# DRAFT SUMMARY RECORD
# THIRD MEETING OF THE OECD TASK FORCE ON TAX AND DEVELOPMENT

## CAPE TOWN, 9 – 10 MAY 2012

## Session I: Introduction and progress report by the Co-Chairs

The Co- Chairs of the Task Force, Oupa Magashula (Commissioner, South Africa Revenue Service) and Jos van Leeuwen (Senior Policy Advisor, Ministry of Finance, the Netherlands, substituting for Mr Edwin Visser, Deputy Director General, Ministry of Finance, the Netherlands) welcomed participants to the meeting. In his introduction, Commissioner Magashula noted that inequalities, contrasts and contradictions characterise the globalised world and these issues are at the heart of the Task Force agenda. He encouraged the unique conglomeration of different interests in the Task Force to make a practical difference in developing countries.

Ben Dickinson (Head of OECD Tax and Development Secretariat) updated the meeting on the progress made to date by the Task Force, highlighting the achievements which would be discussed in the course of the meeting. The Task Force‟s working methods of informal multi-stakeholder debate and the advisory role to the OECD were explained. Finally, the risks of too much talk and not enough action, of duplication, of transaction heavy processes and of unclear governance arrangements were set out. The need to refocus and fine tune the substantive agenda, ways of working and the governance structure of the Task Force would need to be addressed in the final session of the meeting.

In the discussion which followed, the objective of capable tax administrations in developing countries was set out as a common objective on which all Task Force stakeholders could agree. Business had much to offer in terms of expertise. The coordination of assistance was felt to be an important goal for the Task Force as are the ways in which developing countries could voice their experiences on the applicability and relevance of international norms and standards. A repository of all assistance providers would be valuable and the idea of a target for more ODA to be directed at tax system development was raised. Links between the Task Force and existing training outlets (e.g. the OECD multilateral centres) should be made. The role of regional organisations should be strengthened in the work of the Task Force. In all cases, the work of the Task Force should be demand-driven.

In summarising the discussion, the Chair noted the need to deliver results, to respond to the demands of developing countries and to provide clear mechanisms for the voice of developing countries to be heard on the setting of norms and standards.

## Session II: Statebuilding and Capacity Development

### *Principles for Engagement in Supporting Developing Countries in Tax Matters*

Moses Kajubi (Commissioner, Uganda Revenue Authority) reported the main outcomes from Task Force Sub Group discussions on capacity development and statebuilding. He noted that aid levels directed at supporting tax systems development remained low despite the rhetoric on the importance of taxation for development. He also described the difficulty facing developing countries in accessing information about the possible providers of international assistance. In the case of Uganda, international support and coordination were faltering despite a good record in using external assistance. Mr Kajubi introduced the Task Force's Principles for Engagement in Supporting Developing Countries in Tax Matters as a standard against which the performance of international assistance can be monitored and measured.

The meeting welcomed the Principles. Feedback included the importance of a business perspective, of policy coherence for development, of ensuring that measuring progress was a country-driven process and that multi-stakeholder consultation should not necessarily be considered to be standard practice. Developing country perspectives included the need to guard against political interference in tax administration and the need to be upfront about corruption. Issues of exit strategies should be extended to all aid modalities and the issue of making the provision of technical assistance transparent should be added.

**Next Steps**

In conclusion the Chair noted all comments would be fed into the next iteration of the Principles (written comments can be sent to the Secretariat by 31 May). They would then be tested and validated by responding to countries which had expressed an interest in using the principles as a tool to improve donor coherence (Uganda, Rwanda and Ghana were possibilities). The International Tax Compact had expressed close interest in collaborating on this topic. The OECD Committees would be informed of progress and requested to agree upon the principles as formal OECD guidance after the validation process.

Dirk Dijkerman (Special Advisor, OECD Development Cooperation Directorate) set out the achievements of the December 2011 Busan High Level Forum on Aid Effectiveness. The process going forward allowed the possibility for technical issues that become stuck in the Task Force to be raised and possibly resolved at a political level. ATAF noted the discussions they had hosted on domestic resource mobilisation in Busan and the links to the G-20 and the broader illicit financial flows agenda.

***Tax Inspectors Without Borders***

Pascal Saint-Amans (Director of the OECD Centre for Tax Policy and Administration) introduced „Tax Inspectors Without Borders‟, an initiative which will provide international auditing expertise and advice on a demand led basis to low income and lower middle income countries. The project will match demands from developing countries for long and short term auditing inputs with appropriate expertise drawn from a roster or pool of serving or retired tax auditors from any participating administration. Mr Saint-Amans noted that the primary focus of the programme would be on audits concerning international tax standards. The aim is to establish an independent foundation with a small secretariat to broker and facilitate the matching of demand and supply by the end of 2013.
All stakeholders, particularly developing countries, warmly welcomed the initiative, noting that the proposal fills a gap in the existing provision of international assistance. Participants encouraged the OECD to examine issues of possible conflict of interest and highlighted the importance of the independence of the foundation and its Secretariat once the programme was established beyond 2013.

**Next Steps**

The Chair noted that, given the strong support from the meeting, setting up „Tax Inspectors Without Borders‟ would be a priority issue for the Task Force in the year ahead. This was exactly the type of issue where the Task Force could demonstrate its practical value. The Secretariat would develop the proposal in consultation with the OECD Committees and host a special Task Force meeting on this topic in late 2012 or early 2013.

**Session III: The Taxation of Multinational Enterprises and Multinational Enterprise Transparency**

Edward Larbi-Siaw (Tax Policy Advisor, Ministry of Finance, Ghana), Nguyen Chi Dung (Deputy Head, Functional Professions division, Vietnam) and Diego José González-Béndiksen De Zaldívar (Deputy Director, International Audit Deputy Direction, Colombia) presented the progress being made in establishing effective transfer pricing regimes in their countries and highlighted how the Task Force, was helping, creating a framework for the OECD, World Bank, EC and other stakeholders to work together and co-ordinate their support programmes. Within this collaborative framework, the Task Force Secretariat was currently actively engaged with these countries as well as with Kenya and Rwanda helping to counter common challenges which include the development of legislation, designing efficient administrative frameworks, assessment of risks, the need for effective comparables with which to set an „arm‟s length‟ price, and audit skills development.

Richard Parry (Head of Global Relation‟s Division, OECD Centre for Tax Policy and Administration) noted the recent establishment of the Global Forum on Transfer Pricing which included many developing countries and highlighted the importance of feeding developing country concerns into the work on transfer pricing, noting that the concerns being addressed were similar to those expressed by the country level programmes, particularly the simplification agenda and access to comparables. Mr Parry also presented a recently developed Transfer Pricing Needs Assessment and Implementation Tool, designed to assist developing countries in assessing the country‟s potential transfer pricing risk, and capacity to implement a transfer pricing regime, which would inform the setting of priorities.

Tutu Bakwena (Executive Director, CATA) presented the main conclusions from the recently held meeting of the Task Force Sub Group on Transparency in MNE Financial Reporting. An in-depth study on the potential transparency benefits from the public registration of statutory accounts of unlisted companies particularly for developing countries has been delivered. Mr Bakwena noted the report indicates the primary benefit that may arise from publicly available accounts data is providing potential comparables for transfer pricing purposes, for which there is a significant gap in the developing world. Publicly available accounts data may also provide some indicative data that may assist tax administrations in assessing the international tax risk of their taxpayers that belong to a MNE. This would require access to accounts data in relation to companies related to the taxpayer and with which the taxpayer transacts. The report noted that public availability of accounts would not provide all of the data sought by those seeking „country-by-country‟ reporting. However, particularly where accounts contained a cash flow statement, accounts data might provide indicative figures of tax paid on income and gains, or profits, and so would be of some benefit towards this transparency objective. The report also noted that some tax administrations require companies to provide detailed information in the tax return on cross-border transactions with other members of the MNE. This may assist tax administrations in transfer pricing risk assessment and such a requirement could be considered further by developing countries that do not currently require such information in the tax return.

The meeting welcomed the excellent progress being made and the institutional development approach being taken to the delivery of Transfer Pricing assistance. The meeting noted the needs assessment tool would help developing countries assess the level of potential transfer pricing risk in their country. Diverse views on „country by country‟ reporting proposals and on the value of „enhanced relationships‟ between business and tax administrations were expressed by stakeholders. However, the work on the potential transparency benefits from the public registration of statutory accounts of unlisted companies particularly for developing countries was welcomed and the Task Force would be open to any practical future work on furthering transparency.

**Next Steps**

In concluding the Chair noted the next steps for 2012/13 to be recommended to the OECD for implementation as follows:

- Continuation of support to the 5 transfer pricing target countries and to regional organisations where possible (e.g. ATAF and EAC).
- Finalisation and continued use of the Transfer Pricing Needs Assessment and Implementation Tool, noting the read across to work on the same topic at the UN. Written comments should be sent to the Secretariat by end May 2012.
- Finalisation of draft "model" legislation on Advanced Pricing Agreements and on thin capitalisation, for consultation.
- Development and delivery of a "train the trainers" event, designed to provide country specialists with tools and skills to conduct in-country and regional transfer pricing training programmes (Vienna, October 2012).
- The Secretariat will explore how access to relevant comparables for developing countries can be improved and remain open to other related studies which support the transparency agenda.
- The OECD Committees will be requested to make available the report on the potential transparency benefits from the public registration of statutory accounts of unlisted companies for all countries to use.
- The OECD Secretariat will develop a best practice tool on reporting on related party transactions in tax returns, for use in transfer pricing capacity building programmes.
- The OECD Secretariat will also consult with business on the possibility of a partnership project to improve internet access to financial data that is already publicly available.
- The Task Force should continue to monitor international transparency initiatives and business led disclosure initiatives and should continue to host debate on these topics, in particular following the Dodd-Frank Act in the USA and the European Union Transparency Directive.

**Session IV: The Global Forum on Transparency and Exchange of Information for Tax Purposes and Developing Countries**

Pascal Saint-Amans (Director of the OECD Centre for Tax Policy and Administration) presented recent developments in the Global Forum on Transparency and Exchange of Information for Tax Purposes, including the membership of more developing countries (the total being 110), the completion of over 70 peer reviews and the launch of an international technical assistance coordination platform (aimed at matching demands and offers of assistance and avoiding duplication) which included 17 providers of assistance. The next Global Forum Meeting will be hosted by South Africa on 26-27 October 2012. Logan Wort (Acting Executive Secretary, ATAF) presented the work on exchange of information including the development of a new ATAF mutual assistance instrument and the Draft Practical Guide on Exchange of Information for Developing Countries which has been developed with assistance from the Task Force. The purpose of the Practical Guide is to raise the awareness of developing countries about what exchange of information has to offer to counteract offshore tax avoidance and evasion, the various existing and new legal instruments available to them for mutual assistance purposes, as well as to provide practical tips on how to implement efficiently exchange of information.

Mr. Edward Larbi-Siaw (Tax Policy Advisor, Ministry of Finance, Ghana) noted that the decision to invite Ghana to sign the Multilateral Convention on Mutual Administrative Assistance in Tax Matters had now been taken and Deepak Garg (Director, Foreign Tax & Tax Research Division, India) noted India‟s recent ratification. The benefits of expanded exchange of information and treaty networks in reducing tax evasion and avoidance were set out. Johan Fourie (Manager, International Relations, South African Revenue Service) presented on regional cooperation and noted the upcoming negotiation of an ATAF Multilateral Agreement, progress with the approval of the SADC multilateral Agreement on Assistance in Tax Matters as well as customs and tax administration cooperation in the India-Brazil-South Africa (IBSA) context. He noted that South Africa will ratify the Multilateral Convention on Administrative Mutual Assistance in Tax Matters in 2012.

**Next Steps**

In concluding the session, the Chair noted developing countries could see the benefits of the Multilateral Convention and would be encouraged to join, with assistance from CIAT, ATAF and the OECD. The Task Force would be updated on progress in the Global Forum and with the Multilateral Convention in 2013. The Secretariat and ATAF would finalise the Draft Practical Guide on Exchange of Information for Developing Countries in 2012 for roll out and use thereafter.

The Task Force was honoured to listen to Mr. Nhlanhla Nene, Deputy Finance Minister, South Africa, speaker at the Task Force dinner on 9th May.

**Session V: Investment and Taxation**

Ben Dickinson (Head of OECD Tax and Development Secretariat) presented the background to the development of a set of transparency principles for the management and granting of investment related tax incentives, noting the evidence and consensus over the problems and downsides of revenues forgone. The Principles were intended as a living document which would have more value and authority as more countries and organisations used them as a framework for reviewing progress. Peter Ruyumbu (Commissioner, Rwanda Revenue Authority) noted the work in progress to cost and reduce a complex set of incentives. Mario Hannelas (Director, Mauritius Revenue Authority) presented the achievements made in removing incentives which had served to increase revenues but had no negative impact on investment. Pascal Saint-Amans (Director of the OECD Centre for Tax Policy and Administration) presented OECD‟s plans to offer a new tax and investment review service to countries on a demand led basis using the Principles as the framework for analysis. He noted that Tunisia, Kazakhstan and the Dominican Republic had already made early requests for such support.

During the discussion on the Principles, which received strong support, Action Aid noted the priority placed by civil society in Africa on tax incentives and a recent study was presented. Other comments and questions concerned the need to take account of federal and decentralised governments when offering advice on which parts of government should be in control of granting incentives; the responsibilities of MNEs; the importance of transparency in the granting of aid related exemptions for the sake of policy coherence and consistency; the legitimacy of principles drafted by OECD members for developing countries; the importance of regional coordination; the importance of simplicity.

**Next Steps**

The Chair concluded the discussion and set out the next steps

- Changes would be made to the Principles to reflect the discussion (additional written comments should be sent to the Secretariat by 31 May).
- The OECD Committees would be informed of progress.
- Tax and Investment reviews would be offered by the OECD from late 2012, using the Principles as a guiding framework.
- The Secretariat will build a coalition of organisations and countries willing to associate with the Principles and will report progress in 2013.

**<u>Session VI: Measuring Progress</u>**

***Diagnosing, benchmarking and surveying tax systems in developing countries***

Socorro Velazquez (Director, Planning and Institutional Development, CIAT) presented the outcomes of a meeting in March 2012, where international organisations, regional organisations and regional development banks embarked on a process to share diagnostic, benchmarking and surveying instruments and to discuss implementation plans. The objectives of these instruments differ, though there is overlap in some baseline information on institutional structure, operations and quantitative operational information.

Mr. Velazquez noted that in order to establish the precise relationship between the different tools and surveys, with a view to minimising the burden on responding countries and maximising synergies, the ITD Secretariat will undertake a mapping exercise of relevant survey work. This will cover the precise nature of the data being sought, a mapping of individual questions to categories, who the target of the surveys were, and the purpose of the survey. The country coverage and timing of data collection and reporting on the results would also be covered. Initial results will be available in mid 2012. The relevant organisations will then consider the implications in terms of the need to minimise duplication and organise effective collaborative arrangements. A follow up meeting of international organisations, regional organisations and regional development banks is planned for 2013.

**Next Steps**

The Chair concluded by echoing several comments expressing some disappointment at the lack of progress made towards more harmonised approaches to benchmarking and survey work. The Task Force would receive an update on progress in 2013.

***OECD Global Report on Tax Morale***

Ben Dickinson presented the main findings from the OECD‟s forthcoming report, *What Drives Tax Morale,* which examines the attitudes and perceptions of citizens in developed and developing countries to taxation and tax evasion. Understanding tax morale can provide governments and international assistance providers with a „bottom up‟ perspective, complementing more administrative and quantitative measures of tax system development e.g. tax to GDP ratio. Initial findings show that attitudes towards taxation are shaped by factors beyond enforcement and the probability of being caught for tax evasion. Socio-economic factors such as education, gender, income, employment, age, and religious beliefs all influence tax morale. Institutional factors, such as trust in government and satisfaction with public services and the functioning of democracy in their country also affect citizens‟ attitudes towards taxation.

**Next Steps**

The Chair noted that participants had expressed considerable interest in the report and encouraged the OECD to publicise the findings as soon as possible. Future work could follow on tax payer education and a source book of related outreach and campaign strategies could be developed in 2013, possibly in collaboration with the International Centre for Tax and Development.

**<u>Session VII: Moving Forward - Future Task Force Priorities and Governance</u>**

The Co-Chairs presented their draft Outcome Statement of the meeting and noted the main deliverables which would be presented to the OECD as a work plan for the period 2012/13. Several comments were addressed, the statement was finalised (Annex A) and would be made available on the OECD‟s web site.

To improve governance and transparency in decision-making processes, the creation of a core group to set agendas and agree on priorities was proposed by the Co-Chairs. This would comprise an inner leadership group of the Chairs, regional organisations representing developing countries and the Secretariat and an outer core of this group with the addition of civil society and business representatives. The group would meet (virtually) every six months to monitor progress. To improve efficiency and reduce the travel burden on representatives from developing countries, the Co-Chairs proposed that the architecture of meetings is consolidated and made less transaction intensive. There should be no presumption that meetings will be regularly scheduled and other ways of working (e.g. tele-conferencing) should be considered. Both proposals were accepted by the meeting.

In closing the meeting, the Co-Chairs thanked participants for their hard work and noted that all the materials presented at the meeting would be available at www.oecd.org/tax/globalrelations/development.