

## **OUTCOMES FROM THE SECOND MEETING OF THE INFORMAL TASK FORCE ON TAX AND DEVELOPMENT: PARIS, 11-12 APRIL 2011**

### **Session I: Opening, Introduction and Key Recent Developments**

1. OECD Deputy Secretary General Richard Boucher opened the meeting, highlighting the increased relevance of the Task Force's work including its role in feeding into the G20 Domestic Resource Mobilisation pillar. In the OECD's 50th Anniversary year, the Task Force stood out as a key mechanism to allow the Organisation to engage with all relevant stakeholders to improve policy outcomes in taxation and in the broader area of transparency.

2. Co-Chaired by Oupa Magashula of South Africa and Edwin Visser of the Netherlands, the meeting brought together over a hundred delegates from developing countries and emerging economies (Colombia, India, El Salvador, Jamaica, Liberia, Rwanda, Senegal, Sierra Leone, Singapore, South Sudan, Uganda and Venezuela), OECD countries (Austria, Belgium, Canada, Denmark, Finland, France, Germany, Italy, Japan, Korea, Mexico, Netherlands, New Zealand, Norway, Spain, Switzerland, UK and US), business (BIAC, PWC, P&G, Rio Tinto, Swiss Holdings, Unilever, USCIB,), international and regional organisations (ADB, ATAF, EITI, EU, CIAT, ITC, ITD, WB, UN), academics (IBFD, ICTD), and civil society (Action Aid, Christian Aid, CCFD, Latindadd, RESULTS Japan, TJN, TJN Africa).

3. The objectives of the meeting were to discuss the preliminary work carried out since the inaugural meeting in May 2010; to develop and prioritize the potential areas of work and outputs identified by the Task Force's relevant sub groups; and to situate the Task Force work in the context of other international initiatives. The Co-Chairs concluded each session by summarising the key priority areas that emerged from discussions. These are included in the draft action plan at Session IX.

4. Jon Lomoy, Director of the OECD Development Co-operation Directorate, and Jeffrey Owens, Director of the OECD Centre for Tax Policy and Administration provided an update of the work of the Task Force work within the context of the Joint CFA/DAC Tax and Development Programme and current OECD priorities. Mr Lomoy noted that despite aid levels being sustained, there was a need to question whether aid could be better used, for example to leverage increased domestic resources. Mr Owens suggested that the Task Force was now entering its operational phase and noted its centrality in the G20 mandate.

### **Session II: Spotlight Cases on Tax and Development**

5. South Sudan's delegates shared their initial experiences of setting up and design of the tax administration and fiscal system, where international support has played a key role so far. South Sudan's emerging needs related to the basic building blocks in building a tax system including IT systems, setting up customs

units and implementing a sales tax. Tax evasion through non-remitted customs duties was one challenge for which regional cooperation was identified as a possible counter measure.

6. El Salvador illustrated the key role of political ownership and leadership as success factors that led to the broad ranging reforms that have taken place and in which the coordination of external support was central. An increased percentage of tax revenues/GDP from 12% in 2004 to 14% in 2010 has been one positive outcome.

### **Session III: Capacity Building on Taxation, Statebuilding and Aid**

7. The Co-chair Oupa Magashula updated the meeting on the progress made by the Task Force in this area. He highlighted that the effectiveness of a state can be measured through the performance of its tax administration and that developing a diagnostics tool so developing countries could establish this for themselves was of key importance. The importance of benchmarking and the development of a diagnostic for developing country tax administration were emphasized. The discussion document for this session Position Paper for the OECD Tax and Development Task Force Sub Group on Taxation, Statebuilding and Aid was noted.

8. Sierra Leone illustrated the urgent and challenging capacity development needs in a post conflict country and the need for coherent and ongoing support from development partners.

9. Representatives from the ITC, ITD and OECD presented collaborative work to track current and future international assistance and to monitor its coherence in terms of unmet needs or possible duplication. ATAF and ITD described ongoing work to benchmark tax administration in Africa, based on work undertaken by the Forum on Tax Administration. Tax Justice Network, Africa made the case for a focus on taxpayer education as a key part of the statebuilding agenda, noting again the case of Rwanda from which lessons could be drawn for other countries.

10. Comments and discussion emphasized that capacity development in developing countries was the platform on which all other Task Force initiatives depended. There should not be a 'one size fits all' approach and all countries have different needs dependent on their particular economic and political circumstances and capacity; a demand driven approach must steer the work of the Task Force. Addressing elites' corruption requires attention as does remunerating tax officials adequately and improving IT systems.

11. Discussions pointed to benchmarking as a priority, complemented by more comprehensive impact measures and indicators. These should extend beyond simplistic revenue targets, to include tax base broadening and addressing the informal sector, for example. The need to support local tax policy units in developing countries to promote local solutions to local tax issues was highlighted. Action Aid noted that capacity development for civil society was also required and that ways to better connect revenues to expenditures was a cross-cutting theme. There was general agreement, including from civil society and business, that transparency of tax incentives was an area where the Task Force should make progress, and this area is of interest in the context of the G20. In relation to the work undertaken by the ITD for the UN tax group and by the GOVNET, Norway informed the meeting about the consideration being given to stopping tax exemptions for aid funded goods and services in countries approved for budget

support, and encouraged other donors to join the initiative. For all donors, a set of principles could be developed to guide future actions, based on a joint ITC/OECD study on aid modalities underway. This could help with the ongoing task of tracking the coherence of international support.

12. Finally, discussions also raised the importance of developing knowledge in the areas of tax morale, tax literacy, education programmes, the informal sector and on how support to post-conflict countries could best be deployed.

#### **Session IV: Effective Implementation of Transfer Pricing**

13. The Co-chair Edwin Visser updated the meeting on the progress made by the Task Force's relevant sub group, and introduced the discussion document for this session (Objectives of the Sub-Group on Transfer Pricing).

14. Venezuela and Columbia described their experience of implementing domestic transfer pricing rules pointing to the vital importance they attach to transfer pricing and the significant tax revenue impact of their transfer pricing rules, which are in line with the arm's length principle. They also pointed to a number of implementation issues, in particular difficulties in identifying reliable financial data on transactions between unconnected parties, and looked to the international community for assistance in addressing these types of issues.

15. ATAF provided an update on the Forum's initiatives on transfer pricing, including the formation of a Transfer Pricing Working Group to support African countries in their adoption and effective implementation of transfer pricing rules. ATAF reviewed the difficulties that African countries face in building required skills and knowledge and in accessing relevant data. Details of planned initiatives designed to assist African countries access and share knowledge and experience in this area were provided. These initiatives include a transfer pricing "panel of experts"; a shared web-based knowledge database; exploring the possibility of establishing a shared database of comparable information; and the development of shared training products. ATAF will be looking to the Task Force to provide support and technical assistance with these initiatives. Mr. Magashula stressed that transfer pricing audit capability is best acquired through practical case experience and supported a proposed initiative for African countries to carry out joint audits of key MNEs operating in Africa.

16. The UN described its current work in transfer pricing, including the drafting of a manual (relevant to countries at all stages of development) designed to provide guidance on the practical implementation of the arm's length principle, as set out in the UN and OECD Model Tax Conventions and the OECD Transfer Pricing Guidelines. The EC described the Commission's study on the adoption and implementation of transfer pricing rules by developing countries, focused initially on studies conducted on Ghana, Kenya, Vietnam and Honduras. The study aims to identify in particular the conditions needed to effectively implement transfer pricing rules. It was agreed such studies provide a useful analytical framework to assess transfer pricing risks and to direct scarce resources to areas in which they are likely to be most effective.

17. There was agreement that the Task Force's work should focus on the implementation of the arms' length principle and that transfer pricing was a key determinant of the investment climate and developing countries needed capacity building and support to ensure they obtain an appropriate share of the MNE tax

base. Discussions focussed on the need for a coherent approach that provides certainty, reduces the risk of conflict and avoids double taxation. The importance of effective dispute resolution mechanisms and of a demand-driven approach was emphasised, together with the value of South-South sharing of experience.

18. The meeting agreed that transfer pricing was one of the top priorities for the Task Force. A coordinated and coherent approach between international and regional organisations providing assistance to developing countries on transfer pricing was needed, engaging the OECD, World Bank, EC, UN, ITC, ATAF and CIAT.

### **Session V: Exchange of Information**

19. The Co-chair Oupa Magashula introduced the discussion document for this session (Elements of a Possible Work Programme on Exchange of Information for Tax Purposes). The Secretariat of the Global Forum on Transparency and Exchange of Information for Tax Purposes provided an overview of the Global Forum's progress in engaging with developing countries.

20. Presentations from Jamaica and Senegal highlighted the importance of having the adequate legislative framework to counter tax evasion and avoidance but stressed the vital need for building capacity in tax administrations for exchange of information to be effective. There is also significant regional demand in Latin America as confirmed by CIAT's perspectives on this issue. A key challenge will be to ensure that the global information exchange architecture is relevant and useful for the particular circumstances of low-income countries.

21. Sharing their insights into technical assistance activities carried out in this area, the World Bank highlighted the importance of exchange of information as a component of an effective tax system and emphasized the importance of developing countries joining the Global Forum to reinforce their capacity in this area.

22. Discussions also focused on the benefits to and importance of encouraging developing countries to join the Multilateral Convention on Mutual Administrative Assistance in Tax Matters. Mr Owens noted the Convention would be open to all countries showing commitment to effective exchange of information and confidentiality protection. The Convention is a powerful tool, providing potentially for all forms of exchange (including on request, spontaneous and automatic), the legal basis for joint audits, and mechanisms for assistance in collection. He concluded that the more signatories to the Convention, including off shore financial centres, the more useful it will prove to be. See [www.oecd.org/ctp/eoi/mutual](http://www.oecd.org/ctp/eoi/mutual) Sierra Leone specifically requested the Task Force to consider how information available to Global Forum members could be made available to countries outside such Forum. Other countries mentioned the possibility of regional groupings, such as SADC or possibly ATAF, developing multilateral TIEAs to create a legal basis for exchange of information with co-operative jurisdictions.

### **Session VI: Transparency in Reporting of Financial Data by Multinational Corporations ('Country By Country Reporting')**

23. The Task Force acknowledged that the subject of transparency in financial reporting is a difficult area, recognised the significant efforts of the Drafting Group led by the Oxford University Centre for Business Taxation at the Saïd Business School, in scoping the issues behind this initiative and providing a platform for

ongoing dialogue, and thanked the Sub Group for providing a very helpful report to conduct the discussion and define a programme of work. Participants indicated that such programme must be demand driven, taking into account where the current rules on transparency fall short. There were different opinions on the need to implement country by country reporting in the operations of MNEs, and on specific approaches to further work, although most participants agreed that more transparency in their operations would be helpful and a number of significant proposals for further action were made.

24. Developing countries expressed their interest in moving towards country by country reporting by multinational corporations, since they see it as a potentially valuable instrument to obtain relevant information for their tax enforcement work, providing a mechanism to obtain information that would not be easily obtainable otherwise. They also saw the issue as part of the broader good governance agenda.

25. Liberia, the first country in Africa to be fully EITI compliant, which has gone further than any other country by including the agriculture and forestry sectors in the EITI process, believed that transparency mechanisms should go beyond the simple matching of figures between taxpayers and tax authorities. The EITI has been very positive for a better resource management, but it would be useful for more large companies to report financial information on a country by country basis. Liberia also pointed out that one of the lessons learned in implementing EITI is that civil society plays a critical role in the dissemination of the information.

26. Colombia, Venezuela, Mexico, and Chile (by written comment) agreed that increased transparency in financial reporting by MNEs is important for both countering corruption and improving taxpayer compliance. This view was also expressed by developing countries in Africa and Asia in a recent meeting of the Advisory Group in Zambia (see Task Force room document Report on key issues raised at the meeting of the Advisory Group for Co-operation with Non-OECD Economies, 28-30 March 2011).

27. NGOs for their part emphasised that, in their view, public scrutiny and the role of civil society is not seen as a replacement of the law, but as a way to ensure better standards of conduct in the tax area. An example on how this could work positively to improve conditions on the ground was shown by the campaign against child labour.

28. The key issue for the business representatives was the link between transparency and domestic resource mobilization in less developed countries, and business believed that access to the information that tax authorities need to perform their work, and capacity building, are essential parts of the equation. Business, however, was less convinced of the benefits of public disclosure of financial data on a country by country basis, and also mentioned the costs of producing such information. The ongoing initiatives on transparency are still evolving, with the impact of the US Dodd Frank legislation still unclear. Business noted that whilst transparency is important, there is a need to assess the success of the various current initiatives before moving forward. The IASB and the EC both have important studies on transparency in process, and they cannot take a position before they are finished.

29. The United States expressed a strong preference for focusing on those transparency initiatives already in place, and linking them to capacity building,

governance and anti corruption efforts, where wider consensus exists. Thus, it is the position of the United States that section D of the proposed Action Plan is not ripe for further work, as it will sap resources from other productive work the Task Force could undertake.

30. Singapore considered that the costs to corporations will not outweigh the benefits of greater public disclosure of information, while other countries pointed out that the greater benefits of a work programme on transparency would be found in practical short term results. Other OECD member countries were quite supportive of a work programme devoted to attain effective transparency in the most practical way possible at the least cost, without limiting it to specific sectors. A selection of best practices with respect to the disclosure of statutory local accounts of multinational enterprises and non listed local enterprises was mentioned as one of the most likely projects among the list of options presented to the Task Force.

31. There was consequently broad support for improving fiscal transparency in the operations of tax systems, but not clear unanimity on whether this should go as far as country by country reporting.

#### **Session VII: International Initiatives**

32. Pauline Carmona, Head of Democratic Governance Mission in France's Global Economy and Development Strategies Directorate, provided an overview of the G20's Domestic Resource Mobilisation pillar and described progress made so far by the mandated organisations with assistance from South Africa and Spain as co-facilitators. Considering the Task Force as an implementation arm for the G20, she highlighted the importance of enhanced collaboration between mandated organisations.

33. Dirk Dijkerman, US representative to the OECD DAC situated the tax and development work as an example of the way the OECD should do its business. He stressed that the aim of the upcoming OECD Ministerial is raising the profile of development in all the work of the Organisation and that the High Level Forum on Aid Effectiveness to be held in Busan at the end of 2011 is directed to donors "walking the talk" to ensure that development resources have the greatest impact on development.

34. The OECD Secretariat provided brief remarks on other conferences that have taken and will take place regarding tax and development, emphasizing the Tax and Crimes Conference held in Oslo in March, exploring the role between tax and other crimes and where a "whole-of-government" approach to tackle all illicit activities through inter-agency co-operation was identified as a priority.

#### **Session VIII: Task Force Working Process**

35. The OECD Secretariat provided an overview of the process and mechanisms that have been followed regarding the Task Force work. Following questions from participants, the Secretariat explained that the Co-Chairs of the Task Force would feed in views into the G20 report on DRM. The deadline for submitting the report is June 2011. The Asian Development Bank acknowledged the importance of the work carried out through the Task Force and expressed interest in closer collaboration

with the Secretariat to raise the Task Force visibility and the value it adds within the Bank's activities in this region.

### **Session IX: Proposed Draft Action Plan**

36. On the basis of the agreed multi year CFA and DAC Tax and Development Programme, as well as documents and discussion at this meeting covering the four pillars, the following action areas were identified by the Co-Chairs as proposals that the Task Force would like to be considered. Precise participation in work areas will be determined by the sub groups once decisions are made by the Committees on the work plans and it is expected that this work will be furthered through the active and enthusiastic participation of all constituencies represented in the Task Force.

37. The Secretariat was instructed to circulate the summary record to Task Force members for comment and for views on prioritization within and between pillars. Comments were received from BIAC, Canada, Civil Society Organisations (ActionAid/Eurodad, CCFD-Terre Solidaire, Christian Aid, Latindad, Tax Justice Network Africa, Tax Justice Network International), Ecuador, Germany, Netherlands, Norway, PWC, Rio Tinto, Switzerland, United States and Venezuela. The WP6 Bureau also discussed and commented on the initial draft at their meeting on 16 May 2011.

38. Taking into account discussions at the meeting and comments received subsequently, all participants were strongly in favor of Task Force work on the first two pillars: (1) Statebuilding, Accountability and Effective Capacity Development and (2) Effective Transfer Pricing Regimes. While there was less of a consensus to work on Increased Transparency in Financial Reporting (pillar 3) and Countering International Tax Evasion and Avoidance through Exchange of Information (pillar 4) – in the latter case because of possible duplication with work of the Global Forum – strong voices were heard in favour of further work in both areas and this also reflected the integration of these areas into a co-ordinated and linked programme with a focus on transparency and capacity building. Transparency of MNEs supports more effective implementation of transfer pricing rules as does improved exchange of information; statebuilding provides the overarching framework for linking states to societies through taxation.

39. The action plan below focuses on the areas where the Task Force's added value will lead to concrete deliverables in the 12 month period to June 2012.

40. In light of the comments received, the Secretariat revised the summary record including the proposed action areas which will inform the Task Force Report including a timeline for action that will be submitted to both Committees in late June 2011.

#### **A. Statebuilding, Accountability and Effective Capacity Development**

1. **Map current initiatives, benchmark progress in tax administration** and setting out good practices leading to the creation of a **focused diagnostic tool** for assessing tax programmes, styled after the Public Expenditure and Financial Accountability (PEFA) framework that has been widely used for budget assessments, to enable developing countries to determine and prioritise their own needs.

2. **Propose a transparency framework for tax incentives.**

3. **Develop principles for donors (including more transparency for donors) on how to improve international support**, based on the aid modalities study currently under way.

4. **Track the quality and coherence of international support** for capacity on taxation in least developed countries, particularly in fragile states. Lessons from South Sudan, Sierra Leone and El Salvador can inform this process.

5. **Develop and communicate lessons on tax morale and tax education** to support effective statebuilding.

6. Follow the debate and processes aimed at addressing tax exemptions on aid funded goods and services.

#### **B. Effective Transfer Pricing Regimes**

1. Develop an **analytical/diagnostic framework** to assist developing countries assess their transfer pricing risks and regulatory needs in accordance with their individual circumstances.

2. Launch a **coordinated programme by international organisations** to provide focused and intensive support on the adoption and effective implementation of transfer pricing rules to specific developing countries - with a pilot initiative covering 5-10 countries.

3. Work with **ATAF** to support and reinforce their **working group** on transfer pricing.

4. Improve the **access by developing countries** to information needed in order to carry out effective transfer pricing analyses. This will include developing shared databases.

5. Set up a **“panel of experts”** to provide real time advice on a case by case basis to developing countries as they adopt and implement transfer pricing rules.

6. Assist developing countries conduct **joint transfer pricing audits** where such an approach is relevant and likely to be effective.

7. Assist developing countries establish **effective transfer pricing dispute resolution mechanisms**.

#### **C. Increased Transparency in Financial Reporting**

1. Supporting developing countries to **improve access to statutory accounts**, establish **good practices** on what is available and how it can be accessed.

2. Monitor ongoing **international transparency initiatives** including **EITI and future developments in respect of Dodd-Frank** legislation, and proposals agreed by the EC.

3. Analyse **disclosure programmes currently undertaken by multinational enterprises**, including the broader context of corporate social responsibility and

anti-corruption, looking at costs of initiatives, establishing what best provides **benefits of accountability**, and trying to identify **good practices**.

**D. Countering International Tax Evasion and Avoidance through Exchange of Information**

1. Encourage developing countries to join the **Global Forum on Transparency and Exchange of Information** and provide demand driven support in the process of doing so.
2. Facilitating **regional approaches to exchange of information** in South, West or East Africa, Latin America and Asia.
3. Assist developing countries who wish to join the **Multilateral Convention on Mutual Administrative Assistance in Tax Matters**.

**E. Tax Policy and Related Issues**

Several participants suggested that the Task Force has a clear value to add in discussing tax policy issues. Subject to funding availability, the consideration of adding a fifth pillar to the Task Force workstreams is suggested to examine, for example: (i) taxation of the informal sector; (ii) tax policy design and impact assessment; and (iii) linking revenue to expenditure outcomes.