/courses and conducting capacity development events based on major outputs of the Committee, such as the United Nations Model Double Taxation Convention between Developed and Developing Countries (UN Model) and the United Nations Practical Manual on Transfer Pricing for Developing Countries (UN Transfer Pricing Manual).

In addition, FfDO's capacity development programme produces inputs to work of the Committee at the request of the Committee. An example could be the support and inputs provided to the work of the Subcommittee on Negotiation of Tax Treaties leading to the development of a new practical Manual for the Negotiation of Bilateral Tax Treaties between Developed and Developing Countries, which will be presented for the adoption by the Committee at the current session.

In devising its capacity development programme FfDO also takes full advantage of the unique expertise and networks of the Committee members, who have been providing support to this programme on pro-bono basis. Several Committee members have been involved, in advisory role, in almost every activity up to date and: (1) contributed to determining the demand in developing countries for relevant capacity development tools; (2) assisted in assessing what are already available tools and resources; (3) proposed tools, which needed to be developed in order to address the needs of developing countries; (4) advised on selection of experts to be contracted for development of the tools; (5) undertook technical review of the produced materials to ensure that the materials adequately reflect the work of the Committee and take into account the needs of developing countries; (6) assisted in identifying participants from developing countries for capacity development events. In the future the Committee members will also be asked to serve as instructors and mentors for FfDO's capacity development events, in their respective regions.

During its 9th session in 2014, the Committee decided to set up an Advisory Group on Capacity Development comprising 7 members of the Committee and mandated it to make recommendations on capacity-building and the provision of technical assistance to developing countries in the area of international cooperation in tax matters. To this end, the Advisory Group is to engage with the UN capacity development programme on international tax cooperation. The Group is to ensure that the activities of the above programme adequately reflect the work of the Committee, take into account the needs of developing countries, especially the less developed ones, and do not duplicate but effectively complement existing tools and resources at the disposal of developing countries. The Group will also assess and review progress made in the implementation of the programme on an annual basis, on the occasion of the session of the Committee.

Up to date the Advisory Group held four meetings in 2014 and 2015 during which FfDO reported to the Group on progress made in the implementation of its capacity development programme and consulted the Group on its new projects and proposed areas of activities.

3. Double tax treaties – UN Model

a) UN Course on Double Tax Treaties

A description of this course is available at <http://www.un.org/esa/ffd/capacity-development-tax/course-dtt.html>.

2nd delivery of the UN Course on Double Tax Treaties (Panama City, Panama, 1-3 June 2015)

The course was delivered, for the second time, in Panama City, Panama, on 1-3 June 2015, with the participation of 25 treaty negotiators and administrators from 15 developing countries in Latin America and the Caribbean (Argentina, Barbados, Bolivia, Chile, Costa Rica, Ecuador, Guyana, Honduras, Mexico, Nicaragua, Panama, Peru, Suriname, Trinidad & Tobago, and Uruguay). This time the course focused on selected tax treaty issues regarding the taxation of cross-border services. In addition to providing a general introduction to tax treaties, it covered the definition of permanent establishment (PE) and the treaty provisions on taxation of business profits, as well as a detailed analysis of treaty articles dealing with services. The Inter-American Center of Tax Administrations (CIAT) provided assistance in organizing the course.

The course was delivered in a very practical way, emphasizing South-South sharing. It included practical examples and comprehensive case studies, which were discussed by the participants in small groups. In addition to instruction provided by world-renowned experts, namely Prof. Brian Arnold, Senior Adviser, Canadian Tax Foundation; and Prof. Graeme Cooper, Professor of Taxation Law, Faculty of Law, University of Sydney, Australia, regional experts provided practical insights and relevant examples from their country practices throughout the course. Together with FfDO staff they also led discussion of case studies and facilitated sharing of experiences among course participants. The 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 gratitude for providing them with the opportunity to participate in the course. In their responses to a written questionnaire, all 22 participants graded overall value of the course as excellent or very good (on a 5-step scale: excellent, very good, good, satisfactory and not satisfactory).

Next steps

- On 9-13 November 2015, the UN Course on Double Tax Treaties will be delivered for the first time in the African region, namely in Dakar, Senegal, with the participation of 42 representatives of ministries of finance and national tax authorities in African countries. The instruction will be provided by several experienced treaty negotiators, including a former Committee member, Mr. Ron van der Merwe. The course is organized in cooperation with the African Tax Administration Forum (ATAF) and will be taught in English and French with simultaneous interpretation.
- In the first half of 2016, the UN Course on Double Tax Treaties will be delivered in Dominican Republic, in response to strong demand from that country. CIAT will provide assistance in organizing the course.

b) UN Primer on Double Tax Treaties

A description of the UN Primer is available at <http://www.un.org/esa/ffd/capacity-development-tax/primer-dtt.html>.

FfDO is in an advanced stage of development of the on-line version of the UN Primer, which will be available to the tax officials from developing countries free of charge.

Next steps

- The on-line version of the UN Primer on Double Tax Treaties is expected to be launched in first half of 2016.

4. Negotiation of tax treaties

a) UN Manual for the Negotiation of Double Tax Treaties between Developed and Developing Countries

FfDO, in context of its capacity development programme, provided support to the Subcommittee on Negotiation of Tax Treaties, which is mandated to develop a practical manual for the negotiation of bilateral tax treaties and present it for adoption to the Committee at its 11th session in 2015. An edited draft is available at http://www.un.org/esa/ffd/wp-content/uploads/2015/09/11STM_Manual_Tax_Treaties.pdf.

Next steps

- Following the adoption of the Manual, FfDO will assist in publishing it by the end of 2015.

b) UN-OECD Practical Workshop on Negotiation of Tax Treaties

A description of the Workshop is available at <http://www.un.org/esa/ffd/capacity-development-tax/workshop-ttn.html>.

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.

Next steps

The next UN-OECD Practical Workshop on Negotiation of Tax Treaties will be held in Vienna, Austria on 30 May – 3 June 2016.

5. 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* (UN 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.

Translation into Spanish of the Handbook is now available thanks to contribution by CIAT. The French translation is forthcoming thanks to contribution by ITC and will be available electronically in November 2015 and in print by the end of this year.

Next steps

- In order to further disseminate the UN 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 UN Handbook, while the second part will focus on selected chapters of the Handbook of particular interest to developing countries from the point of view of protecting their tax base, including administrative implications of available policy options on the taxation of income from services, as well as on limiting interest deductions and other financial payments. The discussion will be led by world-renowned experts in the field of double tax treaties, including members of the Committee and academics. The workshop will deal with practical case studies, country experiences and good practices.

6. Protecting tax base of developing countries

The main tool in this area is the *United Nations Handbook on Selected Issues in Protecting the Tax Base of Developing Countries* (UN Handbook), which is a result of a project, undertaken by FfDO, aimed at strengthening the capacity of developing countries to increase their potential for domestic revenue mobilization by protecting and broadening the tax base. The UN Handbook was presented during the Third International Conference on Financing for Development (Addis Ababa, Ethiopia, 13-16 July 2015) and will be launched during the current session of the Committee.

The UN Handbook draws upon the work done in this area by the Committee, and its relevant Subcommittees, including the Subcommittee on Base Erosion and Profit Shifting (BEPS), as well as the OECD work on BEPS, as appropriate, with a view to completing that work from the capacity development angle for the benefit of developing countries. It aims to simplify, summarize and systematize all relevant 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.

The UN Handbook is intended to assist developing countries in three important areas: (a) engagement and effective participation in relevant international norm-setting and decision-making processes, including in the OECD fora; (b) assessment of relevance and feasibility of different options to protect and broaden their tax base, including those proposed in the context of the OECD work on BEPS; and (c) effective and sustained implementation of the most suitable options from which they would benefit.

To this end, the UN Handbook provides a study of the OECD work on BEPS, along with an analysis of the strategies proposed so far to address the relevant issues. In doing so, it aims to define the most appropriate modalities to protect the tax base of developing countries, taking into account their needs and levels of development. In addition, it offers an overview of several approaches that might be relatively easy to implement, in light of the resource and capacity constraints of these countries.

Moreover, the UN Handbook analyses some major shortcomings of existing international tax norms, in the context of promoting domestic resource mobilization to foster sustainable development. On the one hand, it deals with matters that are considered also in the context of the OECD work on BEPS, with a view to reviewing the underlying fundamental policy and implementation aspects from the perspective of developing countries. On the other hand, it goes further to address other topics, which developing countries reported to be of particular relevance to them in protecting their tax base, namely: (a) the taxation of cross-border services; (b) the taxation of capital gains realized by non-residents; and (c) tax incentives.

Inputs and feedback from developing countries, members of the Committee, as well as relevant international and regional organizations, have been sought throughout the development of the UN Handbook. To this end, two workshops were held with the participation of these stakeholders: in New York, in June 2014, and in Paris, in September 2014. Overall, these meetings were attended by 24 government officials from developing countries in all regions of the world, 12 members of the Committee, as well as representatives from ATAF, CIAT, UN Economic Commission for Latin America (ECLAC), ITC and the OECD.

Next steps

- On the basis of selected chapters of the UN Handbook, FfDO is developing the UN Practical Portfolios on Protecting the Tax Base of Developing Countries (see section below).
- Next year FfDO will work on a joint project with the Government of Italy, which will aim at developing a second edition of the UN Handbook taking into account the final outputs of the OECD project on BEPS.

7. UN Practical Portfolios on Protecting the Tax Base of Developing Countries

On the basis of selected chapters of the *UN Handbook*, FfDO 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.

a) 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.

Currently two *UN Practical Portfolios on Base-Eroding Payments* are being developed to assist developing countries in implementing rules to deal with the above-mentioned base-eroding payments, namely: (i) *UN Practical Portfolio on Taxation of Income from Services*; and (ii) *UN Practical Portfolio on Base-Eroding Payments of Interest*.

Both Practical Portfolios 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.

Work on the *UN Practical Portfolio on Taxation of Income from Services* is the most advanced. The draft materials were presented during a workshop, which was held in Panama City, Panama, on 4-5 June 2015, with a view to seeking developing countries feedback to ensure that these materials address their concerns and capacity development needs in this area. First, an overview of the taxation of income from services under domestic laws and tax treaties was provided. Then, the relevant risks of base erosion were discussed and available options to address them were analysed, including possible changes in domestic legislation and bilateral tax treaties. Finally, administrative approaches to deal with these risks were considered.

Work on the *UN Practical Portfolio on Base-Eroding Payments of Interest* is in its preliminary stage.

b) 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 important 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 was 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 29 representatives of national tax authorities, Ministries of Finance and Ministries of Investment or Trade in 17 developing countries (Azerbaijan, Brazil, Dominican Republic, Ghana, Guatemala, Indonesia, Lesotho, Mexico, Panama, Peru, Philippines, Senegal, South Africa, Swaziland, Tanzania, Uruguay and Zambia).

Regional contributions to the workshop were provided by regional organizations of national tax administrations, such as ATAF and CIAT. Case studies provided 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 were asked to take specific roles in designing and negotiating a tax incentive project for a potential investor.

Next steps

- The two UN Practical Portfolios on Base Eroding Payments will be discussed during a 3-day capacity development workshop, organized jointly by FfDO and ITC, 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.
- In 2016, FfDO will utilize the UN Practical Portfolios to conduct the country level work. It is foreseen that the first pilot country in the area of tax incentives will be Dominican Republic.

7. Transfer Pricing

a) UN Course on Practical Issues in Transfer Pricing for Developing Countries

The last technical review of the final modules of the UN TP Course was held on 10-12 December 2014, 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 meeting featured very interactive and vibrant discussion among all participants. Many practical suggestions were made on how to improve the materials and make them more relevant to the realities of developing countries. South-South sharing aspect emerged very prominently at the meeting. All participants expressed their great interest in further work on the course and reconfirmed demand in their regions for the UN capacity development activities in the area of transfer pricing.

A description of the UN TP Course is available at <http://www.un.org/esa/ffd/capacity-development-tax/course-tp.html>.

The UN TP Course was delivered, for the first time, in Panama City, Panama, on 24-28 August 2015, with the participation of 37 officials from 19 developing countries in Latin America and the Caribbean (Bolivia, Brazil, Colombia, Costa Rica, Cuba, Dominican Republic, Ecuador, El Salvador, Guyana, Honduras, Jamaica, Mexico, Nicaragua, Panama, Peru, Sint Maarten, Trinidad & Tobago, Uruguay and Venezuela). CIAT provided assistance in organizing the course.

This course provided an introduction to transfer pricing principles and methodologies and dealt with the main practical issues faced by developing countries in applying these principles and methodologies. Topics covered included: the business framework and legal environment; the arm's length principle; comparability analysis; transfer pricing methods; documentation; audits and risk assessment; dispute avoidance and resolution; and established transfer pricing capability in developing countries. The course comprised several examples and a comprehensive case study to enable participants to gain confidence in applying the skills acquired. It was delivered by several members of the Steering Group, authors of the course modules and several regional experts.

In their responses to a written questionnaire, 36 out of 37 participants graded overall value of the course as excellent or very good (on a 5-step scale: excellent, very good, good, satisfactory and not satisfactory).

Next steps

- It is foreseen that in 2016 the UN TP Course will be delivered in Africa, in cooperation with ATAF.

b) UN Primer on Transfer Pricing

A description of the UN TP Primer is available at <http://www.un.org/esa/ffd/capacity-development-tax/primer-tp.html>.

The UN TP Primer was pilot taught 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 12 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 was then delivered for the first time in its final form, in Lusaka, Zambia, on 17-18 June 2015. The event was organized in partnership with ATAF and hosted by the Zambia Revenue Authority.

The event was attended by 23 tax officials from 17 African countries (Burkina Faso, Burundi, Chad, Comoros, Lesotho, Madagascar, Mauritius, Mozambique, Namibia, Niger, Rwanda, Sierra Leone, South Africa, Swaziland, Tanzania, Zambia and Zimbabwe).

In their responses to a written questionnaire, 18 out of 21 participants graded overall value of the course as excellent or very good (on a 5-step scale: excellent, very good, good, satisfactory and not satisfactory).