

# OUTCOMES FROM THE FIRST MEETING OF THE INFORMAL TASK FORCE ON TAX AND DEVELOPMENT:

PARIS, 11 MAY 2010

## EXECUTIVE SUMMARY

This paper sets out the main outcomes of the first meeting of the informal Task Force on Tax and Development held in Paris on Tuesday 11 May 2010.

The Task Force on Tax and Development, which was created by the Joint DAC-CFA meeting in January 2010, brought together representatives from the OECD tax and development communities, developing countries and emerging economies, business, international organisations and NGOs. The stakeholders recognised the importance of a broad based, fair and efficient tax system as a pillar for sustainable development. As a contribution to this broad objective, the Task Force agreed it can help developing countries to optimise the international resources available to strengthening tax administrations and can promote a range of actions, mainly on international taxation issues, to better raise revenue and strengthen good governance.

The Task Force:

- Agreed to establish and operate ad hoc sub groups representative of all constituencies to:
  - Work with the Global Forum on Transparency and Exchange of Information, the World Bank and IMF, the African Tax Administration Forum, and others to support developing countries on **exchange of information**, enabling them to increase their ability to negotiate bilateral or multilateral Tax Information Exchange Agreements, and to discuss how to assist in implementation of these agreements.
  - Strengthen **implementation** of standards and guidelines on **transfer pricing** in developing countries, including indentifying best practices and encouraging South-South co-operation.
  - Examine the issue of **country by country reporting**; develop a scoping paper for the next Task Force meeting and advise the Committee on Fiscal Affairs regarding how this issue should be dealt with in the context of the Investment Committee's revision of the MNE Guidelines.
  - Make practical recommendations on **tax and state building, including mechanisms for**

**linking tax revenue to expenditure outcomes**, to report on the risks of aid dependency and on aid directed to support tax and revenue systems. The Task Force invited the Development Assistance Committee's (DAC) Governance Network (GOVNET) to work with developing countries and civil society on these aspects. Reports on these issues were requested for the next meeting (tentatively scheduled for November 2010) of the Task Force. In addition, the Task Force requested the International Tax Compact, the International Tax Dialogue and ATAF and other international organisations to work together on the **mapping of international assistance and developing country needs in the area of taxation and development**, building on the work already done by these organisations in this area and to report back during the next meeting of the Task Force.

- The Task Force also agreed to revised Terms of Reference (Annex I) and an informal and flexible working approach. It was stressed that the Task Force is an advisory rather than decision making body. The Secretariat was instructed to propose the composition of the agreed sub groups and make an initial prioritized work plan. In the coming weeks, the Secretariat will present a proposal for a Joint DAC/CFA Tax and Development Programme to support the work of the Task Force. Full implementation of the work programme will depend on acceptance of the proposal and the provision of sufficient voluntary contributions to enable the work to be taken forward.

At the May Ministerial Council Meeting Ministers endorsed this programme stating: “We acknowledge the urgent need for progress in the field of tax and development. Effective and transparent tax systems improve government accountability to citizens, contribute to stable and predictable pro-growth environments, and help fight corruption. We commend OECD cooperation with developing countries to support the development of more effective tax systems and to help these countries combat offshore tax evasion.”

1. OECD's Deputy Secretary General, Richard A. Boucher opened the first meeting of the Informal Task Force on Tax and Development highlighting the significance of bringing together developing countries, international organisations, business and civil society along with the tax and development OECD communities to set the framework for taking forward the complex but critical role taxation has for global development.

2. The meeting was co-Chaired by the Netherlands and South Africa (also representing ATAF) and brought together representatives from the tax and development communities from OECD (UK, US, Norway, Germany, Japan, France, Switzerland, Belgium, Spain, Italy), and developing countries as well as emerging economies (India, Uganda, Sierra Leone, Kenya, Zambia, Malaysia, Philippines, Vietnam), business (including BIAC and TUAC), international organisations (ATAF, EU, CIAT, ITC, ITD [consisting of the EC, IDB, IMF, OECD, UK-DFID and World Bank Group], UN), and NGOs (TJN, TJN Africa, Christian Aid, Eurodadd, and CCFD).

3. The purpose of the meeting was to introduce the informal Task Force; to discuss its informal and flexible role in advising the CFA and DAC on taking forward work on this area; to agree the draft terms of reference; to discuss plans for a detailed work programme to be produced following the meeting, and agree next steps.

#### **Purpose and Objectives of the Task Force on Tax and Development**

4. The Honourable Sunil Mitra, Revenue Secretary of India set the scene by sharing India's perspectives as one of the fastest growing economies on the critical importance of establishing capable tax systems as a basis for achieving India's development goals.

5. The OECD Secretariat briefly explained the context in which the Task Force is being set up. Jon Lomoy, Director of the OECD Development Co-operation Directorate, noted that as the home of the Paris Declaration on Aid Effectiveness and the Accra Agenda for Action, the OECD has the responsibility of ensuring co-ordinated action. He highlighted the importance of the Task Force as a platform for listening to developing countries' needs and perspectives. Jeffrey Owens, Director of the OECD Centre for Tax Policy and Administration invited the meeting to engage in a mutual learning process to narrow differences of view and focus the debate on facts and not perceptions when considering issues of importance to developing countries including: (i) implementing and taking advantage of exchange of information mechanisms, (ii) capacity development and the importance of working together with regional organisations such as ATAF, (iii) country-by-country reporting to be seen in the broader context of transparency, (iv) improving the understanding and implementation of transfer pricing rules, and (v) aid linked to taxation as an investment for development.

6. The meeting welcomed the initiative. Questions were raised on funding, working modalities of the Task Force, as well as the importance of bringing more coherence to the work carried out by international organisations to avoid duplication.

7. The Secretariat explained that funding is the key issue as regards the overall initiative. Transitional funds will allow work to begin in 2010 but new commitments will be required in 2011 once the CFA and DAC have agreed to the creation of a Tax and Development Programme. The challenge of balancing representation with effectiveness was recognized and it was stressed that the diversity of membership puts the Task Force in a unique position to find solutions to the some of the complex issues raised by tax and development. Task Force agreements would be arrived at by consensus.

## **Proposals for a Tax and Development Programme and Discussion of Technical Work Areas**

### ***Mapping of International Assistance and the Needs of Developing Countries***

8. A picture of the current provision of international tax and development technical assistance was presented by the International Tax Compact (ITC), the International Tax Dialogue Secretariat (ITD) and the UN through overviews of their work to date. All international organisations expressed their interest in sharing information that could serve the purpose of the Task Force but stressed the importance of avoiding duplication.

9. An overview of developing countries' needs was presented by Kenya, and by other developing countries throughout the meeting. Common challenges included designing the right tax system and tax mix for the developing country concerned, creating the legislation and implementation structures, and in particular, dealing with large informal sectors, countering tax avoidance and evasion, and human capacity constraints, exacerbated by the poaching of staff into the private sector. Automation of tax procedures, improving existing transfer pricing databases taking into account the particular transactions that take place within developing countries, capacity development as regards advance pricing agreements (APAs), mutual agreement procedures (MAPs) were other issues of interest raised by participants. The importance of partnership between business and government in developing tax systems was also raised throughout the discussions.

10. There was general recognition that a mapping exercise would add value to the work of the Task Force. It was agreed the ITC study is a good starting point but needs to be deepened to incorporate developing country needs through regional organisations. **In this context, the Task Force asked the ITC, ITD and ATAF (as well as other interested organisations) to work together on the mapping of international assistance and developing country needs, building on the work already done in this area and to report back during the next meeting of the Task Force.**

### ***Exchange of Information for Tax Purposes***

11. The Secretariat to the OECD hosted Global Forum on Transparency and Exchange of Information for Tax Purposes presented an overview of the current work being undertaken with particular reference to the peer review process to verify the actual implementation (legal framework and process) of the standards by all 91 member countries of the Global Forum.

12. The Philippines and Zambia shared their experience, highlighting the main areas of concern for developing countries as assistance in the negotiation of agreements, the implementation of legislation and administrative structures required to exchange information, as well as on the practical application of information in the tax auditing and collection process.

13. Issues and questions raised in discussion pointed to the usefulness of multilateral approaches to the negotiation of bilateral agreements, the importance of ensuring the confidentiality of information exchanged, as well as the need to consider developing countries' perspectives when approaching exchange of information mechanisms (i.e. how to encourage countries to sign agreements with developing countries). Several participants expressed the need for multilateral agreements based on the OECD multilateral TIEA model and the possibility of accession to the OECD/Council of Europe Convention.

14. There was general recognition that the OECD and the Global Forum should remain as the main body to develop, review and monitor the implementation of the standards. The Task Force role should focus on enabling developing countries to benefit from this new environment and **the Task Force agreed to set up a sub group representative of all constituencies to work on supporting developing countries on exchange of information working with the Global Forum, the World Bank and IMF, ATAF, and**

**others. The specific objective is to enable developing countries to increase numbers of bilateral or multilateral TIEAs, and to discuss how to assist in the implementation of these agreements.**

### *Transfer Pricing*

15. The OECD Secretariat gave an overview of the work currently done to facilitate transfer pricing implementation in developing countries (i.e. draft model legislation which can be adapted to fit the circumstances of countries which currently do not have adequate transfer pricing rules and explanatory notes; providing context and clarification to particular areas of the OECD's Transfer Pricing Guidelines; the OECD Transfer Pricing seminars for NOE's; multilateral dialogues, etc.). It was noted that the UN is doing complementary work on transfer pricing aimed at helping implementation by developing countries, based on applying the arm's length principle. The UN Model Tax Convention and the OECD Model are identical in this area. Co-operation between OECD and the UN on this work will ensure that the work is complementary, and does not create separate standards.

16. Developing country and emerging economy perspectives and experiences on transfer pricing were provided by India, Malaysia and Vietnam. They all welcomed the opportunity that the Task Force provides to assist developing countries in the implementation of transfer pricing (both in introducing legislation and overcoming challenges faced once a legal framework is in place) and pointed out that continued acceptance of the same principles and complementarity between OECD and UN approaches to assisting developing countries implement these principles is essential to that end. Finding comparables, accessing databases, valuing intangibles and intra-group services, as well as dealing with corporate restructuring were identified as the main challenges in this area.

17. Interventions during discussions raised the importance of a common understanding of transfer pricing between developing and developed countries and business; the importance of assessing needs and developing country-specific solutions to transfer pricing issues; the benefits of working on a regional basis to overcome these and other challenges faced by developing countries, as well as the role the Task Force should play to that end. Making the arm's length principle work better rather than develop new approaches was in the best interest of all stakeholders.

18. **The Task Force agreed to set up a sub group representative of all constituencies to look at strengthening transfer pricing implementation in developing countries, including identifying best practices and encouraging South-South co-operation.**

### *Improving Transparency on Reporting of Tax and Business Profits*

19. Civil Society and BIAC representatives welcomed the inclusion of country-by-country reporting as an issue to be addressed by the Task Force. Considering transparency as a public good, civil society views the need to adopt country-by-country reporting as a mandatory standard; its inclusion in the OECD MNE Guidelines would be a first step. Agreeing on the usefulness of broadening disclosure of information, business stressed they share developing countries' interest in increasing corporate social responsibility. However, careful consideration should be given to ascertain the problems that a country-by-country approach is expected to address (e.g., the purpose and beneficiaries of disclosure, the need to adapt standards to industry special circumstances and the importance of confidentiality).

20. Issues and questions raised during discussions highlighted the capacity constraints generally faced by developing countries (human capital flight); the importance of government expenditure outcomes as the flip side of a broader concept of transparency; and the need for a clearer definition and parameters of the issue as the starting point of any work undertaken in this area. The timeline/interface between the work

of the Task Force and the OECD Investment Committee which is seeking to finalise the update of the MNE Guidelines in 2011 was also discussed.

21. Following clarification from the OECD Secretariat, **the Task Force agreed to set up a sub group representative of all constituencies to examine the issue of country-by-country reporting, develop a scoping paper for the next Task Force meeting and provide advice to the CFA regarding the revision of the Investment Committee's MNE Guidelines and how they can deal with these issues.**

### *Role of Taxation in Promoting Accountability and Capable States*

22. Sharing its experience of taxation in promoting governance, Uganda suggested the Task Force should focus on tools to be used by developing countries to raise awareness of the importance of taxation to empower civil society, taking into consideration the particular context of individual countries (resource rich vs others) and the effect of various tax incentives granted to attract inward investment resulting in an unbalanced bargaining power of governments *vis à vis* business.

23. The importance of taking into account the local context was highlighted by civil society stressing that having broader objectives than just revenue raising in tax policy design is key to promoting accountability and state building. NGOs have worked to raise awareness in governments on the effects tax policies are having on different sections of society. The Task Force should develop tools to take this forward and consider incentives to donors to address tax issues.

24. The Chair of the OECD DAC Network on Governance (GOVNET) commented that these issues are the core of the work carried within the GOVNET and suggested exploring the possibility of servicing the needs of the Task Force to that end. Norway welcomed the offer, stressing that this is an area in which the expertise of both the DAC and the CFA can significantly add value to the development debate. Concurring, Belgium stressed that tax policy is at the heart of the development agenda and the Task Force has an opportunity to provide developing countries with a non-directive approach: a menu of options outlining the implications of each. The ideas of state building and governance should in future provide the overarching framework for the Task Force.

25. Other interventions stressed the importance of facilitating South-South exchanges in the tax and governance area (including the significant and innovative examples of good practices from Chile, South Africa and Indonesia), the usefulness of quantifying revenue loss from tax incentives linked to the provision of aid, as well as looking into these issues in the broader human rights context, for example, freedom of information *vs* confidentiality concerns related to proposals for country-by-country reporting and exchange of information.

26. Noting the centrality of these issues, **the Task Force invited the GOVNET to work with the ITC, developing countries, business and civil society on tax and state building and to report back to the next Task Force meeting on mechanisms for linking tax revenue to expenditure outcomes.**

### *Aid and Taxation*

27. Norway and USAID shared their respective donor perspectives on this issue. Norway recognised that although aid is intended to foster growth, more work needs to be done to avoid aid substituting developing countries' revenue raising efforts. The issue of whether aid funded goods and services should be taxed needs to be considered in the broader context of the linkages between aid and taxation. It was suggested the Task Force is well placed to examine this issue. USAID also pointed out that given the possibility of reduced aid budgets, taxation should be looked at more centrally to assist developing countries in their struggle to mobilise domestic resources. Aid priorities could be reformulated linking them to technical assistance on taxation issues. Tax policy is important but long term sustainability

requires a country level focus on practical aspects such as taxpayer registration, collections, IT and taxpayer services. South-South sharing of cases of successful revenue raising that have also maintained an attractive business environment (e.g. Georgia and El Salvador) would also be extremely relevant.

28. Sierra Leone invited the meeting to broaden the framework for discussions by taking into consideration the particular challenges faced by post-conflict countries. Beyond hindering revenue raising efforts, aid may be used by governments to maintain power and donor-driven programmes may operate to the detriment of national priorities. The priority of exploiting natural resources (diamonds in Sierra Leone's case) may also depress efforts to raise taxes. The Task Force needs to carefully study the nature and form of aid to mitigate against unintended consequences.

29. Issues raised during discussions stressed the importance of civil society education on the broader role taxation plays for state building and the need to have a more coherent donor approach to these issues. Again in this context, **the GOVNET Task Team on Taxation and Governance was asked to track aid dependency, and aid directed to revenue functions and to report back in the next meeting of the Task Force.**

30. With the objective of placing the Task Force in the broader international landscape, the OECD Secretariat noted the links with the G7, G8 and G20 agendas. The African Tax Administration Forum (ATAF) updated the meeting on their current and future work and the Task Force recognized the centrality of initiatives such as ATAF in strengthening performance; France presented the Innovative Financing initiative and the EC provided an overview of the Commission's tax and development work.

31. The meeting concluded by noting that the broad range of constituencies shared the common objective of benefiting developing countries through putting more resources into strengthening their tax systems, and assisting them in accessing the information necessary to enable their tax regimes to better raise revenue and strengthen good governance.

32. The Co-Chairs summarised the discussions and set out the proposed practical steps to be put in place, emphasising the need to secure resources to carry out this initiative and also to allow space to address common concerns such as the informal economy and broadening the tax base. This summary is at Annex II.

### **Next steps**

33. The OECD Secretariat was instructed to consider the composition of the agreed sub groups and develop an initial work plan. Following up on this initial meeting, the Secretariat will report back to the CFA and DAC and then present a proposal for a Joint DAC/CFA Tax and Development Programme to support the work of the Task Force.

34. To assess progress on the development of the work programme, the creation of implementation mechanisms, and to consider the initial reports requested by this meeting, the Task Force will next meet in November 2010. The precise date and venue will be confirmed in due course.

**Time line**

**(Subject to Availability of Resources)**

Consideration of outcomes by CFA and DAC Creation of Sub groups	June/July 2010
First sub group discussions on work programme, sub group terms of reference, etc.	September/October 2010
Second Task Force Meeting	November 2010
Full implementation of the Programme	January 2011

## ANNEX I

### REVISED TERMS OF REFERENCE AND FRAMEWORK AGREED DURING THE FIRST MEETING OF THE INFORMAL TASK FORCE ON TAX AND DEVELOPMENT

#### *Terms of Reference*<sup>1</sup>

- Advise (in writing and during consultative meetings) the CFA and the DAC on the mapping and design of a work programme (to be agreed jointly by the CFA and DAC on a biennial basis).
- Reflect the views and needs of developing countries and other key stakeholders on how to improve developing country tax systems
- Monitor research and projects, draw lessons from programmes and knowledge generated outside of the OECD and Task Force into the DAC and CFA.
- Liaise and work closely with the International Tax Dialogue (ITD) and the International Tax Compact (ITC) and other relevant international organisations.
- Collaborate closely with the Global Forum on Transparency and Exchange of Information for Tax Purposes.
- Consult with the CFA and DAC Chairs annually on progress on the broad tax and development agenda.
- Inform the international debate on these issues.
- Support and help shape a work programme in the areas identified below.

#### *Framework*<sup>2</sup>

International co-operation is essential:

- To address the problem of tax havens, which result in significant revenue loss for developing (and developed) countries;
- To ensure the consistent application of international standards on transfer pricing and helping to meet the needs of LDCs;
- To objectively study transparency in reporting by multinational enterprises (MNEs);
- To improve taxation as a basis for increasing accountability and reinforcing state capacity
- To assist donors to examine more closely the relationship between aid and taxation, and to encourage them to commit further resources to this area. and
- To facilitate developing countries' peer learning.

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<sup>1</sup>. Paragraph 5 of the Note on Issues for Discussion prepared for the 11 May meeting.

<sup>2</sup>. Paragraph 7 of the Note on Issues for Discussion prepared for the 11 May meeting.

## ANNEX II

### Summary of action points from the meeting of the Informal Task Force on Tax and Development on 11 May 2010

- The meeting was co-Chaired by the Netherlands and South Africa (also representing ATAF) and brought together representatives from the tax and aid communities from OECD (UK, US, Norway, Germany, Japan, France, Switzerland, Belgium, Spain, Italy), and developing countries as well as emerging economies (India, Uganda, Sierra Leone, Kenya, Zambia, Malaysia, Philippines, Vietnam), business (including BIAC and TUAC), international organisations (ATAF, EU, CIAT, ITC, ITD, UN), and NGOs (TJN, TJN Africa, Christian Aid, Eurodad, and CCFD).
- The purpose of the meeting was to introduce the informal Task Force; discuss its purpose, its characteristics (informal with a flexible membership) and objectives, and agree the draft terms of reference; discuss plans for a detailed work programme to be produced following the meeting, and agree next steps.
- The objective is to benefit developing countries through putting more resources into the tax area, assisting them in accessing the information necessary to enable their tax regimes to work better both raising revenue and strengthening good governance. In order to achieve that the co-Chairs suggested the following:
- First, the TF will set up **three sub groups** representative of all constituencies, to:
  1. Work on supporting developing countries on **exchange on information** working with the World Bank and IMF, ATAF, and others to enable developing countries to increase numbers of bilateral or multilateral TIEAS, and to discuss how to assist in implementation of these agreements.
  2. Look at strengthening **transfer pricing implementation** in developing countries, including identifying best practices and encouraging South-South co-operation.
  3. Examine the issue of **county by country reporting**, develop a scoping paper for the next Task Force meeting and provide advice to the CFA regarding the Investment Committee's MNE Guidelines.
- In addition, the Task Force also asked the ITC, ITD and other interested international organisations to work together on the **mapping of international assistance** and developing country needs, building on the work already done in this area. The GOVNET was invited to work with the ITC, developing countries and civil society to work on **tax and state building** and on mechanisms for linking tax revenue to expenditure. Finally, the GOVNET were asked to track **aid dependency**, and aid directed to revenue function. Reports in both areas were requested for the next meeting of the Task Force.
- The Co-Chairs also noted that Task Force work is open ended and when resources allow will consider looking at possible interaction in other areas such as taxation of the informal economy and broadening the tax base.
- This was a very successful start, further details of the amended Terms of reference, a fuller Summary record and further information on the construction of sub groups will follow in due course.

The next meeting of the informal Task Force will be in November 2010.