2nd Meeting of the Informal Task Force on Tax and Development

TAX AND DEVELOPMENT PROGRAMME:

WORK PLAN 2011/12

TAX AND DEVELOPMENT PROGRAMME:
WORK PLAN 2011/12

1. TRACKING PROGRESS AND MEASURING RESULTS ON TAX SYSTEMS DEVELOPMENT

OBJECTIVE (S)

- To support ATAF's and CIAT's comparative benchmarking work on tax administration performance.
- To help ATAF develop a diagnostic tool to enable developing countries to assess their own needs in tax administration.
- To develop a menu of metrics for developing countries and donors to allow the measurement of progress and results on tax and development outcomes including how taxation can be used to measure state authority, state legitimacy and state resilience.

ACTIVITIES

2011/12:

- Support ATAF and CIAT in benchmarking tax administration performance by feeding in relevant knowledge and comparative experience from tax administration in OECD countries.
- Construct, working with ATAF, a diagnostic tool setting out the critical areas where need is most essential
- Consult on a possible set of measures that could feed into an internationally agreed menu of options on tax and development outcomes.

2012/13:

- A possible world-wide comparative information report on tax administration performance, with possible best practice identification.

BACKGROUND

Much work is underway among international partners to develop benchmarking and comparative performance tools for tax administrations (IMF technical notes; World Bank's Integrated Assessment Model for Tax Administration; the ITD has piloted the development of common indicators in sub-Saharan Africa; OECD is contributing directly through the OECD FTA's Comparative Information Series). ATAF is driving new work in this area and has called for the Task Force to facilitate the development of one single diagnostic tool.

There is also a need to develop a set of metrics to gauge progress on revenue related issues. This has several drivers including the consensus that the standard tax/GDP ratio measure is insufficient (and may create perverse incentives) and that other measures such as issues of tax equity, tax base broadening, tax morale, compliance costs and so on are needed. For their part, donors need a better set of measures through which to demonstrate results from ODA funded activities. There is a broader set of questions (researched in little depth to date) about how taxation can be used to measure state authority, state legitimacy and state resilience.

There is also the possibility of an important link to the OECD hosted International Dialogue on Peacebuilding and Statebuilding. The International Dialogue aims to establish a consensus between governments in fragile states and development partners on international objectives for peacebuilding and statebuilding and identify a limited number of global-level indicators (one of which is on revenue management) to track progress across countries. Ideally these indicators would have broad acceptance in the international system, similar to the MDG indicators.

PARTNERS **a) International and regional organisations, other bodies**: the ITD, World Bank, IMF, OECD's Development Centre, ATAF, CIAT **b) Countries :** (to be identified with ATAF and CIAT) **c) CSOs/NGOs and Business.**
EXPECTED IMPACT: • The development of a single diagnostic tool to measure tax administration performance will allow developing countries to assess their own performance without external models being imposed. • A menu of measures on tax, development and governance will allow developing countries and donors alike to track progress on concerns that extend beyond simple measures of tax/GDP.

2. DEVELOP TRANSPARENCY PRINCIPLES ON TAX INCENTIVES FOR INVESTMENT

OBJECTIVE (S)

To agree and implement transparency principles/voluntary code for granting and administering investment related tax incentives.

ACTIVITIES

2011/12:

- Elaborate a synthesis report on best administrative practices in dealing with incentives transparently among developed and developing countries.
- Broker agreement through a coalition of international and regional organizations and developing countries to develop guidelines on transparency and on how to design incentives.

2012/13:

- Assist selected countries to implement agreed guidelines on transparency on a demand led basis.
- This project provides the platform for developing detailed work on the costs and benefits of tax expenditures more generally, in consultation with SADC and other partners.

BACKGROUND

All governments use tax incentives to gain the attention of potential investors and to stay competitive with other countries offering incentives. Yet several studies indicate that tax incentives for investment, in particular tax free zones and tax holidays, do not deliver the benefits intended in terms of boosting employment, encouraging the development of the private sector and improving their competitive position in today's global economy. Indeed, tax incentives may damage developing country revenue bases, eroding the resources available for public investment on infrastructure, education and security, which are considered as key drivers of investment decisions. Responding to pressure from investors, the result is often a "race to the bottom," in which countries in a region are made collectively worse off, possibly to the benefit of investors.

Moreover, some countries have multiple laws offering incentives, whose design and administration is the responsibility of separate Ministries (finance, trade, tourism, investment). Often these Ministries do not coordinate their work on incentives, with the result that the incentives often overlap, are not consistent, or work at cross-purposes. Administrative discretion in the management of incentives can lead to corruption.

Despite the popularity and widespread use of incentives, inadequate attention has been paid to the cost-effectiveness of the various incentives offered in terms of impact on revenues lost or direct spending, credibility of the tax system itself and risks of corruption. There is little reliable data on granted incentives, actual investments made, direct and indirect benefits to the host economy, and the cost of these incentives.

Improved transparency in the provision and delivery of tax incentives for investment may help increase governments fiscal accountability and rationalise the use of these incentives. At the same time, it may help improve investor as well as taxpayer confidence in the system, support good governance, reduce lobbying pressures for increased/new incentives, and promote economic development.

Some ways to increase transparency in the provision and delivery of tax incentives include:

- publishing and posting on relevant Government websites information about each (tax and non-tax) incentive scheme, including comprehensive descriptions of each scheme, procedures and criteria for obtaining incentives;
- identifying and listing all tax incentives, including beneficiaries when possible, and publishing this information on a regular basis;
- estimating the cost of these tax provisions and publishing this information on a regular basis in, so called, tax expenditure reports;
- Integrating tax expenditures reports in the budget process, which would help well-informed decisions on allocation of resources and policies coordination.
- Providing guidelines on how to design incentives.

PARTNERS

a) Countries : to be identified with ATAF and CIAT

b) International and regional organisations, other bodies: the World Bank, IMF, OECD, IDB, ATAF, CIAT, ECLAC.

c) CSOs/NGOs and Business

EXPECTED IMPACT:

- Identifying best administrative practices in dealing with tax incentives transparently should help guide the development and design of investment tax incentives.
- Transparency of tax incentives should help develop a coherent policy framework designed to improve the investment environment, in which all tax and non-tax incentive policies to promote investment could be coordinated.
- Agreement of transparency principles, and their application, would allow public scrutiny over the granting of tax incentives.

3. PRINCIPLES FOR INTERNATIONAL ENGAGEMENT ON PROVIDING ASSISTANCE TO DEVELOPING COUNTRIES ON TAXATION ISSUES

OBJECTIVE (S)

The objective of this project is to produce and build a consensus on a set of principles for International Engagement on Providing Assistance to Developing Countries on Taxation Issues.

ACTIVITIES

2011/12:

- Consult on and then produce a set of principles for International Engagement on Providing Assistance to Developing Countries on Taxation Issues, based on the ITC/GOVNET study on aid modalities (to be completed in mid 2011). The Principles should encourage 'whole of government' working across OECD countries and should not be limited to cover aid/donor interventions.

2012/13:

- Disseminate and monitor the use of principles.

BACKGROUND

In 2010/11 the ITC and GOVNET collaborated on a study to examine how aid modalities have been used to promote tax systems development and better governance. The report notes the purpose of taxation is to raise revenue effectively, efficiently and fairly, for financing public goods and services. But donors and development practitioners are equally concerned to promote "good governance in tax matters." The governance perspective focuses on how taxation affects state capacity, responsiveness, and accountability, as well as the political economy of tax reform. The Principles for International Engagement on Providing Assistance to Developing Countries on Taxation Issues may be developed from existing international agreements (such as the Paris Declaration on Aid Effectiveness) and following key findings from the report:

- Host country ownership and leadership is of paramount importance. Aid can effectively support government programs to improve the tax system, but it generally cannot "buy" effective and lasting reforms that are not aligned to domestic political incentives.
- Although basic principles of taxation are applicable everywhere, there is no "best" approach to tax reform; donor programs should be customized to fit country conditions.
- The objective of tax reform is not just to boost the ratio of tax revenue to GDP, but also to establish a tax system that is efficient and equitable.
- How revenue gets collected is as important as how much gets collected. In the long run the main benefit of tax reform for domestic resource mobilization may be through its effects on investment, efficiency and growth.
- There are broad areas of synergy between the governance agenda and the standard technical agenda for tax reform. Aid programs should give special weight to activities that address these synergies. The quality of the tax system is itself a central pillar of state-building and good governance.
- Linkages between taxation and governance also involve supporting institutions and organizations outside the revenue system, including the justice system, Parliament, and civil society. Efforts to widen the tax net and mobilize revenue depend not only on tax reforms, but also on broader reforms that influence citizen's attitudes about the quality of governance.
- Each of the major modalities (projects; budget support) has a distinct and valuable role to play in promoting more effective tax systems and tax-governance.

PARTNERS **a) International Organisations, other bodies:** ITC, GOVNET and other international organizations (tbc). **b) CSOs/NGOs and Business.**
EXPECTED IMPACT: • Experience with developing other principles (such as the OECD principles for fragile states) suggests that once consensus is built, an agreed framework can usefully guide international support and provide a platform for monitoring external interventions.

4. A GLOBAL REPORT ON TAX PAYERS PERCEPTIONS AND ATTITUDES

OBJECTIVE (S)

The objective of this project is to explore perceptions of tax payers and their attitudes to taxation and to produce policy recommendations accordingly.

ACTIVITIES

2011/12:

- Produce a report concerning perceptions of tax payers and attitudes to taxation, presented on a regional basis covering the main developing regions: Africa, Latin America and Asia. The report will include coverage of different aspects of tax morale, to allow comparability across countries or regions plus policy recommendations on how to improve the taxpayer-government relationship. The main data sources will be international surveys, specifically *Afrobarometer*, *Asiabarometer*, *Latinobarometro*, *Eurobarometer* and *World Values Survey*. No new surveys will be undertaken as part of this assignment.

2012/13:

- A possible work programme focused on improving our understanding of, and establishing best practices for developing countries in the areas of tax morale, taxpayer education and linking revenue with expenditures (tbd).

BACKGROUND

The way taxes are levied and expenditure programmes delivered is at the heart of the social contract between citizens and the state in all countries. Fiscal legitimacy in developing countries is often low, as citizens in developing countries frequently do not trust that tax revenues are well spent, making them less willing to pay taxes. This project will expose attitudes and perceptions on this point.

A recurrent theme in Task Force discussions is how developing countries can measure progress in tax policy and administration, taking into account issues of equity, social inclusion and good governance. There are a number of international efforts underway to move beyond simplistic measures such as tax/GDP, including benchmarking and measuring the quality and performance of tax administration and metrics to gauge the tax related costs of doing business, for example. This study of tax payer's perceptions, or 'morale,' will complement these efforts.

PARTNERS

a) The OECD Development Centre.

b) CSOs/NGOs and Business: TJNAfrica.

EXPECTED IMPACT:

- The impact will be to set out areas of action as to how governments in developing countries can better link expenditures to revenues, based on tax payer perceptions.
- If repeated over time, the study can provide one element of a rough base line of state performance through which changes may be observed over time.
- Depending on progress, outcomes of this work could guide further work on taxpayer literacy and education programmes.

5. STRENGTHEN COUNTRY TRANSFER PRICING CAPACITY

OBECTIVES

To increase the capacity of developing countries to adopt, and effectively implement, transfer pricing rules in accordance with internationally agreed principles by (i) working intensively with Colombia, Kenya, Ghana, Vietnam, Liberia and Honduras, and (ii) supporting the work of regional organisations in this area.

ACTIVITIES

Specific activities respond to developing countries' requests for assistance and will be demand-driven by partner organisations in accordance with their priorities.

2011/12:

a) Country focused assistance:

- Implementation of a structured programme between international partners (EC, OECD, UN and World Bank), working with Colombia, Kenya (or EAC countries); Ghana, Vietnam, Liberia and Honduras, all of which have expressed urgent demand for OECD advice and support.
- It could include advice and support on:
  - Reviewing the legal, regulatory and treaty framework;
  - Drafting relevant transfer pricing rules (including legislation and supporting regulations);
  - The development of operational manuals and internal guidance;
  - The development of a management and administrative framework for transfer pricing, including the setting up of appropriate governance mechanisms and the establishment of effective dispute prevention and resolution mechanisms, in both the domestic and international (treaty) contexts, including, where appropriate, arbitration mechanisms;
  - Establishing international co-operation on transfer pricing compliance, including exchange of information and simultaneous audit (aligned with ATAF initiatives in this area);
  - Targeted training for relevant policy and/or administration officials; and
  - The facilitation of inwards or outwards secondments of tax officials including identifying countries prepared to provide or accept secondees.

b) Collaborate with Regional Organisations:

- A "train the trainers" event, hosted by Vienna Multilateral Tax Centre, to assist in the formation of a team of African trainers to co-facilitate training events and cascade in their countries and regions.
- Assistance to set up a transfer pricing "panel of experts" to provide swift responses to questions and issues raised by countries in the context of transfer pricing regulation and guidance, implementation and audit.
- Assistance in developing transfer pricing guidance (including, for example, model legislation, APA agreements, etc.).

2012/13:

a) Depending on progress country assistance:

- Expand the provision of assistance (on a demand-driven basis) to additional countries.
- Development of project tools (which can be utilised more widely). For example, project-management and needs analysis/diagnostic tools.

b) Collaborate with Regional Organisations:

- Assistance in putting in place the legal framework (for example exchange agreements), and administrative capacity, to carry out simultaneous audits.
- Assistance with the development of reference and support materials - for example libraries of training material, case studies, etc.

BACKGROUND

Multinational enterprises ("MNEs") operating in developing countries can, and in many cases already do, make a significant contribution to tax revenue. They may, however, use aggressive tax planning techniques, including through transfer pricing, to shift part of their profits to low tax jurisdictions. When this occurs developing countries forgo revenue that is much needed for the investments in the physical and social infrastructure that are required to achieve sustained growth. Given the high profile of MNEs in the local economies of many developing countries, such behaviour may undermine the legitimacy of local institutions and discourage voluntary compliance by other taxpayers.

Many developing countries report that they face practical difficulties in effectively implementing transfer pricing rules. Many of these difficulties are also common to developed countries, but in practice are likely to be more acute for developing countries. These may include difficulties: a) in drafting clear legislation and guidance; b) in building tax administration expertise and experience in transfer pricing to enable them to carry out effective audits; c) in obtaining the information needed from taxpayers in order to select cases for audit or carry out effective audits; and d) in obtaining public information on arm's length conditions, i.e. the conditions (for example, price or profit margin) in place for independent enterprises conducting comparable transactions under comparable circumstances.

There is very strong demand from developing countries for support in the adoption and implementation of transfer pricing rules in accordance with internationally developed principles but responding to individual country needs and priorities.

This project is grounded in proposals made by the informal Task Force to:

- support the work of regional organisations, in accordance with their own identified needs and priorities, in building developing country capacity in transfer pricing;
- focus assistance on the practical application of transfer pricing rules.

The specific initiatives that are proposed are closely aligned with the work-programmes of relevant regional organisations and were developed in consultations with developing countries held in Latin America, Asia and Africa in 2010.

PARTNERS

a) Countries: to be confirmed in collaboration with partner organisations – Colombia, Vietnam, Ghana, Kenya, Liberia and Honduras.

b) International and regional organisations, other bodies: ATAF, EC, OECD, UN, World Bank, in accordance with the mandate and work-programme of each.

c) CSOs/NGOs and Business.

EXPECTED IMPACT

- Increased ability of developing countries to collect from MNEs taxes due to them in accordance with internationally accepted transfer pricing principles.
- Enhanced individual country capacity to implement transfer pricing rules.
- Improved investment climate by minimising transfer pricing disputes.
- Greater coordination between transfer pricing capacity building programmes (regional, bilateral and multilateral) to better respond to developing countries' needs and priorities.
- Improved regional and international coherence and cooperation between countries and agencies on transfer pricing issues.
- A better understanding of developing country transfer pricing risks and regulatory needs, which can feed into future assistance initiatives enabling more focused input from key development partners.
- A better understanding of developing country implementation issues, which can reinforce work on benchmarking.

6. DEVELOP THE CAPACITY OF DEVELOPING COUNTRIES TO BENEFIT FROM MUTUAL ASSISTANCE AND SUPPORT THE WORK OF THE GLOBAL FORUM ON TRANSPARENCY AND EXCHANGE OF INFORMATION FOR TAX PURPOSES

OBJECTIVE(S)

To ensure that the global information exchange architecture is relevant and useful for the particular circumstances of developing countries.

ACTIVITIES

2011/12:

- Design and promote a practical "how to" Manual on Exchange of Information (EOI) for developing countries working with the ATAF Working Group on Exchange of Information and the new CIAT Working Group on Multilateral Exchange of Information Agreements. This Manual will cover the key concepts of EOI for exchange on request and also other relevant forms of mutual assistance, and provide guidance on the organisation of EOI work, processes, quality standards, good practices, training and awareness, etc.

- Where opportunities arise:
  - Encourage developing countries to join the Global Forum and to implement the internationally agreed standards on transparency and exchange of information.
  - Assist/encourage developing countries that want to join the Multilateral Convention on Mutual Administrative Assistance in Tax Matters.
  - Raise the awareness of developing countries on all forms of mutual assistance including spontaneous exchange and simultaneous audits to assist in establishing international co-operation on transfer pricing compliance as proposed by the Task Force on Transfer Pricing (see Annex A-5).

BACKGROUND

The international standards on EOI are developed by the CFA. The Global Forum's mandate is to " ensure a rapid and effective global implementation of the standards of transparency and exchange of information for tax purposes through in depth monitoring and peer review". Work currently undertaken by the Global Forum includes (i) enlarging its membership to include more developing countries; (ii) organising regional training seminars focused on the Forum's peer reviews; and (iii) delivering technical assistance working closely with international organisations, particularly the World Bank to facilitate the implementation of the agreed international standard.

There is a need to develop the capacity of tax administrations of developing countries to effectively exchange information and to assist those that want to go beyond the internationally agreed standards.

Automatic or spontaneous information exchange are areas of work not covered by the Global Forum. These have been identified as potentially helpful in regional settings. In this context, consideration also needs to be given to the fact that the updated Multilateral Convention on Mutual Administrative Assistance in Tax Matters came into force on 1st June 2011 and is now opened to all countries. The Convention provides a wide range of tools for cross-border tax co-operation including exchange of information on request, spontaneous, automatic; multilateral simultaneous tax examinations; service of documents; and cross-border assistance in tax collection, while imposing extensive safeguards to protect the confidentiality of the information exchanged.

Developing countries must have a legal framework for exchange of information with their major trading partners and their tax administrations need to be in a position to implement efficiently this legal framework. Discussions during the Task Force second plenary meeting highlighted the importance of having a legal framework in place to counter tax evasion and avoidance but stressed that building capacity in tax administrations is vital for exchange of information to be effective. A practical manual on EOI will assist developing countries for that purpose.

PARTNERS

a) Global Forum on Transparency and Exchange of Information

b) Countries, identified:

i. In the context of the Global Relations Programme of events in taxation
ii. with ATAF and CIAT

c) International and Regional Organisations:

iii. ATAF, CIAT, SADC, EAC, etc.
iv. World Bank, the IMF and the Financing for Development arm of the UN Department of Economic and Social Affairs

d) CSOs/NGOs and Business

EXPECTED IMPACT

- Increase the ability of developing countries to counter tax base erosion through exchange of information by establishing an adequate legal framework and providing guidance on structures, methods and tools to implement efficiently exchange of information.
- Raise the awareness of tax audit departments about the potential of all forms of mutual assistance to counteract cross border tax avoidance and evasion.

7. REPORTING OF FINANCIAL INFORMATION: TRANSPARENCY AND ACCOUNTABILITY OF MNEs AND GOVERNMENTS

OBJECTIVES

- To identify best practices with regards to the public registry of local statutory accounts that may serve to develop public data bases on unlisted independent firms.
- To monitor ongoing government transparency initiatives, and assess their impact on tax compliance.
- To monitor ongoing business initiated transparency measures, and assess their impact on tax compliance.
- To continue the discussion on the advantages and costs of new transparency standards, including country by country reporting, and on their contribution to development.

ACTIVITIES

2011/12:

- Background research on the modalities of public registries in the UK, Spain and elsewhere, the gathering of data through developing and developed country legislation and practice of public registration of local statutory accounts.
- Gather relevant data on corporate income tax in EITI complaint countries; compare with data in non EITI countries in similar level of development.
- Correlate EITI compliance across countries and over time with good governance indexes.
- Gather lessons from business initiated transparency measures. Analysis of information received to identify most common and best practices.
- Elaborate preliminary report produced by sub group.

2012/13:
Depending on progress

- Meeting of experts and public officials in charge of the administration of public registries to analyse preliminary results.
- Joint meeting EITI/OECD to discuss preliminary results on EITI effects on tax compliance and good governance.
- Develop possible guidelines/and engage donor agencies.
- Assist selected developing countries to adopt public registries with assistance of donor agencies.

BACKGROUND

The Task Force has completed a paper on the pros and cons on the introduction of the public disclosure of MNEs financial reports on a country by country basis. There is no consensus on the way forward on the general issue but there is demand from many stakeholders to make progress on transparency in three areas:

First, the value of the public registration of local statutory accounts of unlisted companies in developing countries will be explored as a tool to promote more transparency. Some countries already require this by law (e.g.: Companies' House in the UK). Such domestic regulation can have the benefit of providing public data bases of unlisted independent firms. This can help tax authorities to apply the arm's length principle, as market comparables are easier to locate. This can also promote public scrutiny over the payments made by business to governments. The first step will be a study of current practice on legally mandated public registry of local statutory

accounts of unlisted companies, drawing on experience from OECD and non OECD countries. The study will lead to the identification of best practices.

Second, monitoring and assessing the impact of country led initiatives such as the recently enacted Dodd-Frank legislation and international initiatives such as the EITI is proposed. The key question for the next year how to assess the link between transparency and improved tax compliance.

Third, measures undertaken by business to improve transparency will be discussed with a view to developing best practices.

The work will be undertaken in association with the Task Force Sub Group on transparency in financial reporting.

In addition to that, the discussion on the pro and cons of public disclosure should be continued, having in mind the contribution that new transparency standards could make to development.

PARTNERS

a) Countries: EITI compliant countries. Public registry regulations in the UK and Spain could be studied in some detail, so close collaboration from the authorities of these two countries would be valuable.

b) International and regional organisations, other bodies: The International Accounting Standards Board and the Institute of Chartered Accountants are key players and can help with expertise. CIAT and ATAF may be partners in helping with information from Non-OECD countries. EITI Secretariat.

c) CSOs/NGOs and Business.

EXPECTED IMPACT

Transparency will also allow for greater public scrutiny and civil society engagement in the performance of revenue authorities and the tax behaviour of the corporate sector in developing countries. This will increase accountability of both the corporate sector and the state.

Increased transparency will lead to governments in developing countries being able to apply transfer pricing standards more effectively.