

Edwin Visser and Oupa Magashula
Co-Chairs of the Task Force on Tax and Development

By email

10th May 2011

Dear Mr Magashula & Mr Visser,

Thank you both for the opportunity to comment on proposed activities for the informal OECD Task Force on Tax & Development. We would like to begin by expressing our thanks to you and the OECD secretariat for convening the meeting in Paris. We were encouraged by the extent to which progress is underway across the tax and development agenda, and the collaborative manner with which all stakeholders are approaching it.

As Jeffrey Owens pointed out, the multiplicity of international forums dealing with this topic creates a considerable demand for funds and time, in particular time that of low-income countries. We therefore think it essential that the work programme of the Task Force is based on areas in which it can add value to the work already underway in other forums. With this in mind, we have a number of suggestions for further work.

Tax and state building

The programme of activities proposed by the sub-group contains many interesting and useful suggestions. One area that we note is absent from this programme, and was also absent in Washington the following week, is work to build capacity in developing countries to **assess the distributional impact of individual tax measures and of overall fiscal policy**. We believe that governments should perform and publish such analysis, as a tool to help design policy measures as well as to stimulate informed debate in low- and middle-income countries.

Some stakeholders argue that the 'regressive' impact of individual taxes and of tax systems can be offset through progressive spending. We strongly believe that this is a question for individual countries to address for themselves when making fiscal policy: many of our colleagues in developing countries are arguing for more progressiveness in specific elements of national tax policy. In any case, it is clear that most low-income countries do not routinely assess the overall impact of a fiscal package, or that of individual tax and spending measures within it, yet such analysis forms the core of public debate around fiscal policy.

This is an area where we have identified that the Task Force could make a useful contribution, building on existing statistical expertise within the OECD.

Secondly, there is clearly a strong recognition that the state-building aspects of taxation are crucial improving revenue mobilisation and building accountability. Here, research into best practice with regard to **tax payer education and the role of civil society** in shifting tax morale is an area which the Task Force to take forward.

Thirdly, there was some discussion in Paris of the need to support **local tax policy units** in developing countries to allow for more local based solutions to local tax issues. This is an area in which we anticipate the Task Force could make a very useful contribution.

Transfer pricing

We are encouraged to see that the question of taxing multinationals effectively has become an important one for international organisations, donors and low-income countries. Our colleagues in low-income countries see this as important not only for revenue raising, but also for ensuring that foreign direct investors contribute a fair amount to public funds, and that the tax system overall is progressive and fair.

The OECD is of course an expert organisation in this area, and has an important role to play. However, work to develop a Practical manual on Transfer pricing has been underway at the United Nations for some time and we consider it essential that the Task Force's programme in this area – and the agenda of the OECD itself - is designed to support this project, as there is a risk that it may otherwise detract resources away from it.

At the recent meeting of the UN's Economic and Social Council, a number of developing country delegates, including the Chair of the G77, spoke out in favour of greater resources for the UN Committee, which as you are aware is under-funded at present. This shows a clear demand from developing countries to which we will be encouraging donors to respond before devoting further resources to the OECD Task Force for work on transfer pricing.

In taking forward their work on transfer pricing, we hope that international bodies including the Task Force will be open to considering the challenges faced by developing countries, and to exploring the models taxing multinationals which are appropriate to their state of development. This may, for example, include considering transfer pricing methods which result in reduced administrative burdens for developing countries.

Information exchange

A number of developing countries have now joined the Global Forum on Transparency and Exchange of Information, and the multilateral Convention on Mutual Assistance in tax Matters will soon be open for developing country signatories. 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, and the Task Force has a role to play in this area.

We note that the Task Force secretariat will be represented on the Steering Committee of the Global Forum. Given the informal nature of the OECD Task Force, it will be important that its representative takes a mandate from the Task Force's participants. It will therefore be essential that the sub-group

on Information Exchange agrees a mandate for this representative before he or she takes up this role. Greater clarity around this area in the proposed action plan would be welcome.

Transparency on the reporting of profits

During the plenary discussion in Paris, much was made of the lack of consensus between stakeholders on this topic. Importantly, four different developing country representatives pointed to the need for greater transparency of the type considered by the subgroup, which demonstrates the growing appetite for further work in this area.

Our view is that the unique multi-stakeholder nature of the task force is ideally suited to this topic, and that as such the Task Force's added value is most apparent in this area. The sub-group discussions were intensive, as a result of which it produced a paper that has made a valuable contribution to the understanding of different stakeholder groups, and identified some key research questions.

While we consider it useful to monitor international transparency initiatives and existing initiatives taken forward by multi national enterprises, we suggest that there are areas where the taskforce, based on its competency, can add more value. We urge the Task Force to take up the recommendations for further research set out in the sub-group paper in particular those labelled in the paper "**How costly is it for LDCs to obtain information?**", "**Legally mandated disclosure of local statutory accounts**" and "**Voluntary disclosure of local statutory accounts**". These would contribute not only to the debate on country-by-country reporting, but also to broader policy questions around information disclosure by multinationals.

In particular, work to explore this topic with developing country representatives would clearly be of use. The delegate from Austria noted that when this topic had been discussed with a developing country officials, those that understood the idea were favourable; clearly, then, it would be a valuable piece of work to **inform and consult revenue officials from developing countries** on the proposals examined in the sub-group's paper. We would be keen to pursue this work through the Task Force.

Tax incentives

There was some discussion in Paris of the continued use of tax incentives by developing countries. This is an area of significant concern to civil society organisations across the developing world, in terms both of ensuring effective taxation of multinational investment (with a particular issue around natural resource extraction) and also the impact of incentives on tax equity and tax morale.

We propose **a mapping of the range of tax incentives on offer**, with country case studies of the tax expenditures involved. We are aware that such work has been undertaken by governments in a number of developing countries, and Tax Justice Network Africa and ActionAid are also collaborating on a mapping project across several East African countries. The Task Force is well placed to lead on this area, a potential fifth workstream.

Prioritisation between areas

We have included in annex a summary of the proposals set out in this letter as well as an indication of prioritisation across the individual activities proposed in the action plan. These are clearly all priority areas for developing countries, and we are sure that discussions convened by the OECD through the Task Force will continue to make important contributions. The question for us is where the Task Force has the most added value.

In the areas of **state building, information exchange** and **transfer pricing**, we are concerned that the Task Force agenda may overlap with existing activities by other international organisations, and risks duplication. We have made specific suggestions for areas of work that add value under the state building heading. **Transparency in the reporting of profits** and **tax exemptions** are the two areas in which we believe the Task Force has the most value to add, and should therefore be prioritised.

Next steps

We consider it essential for the Task Force to be clearer about its ways of working in the future, if it is to capitalise effectively on the engagement of the different stakeholders it brings together. We set out some of our concerns in a letter earlier this year. Going forward, we note that the Task Force is mandated by the G20 to participate in the activities set out under the Domestic Revenue Mobilisation pillar of the development working group. As members of the Task Force, we are anxious to be able to follow this process, and to ensure that contributions made by the Task Force reflect our own perspectives.

We would therefore like to ask the Secretariat to prepare a document clarifying the Task Force's *modus operandi*, including:

- How the Task Force feeds in to work undertaken at international forums, in particular the G20 development working group and the Global Forum.
- How individuals representing the Task Force externally can gain a mandate from the broader membership.
- How the participants in the Task Force's activities are determined and the process by which new participants can be brought in.
- How the OECD secretariat distinguishes between work undertaken under the auspices of the Task Force and its own activities.
- The sources of funding for the Task Force's work.

We would also like to discuss further the role of civil society organisations in the Task Force's work. We note that only one activity in the action plan currently has civil society participation foreseen. We suggest that this be taken forward through a conference call between civil society participants and the secretariat.

We look forward to further collaboration with task force members in the future, on these recommended areas and others that will no doubt emerge from among the Task Force membership.

Yours sincerely,

Martin Hearson, ActionAid/Eurodad

Mathilde Dupré, CCFD-Terre Solidaire

David McNair, Christian Aid

Jorge Coronado & Luis Moreno, Latindadd

Attiya Waris, Tax Justice Network Africa

John Christensen, Tax Justice Network International

Specific comments on the proposed action plan

<p>A. Statebuilding, Accountability and Effective Capacity Development</p>	<p>This is an important area but we would like to hear more about the role proposed for the Task Force, given the multiplicity of organisations addressing these questions</p>
<p>1. Map current initiatives, benchmark progress in tax administration and setting out good practices leading to the creation of a focused diagnostic tool to enable developing countries to determine and prioritise their own needs. (ATAF leading, CIAT, ITD, CIAT).</p>	<p>Care should be taken to ensure consistency and avoid duplication with the working group of the United Nations Committee of Tax Experts on Capacity Building.</p>
<p>2. 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. (ITD, ITC, OECD,)</p>	<p>This is an area where the Task Force may have an added value.</p>
<p>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. (ITC, OECD)</p>	<p>This is an area where the Task Force may have an added value.</p>
<p>4. Propose a transparency framework for tax incentives (EU, IMF, OECD, World Bank, etc).</p>	<p>This is an area where the Task Force has a clear added value. We suggest it become a fifth workstream.</p>
<p>5. Develop and communicate lessons on taxing the informal sector, tax morale, tax education and linking revenue with expenditures to support effective statebuilding (EU, IMF, OECD, TJN, World Bank, etc).</p>	<p>This is an area where the Task Force may have an added value.</p> <p>Should include research into best practice with regard to tax payer education and the role of civil society</p>
<p>6. Track bilateral action on considering the treatment of exemptions on aid funded goods and services (ITD, OECD).</p>	<p>This is an area where the Task Force has a clear added value.</p>
<p><i>7. Support developing countries to assess the distributional impact of individual tax measures and of overall fiscal policy</i></p>	<p><i>This is an area where the Task Force has a clear added value.</i></p>
<p><i>8. Analyse the role of local tax policy units in developing countries and the support that could be provided to help developing countries establish them</i></p>	<p><i>This is an area where the Task Force has a clear added value.</i></p>

<p>B. Effective Transfer Pricing Regimes</p>	<p>This is an important area in which the Task Force may have an added value, but we are concerned about the potential overlap with existing initiatives</p>
<p>1. Develop an analytical/diagnostic framework to assist developing countries assess their transfer pricing risks and regulatory needs in accordance with their individual circumstances (ATAF, EU, OECD, UN, WB)</p>	<p>Care should be taken to ensure consistency and avoid duplication with the working group of the United Nations Committee of Tax Experts on Transfer Pricing, including its Practical Manual and the forthcoming revision of the model treaty.</p>
<p>2. Improve the access by developing countries to information needed in order to carry out effective transfer pricing analyses. This will include developing shared databases. (ATAF, CIAT, OECD, UN, WB)</p>	<p>Care should be taken to ensure consistency and avoid duplication with the working group of the United Nations Committee of Tax Experts on Transfer Pricing including its Practical Manual.</p>
<p>3. 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. (ATAF, OECD, WB)</p>	<p>Care should be taken to ensure consistency and avoid duplication with the working group of the United Nations Committee of Tax Experts on Transfer Pricing including its Practical Manual.</p>
<p>4. Launch a coordinated programme of support by international organisations focused on key countries aimed at improving their transfer pricing audit capacity and creating a predictable business environment. (ATAF, CIAT, EU, OECD, UN, WB,)</p>	<p>This is an area where the Task Force may have an added value.</p> <p>Care should be taken to ensure consistency and avoid duplication with the working group of the United Nations Committee of Tax Experts on Transfer Pricing including its Practical Manual.</p>
<p>5. Work with ATAF to support and reinforce their working group on transfer pricing. (ATAF, OECD, UN, WB, ITC)</p>	<p>Care should be taken to ensure consistency and avoid duplication with the working group of the United Nations Committee of Tax Experts on Transfer Pricing including its Practical Manual.</p>
<p>6. Assist developing countries conduct joint transfer pricing audits where such an approach is relevant and likely to be effective. (ATAF, OECD, WB)</p>	<p>This is an area where the Task Force may have an added value.</p>
<p>7. Assist developing countries establish effective transfer pricing dispute resolution mechanisms. (ATAF, CIAT, OECD, WB)</p>	<p>Care should be taken to ensure consistency and avoid duplication with the working group of the United Nations Committee of Tax Experts on Transfer Pricing, including its Practical Manual and the forthcoming revision of the model treaty.</p>

8. Launch a 3-year collaborative project between 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 (ATAF, CIAT, EC, ITC, OECD, World Bank and other interested organizations)	Care should be taken to ensure consistency and avoid duplication with the working group of the United Nations Committee of Tax Experts on Transfer Pricing including its Practical Manual.
C. Countering International Tax Evasion and Avoidance through Exchange of Information	It is not clear what value the task force adds, because the subgroup has yet to meet
1. Encourage developing countries to join the Global Forum on Transparency and Exchange of Information.	This is an area where the Task Force may have an added value, We would like to request further discussion within the Task Force as to how the Global Forum's standards and working methods can be adapted to meet the needs of developing countries.
2. Facilitating regional approaches to exchange of information in South, West or East Africa, Latin America and Asia.	This is an area where the Task Force may have an added value, in collaboration with regional bodies (ATAF, CIAT, etc).
3. Support those developing countries who wish to develop exchange of information approaches which go beyond exchange of information on request.	This is an area where the Task Force may have an added value, and we would welcome clarification as to the types of approaches suggested here.
4. Assist developing countries who wish to join the Multilateral Convention on Mutual Administrative Assistance in Tax Matters.	This is an area where the Task Force may have an added value.
D. Increased Transparency in Financial Reporting	This is an important area in which the Task Force has a clear added value
1. Supporting developing countries to improve access to statutory accounts, establish good practices on what is available and how it can be accessed.	This is an area where the Task Force has a clear added value.
2. Analyse disclosure programmes currently undertaken by multi national enterprises, looking at costs of initiatives establishing what best provides benefits of accountability and trying to identify good practices.	This is an area where the Task Force has a clear added value.
3. Monitor ongoing international transparency initiatives including EITI and future developments in respect of Dodd-Frank legislation, and proposals agreed by the EC.	This is an area where the Task Force may have an added value.
4. Analyse what information on multinational taxpayers developing countries can obtain, through what means and at what cost, and what other information country-by-country reporting could provide which would be specifically beneficial to LDCs.	<i>This is an area where the Task Force has a clear added value.</i>
5. Inform and consult with revenue officials from developing countries on the proposals for country-by-country reporting	<i>This is an area where the Task Force has a clear added value.</i>

<i>E. Tax incentives</i>	<i>This is an important area in which the Task Force has a clear added value</i>
1. <i>Conduct a mapping of the range of tax incentives on offer, with country case studies of the tax expenditures involved</i>	<i>This is an area where the Task Force has a clear added value.</i>
2. <i>Propose a transparency framework for tax incentives</i>	<i>This is an area where the Task Force has a clear added value.</i>