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Practical Manual on Transfer Pricing

SECRETARIAT NOTE: TRANSFER PRICING: TECHNICAL ASSISTANCE
AND CAPACITY BUILDING RESOURCES

Summary

This note relates to the Practical Manual on Transfer Pricing for Developing Countries (“the Manual”) presented for approval by the Committee under agenda item 3(b) of the annual session¹. It represents a report commissioned by the Secretariat from Joel Cooper, a consultant, on transfer pricing technical assistance and capacity building resources available for developing countries, with some modifications by the Secretariat. The descriptions of the resources provided is essentially that suggested by the providers themselves.

It should be noted that the attached report is presented, *not* as part of the draft Manual put forward for approval at this annual session, but to seek views now and following the annual session and to consider how best to take forward this document as the basis of an Annex on technical assistance and capacity building resources available for developing countries in the *next version* of the Manual.

¹ E/C.18/2012/CRP.1 and related documents.

Transfer Pricing: Technical Assistance and Capacity Building Resources

This report describes the technical assistance and capacity building resources available to developing countries in the area of transfer pricing.¹ Section A provides guidance for developing countries on identifying their transfer pricing need and framing their requests for assistance and ensuring that projects meet their capacity building requirements. Section B contains a general description of the types (and modes of delivery) of transfer pricing technical assistance and capacity building resources available and Section C presents an overview of providers of transfer pricing technical assistance and capacity building, including international organizations, financial institutions, regional tax authorities groupings and bilateral providers, along with details of the types of assistance that they have provided, or are willing to provide.

A. Guidance for Developing Countries on Identifying Needs and Framing a Request for Assistance

i) Identifying Needs

In order for a country to determine its specific needs in relation to transfer pricing technical assistance and capacity building, a thorough examination of the need to implement a transfer pricing regime (vis-à-vis other development priorities) should be undertaken. Additionally, once a need for the introduction of a transfer pricing regime has been identified, analysis of the existence of the necessary “pre-conditions” for successfully implementing a transfer pricing regime is required. Set out below is a basic explanation of what a “needs assessment” may involve. Countries requiring further guidance are referred to a needs assessment tool such as that developed by the Organisation for Economic Co-operation and Development (OECD) (see below), which provides a framework for undertaking a needs assessment, and/or to the various technical assistance providers who can assist with (or undertake) the needs assessment.

1. Analyze the need for the country to implement a transfer pricing regime

An analysis of the need for a country to implement a transfer pricing regime (for taxation purposes) will primarily focus on the tax revenues at risk as a result of transfer mispricing, although related issues may also be considered (indirect taxes, mining royalties, non-tax factors etc.). The approach to such an analysis will necessarily differ depending on the specifics of the particular country (such as, the characteristics of the tax system, the information available to the tax authority, main sources of FDI and foreign trade etc.). Generally however, this will include an analysis of:

- The number and size of foreign owned corporate taxpayers and large corporate taxpayers generally
- Specific details regarding the characteristics of foreign owned corporate taxpayers:
 - The extent of imports and exports and service fees and royalties paid
 - Interest payments²
 - Patterns of loss making or decreasing profits in recent years
- Key sectors that foreign owned corporate taxpayers are operative in
- Extent of cross-border trade and identification of main trading partners (including their transfer pricing rules and the existence of tax treaties with them)
- Analysis of the tax system to identify possibilities/incentives for transfer mispricing (international and domestic)

Additionally, anecdotal evidence from field auditors and private sector representatives will often provide an insight on the level of transfer pricing risk.

Undertaking such an analysis will assist the country to identify the extent of the tax revenues at risk due to transfer mispricing, the causes/drivers of the risk and any concentration of the risk in key sectors or transaction types. This

¹ For the purposes of this article the terms technical assistance and capacity building refer to a wide range of activities, including the provision of technical advice, delivery of trainings, seminars and conferences etc.

² This may also provide insight as to thin-capitalization issues

information can then be used to identify the timing and focus of any reforms, and the type and extent of technical assistance and capacity building resources required.

2. The existence of the necessary “pre-conditions” for successfully implementing a transfer pricing regime

Once a need for implementation of a transfer pricing regime has been identified, it is important to ensure that the necessary legal and administrative frameworks are in place for successfully implementing it (i.e. that the necessary “pre-conditions” are in place). For example, an analysis should be undertaken to consider the existence of the following:

- Requirements for companies to maintain financial accounts
- Experience within the tax authority in auditing large multinational taxpayers
- Tax officials that are willing and available to undertake specialist training
- Sufficient information and audit powers for tax officials
- Effective dispute resolution mechanisms

Where one or more of the pre-conditions are not in place, it will be important to consider how they can be addressed before, or during, the implementation of the transfer pricing regime. Failure to do so may give rise to a situation whereby the transfer pricing rules cannot be appropriately applied by the tax administration in practice, which, in a worst case scenario may lead to an increase in lost revenues due to transfer mispricing or may be detrimental to the countries’ investment climate (i.e. due to instances of economic double taxation and increased compliance costs for taxpayers).

ii) Framing a Request for Assistance

The requirements and “best practices” for framing a request for assistance will differ depending on the type of assistance being sought and the provider of that assistance that is being approached. Generally speaking however, when framing a request for assistance, countries would be advised to consider the following points:

- **Know what you want (and why)** – It is advisable that a particular need or needs have been identified and that the requesting country has considered the required assistance for addressing those needs (as opposed to making a generic request for assistance with transfer pricing). This can be achieved by undertaking a “needs assessment” (see above), however, it is acknowledged that for many countries with limited or no prior experience with transfer pricing it may be difficult to undertake such an assessment and to identify the technical assistance and capacity building resources required. In such cases, assistance with an initial needs assessment may be what is required.
- **Identify the right provider** – Once a country has identified its needs and desired assistance, research should be conducted to identify the right provider(s) of the desired assistance. Whilst there are numerous providers of technical assistance and capacity building resources active in the field of transfer pricing (see below), they do not all provide the same types of assistance and/or may not be able to provide assistance to a particular country. For example, many providers are not able to provide application assistance (i.e. assistance with actual audits) and numerous organizations are only able to provide assistance to member countries. It is also advisable for countries to identify which (if any) providers are active in provision of technical assistance in the field of taxation in their country already, and consider whether that organization (or organizations) is in a position to provide the requested assistance.
- **Initiate informal contact** – Many (but not all) providers of technical assistance and capacity building resources appreciate an informal discussion regarding the needs and requested assistance, as this allows the provider to better understand the request and offer guidance for framing the request to the requesting official.³ This informal contact may be a brief discussion at a conference or during a visit by representative of the provider when supplying technical assistance on other matters, or may be simply a quick email or phone call to discuss the potential assistance to be provided.

³ Requesting officials are advised to do some background research (i.e. check websites) as some providers have specific formal processes in place for making requests

iii) Sources of Funding

The vast majority of technical assistance provided to low-income developing countries is funded by foreign aid provided by developed countries. Funding can be provided on a bilateral basis to achieve development goals in a specific region or country (i.e. of economic, political or historical interest to the donor country) or for the provision of technical assistance on one or more priority topical issues for the donor country. Alternatively, funding may be made available through multi-donor regional or topical trust funds.⁴

Where the provision of technical assistance is donor funded, stringent monitoring and reporting requirements are generally imposed so as to ensure the funds are used appropriately to meet the agreed objectives. In some instances the technical assistance provider may require a contribution by the recipient country (monetary or in-kind), or may charge for some of the technical assistance they provide.⁵ Where applicable, the size of any such contribution may depend on numerous factors, the income level of the recipient country generally having prevailing influence. Where donor funding is not available, countries with sufficient means may decide to pay for technical assistance and capacity building activities themselves. In case of a favorable pre-assessment, establishing a successful transfer pricing regime might over the middle to long-term pay off costs associated with the set-up of such a regime.

B. Technical Assistance and Capacity Building Resources Available to Developing Countries

i) Types of Resources and Assistance Available

There are various different types of technical assistance and capacity building resources that may be available to developing countries. Broadly speaking however, the types of assistance can be broken down in to the following categories:

- **Publication of Reference Materials:** Various providers of technical assistance have published research papers, reports, model legislation and practical guides on transfer pricing. These range from practical guidance aimed at all countries to specific reference materials developed to assist developing countries implement transfer pricing regime (such as this manual, the OECD's needs assessment tool and suggested legislation, and the toolkit being developed by the WBG – see below). Generally, these materials are available free of charge on the internet or by request to the organization directly.
- **Pre-implementation Assistance:** Assistance by transfer pricing specialists with undertaking a needs assessment, drafting appropriate legislation and, where necessary, implementing financial reporting requirements. There are numerous providers of this type of assistance (see below).
- **Implementation Assistance:** Assistance with the implementation of a country's transfer pricing legislation through the development of internal and external procedures, processes, guidelines and dispute resolution mechanisms and the implementation of a suitable organization structure and risk-based assessment. There are numerous providers of this type of assistance (see below).
- **Training and Conferences:** International/regional conferences and training are the most commonly available form of technical assistance, and whilst they serve a very important function, successful implementation will generally also require tailored in-country training (i.e. that is tailored to the economy, legislation and capacity of a particular country), for which there are numerous providers. Other training and education programmes, such as online training and distance learning programmes are also made available by various providers (see below).
- **Application Assistance:** Assistance with actual transfer pricing audits. The number of providers able to provide this assistance is limited (see below).
- **Communication and outreach:** Various providers of technical assistance facilitate dialog with the private sector on transfer pricing issues either in international/regional forums. Additionally, as part of the technical assistance that can be provided, several providers incorporate comprehensive communications

⁴ For example, Japan has provided significant funding to the IMF's tax technical assistance work (see below), which includes transfer pricing technical assistance

⁵ For example, the International Monetary Fund (IMF) has recently decided to charge for the provision of short term technical assistance in certain cases, at rates varying with countries' circumstances. This came in to effect f as of 1 May 2011, with charging already being in effect for long-term technical assistance advisors (see further: Thuronyi, V., and Michiels, M., "Overview of Cooperation on Capacity Building in Taxation", Report prepared for United Nations Committee of Experts on International Cooperation in Tax Matters (E/c.18/2010/CRP.11))

and outreach assistance in the delivery of their programmes of transfer pricing assistance, assisting for example with the facilitation of consultations, publication of materials and the provision of awareness training for the private sector (see below).

Section C provides an overview of various providers of technical assistance and capacity building resources and the types of resources and assistance they provide.

ii) Modes of Delivery

Depending on the type of assistance required and the provider of the assistance, there are various different modes of delivery that may be available, such as:

- a. **Ad hoc assistance** – i.e. a one-off review of draft legislation, provision of training or a workshop on a specific topic (or topics).
- b. **Structured programme of assistance** – i.e. a comprehensive programme of assistance, often involving a mixture of pre-implementation, implementation and training. Such programmes will generally last between two and five years depending on the provider and the scope of the programme.
- c. **Secondments/placements (inbound and outbound)** – i.e. outbound secondment of one or more tax officials from a developing country to a country with a well functioning transfer pricing regime, or the secondment of an experienced transfer pricing specialist from a country with a developed transfer pricing regime in a developing country. The period of the secondment may be anywhere from several month to several years, depending on availability etc. Whilst such secondments can be very successful, staffing constrains in countries with well functioning transfer pricing regimes and potential conflicts of interest can be problematic.
- d. **Study visits** – i.e. short visits by a delegation of officials from a developing country to the tax authority of a country with a working transfer pricing regime. Such visits, where appropriately structured, can provide valuable insights in to the practical realities of the administration of a transfer pricing regime and/or specific components thereof (such as Advance Pricing Agreement programmes).
- e. **Training and Conferences** – There are many conferences and trainings on transfer pricing that take place each year that can be attended by officials from developing countries. Such conferences and trainings can provide valuable information and opportunities to discuss practical issues with officials from other countries (developed and developing). Additionally, in-country training (i.e. theory-based and case studies) that is tailored to the economy, legislation and capacity is made available by many providers, and can be crucial to the development of administrative capacity.
- f. **Online and Distance Learning** – An increasing number of online and distance learning products have become available in recent years. For example, the Online Transfer Pricing Training offered by the World Customs Organization (WCO) in collaboration with the OECD, the Inter-American Center for Tax Administration (CIAT) Virtual Courses (see below), the International Bureau of Fiscal Documentation (IBFD) courses (see below) and the International Management Forum Transfer Pricing Distance Learning (see below). These products may provide a cost effective training solution for some countries (for learning theory etc.).⁶

C. Overview of providers

This section provides an overview of various different providers of transfer pricing (and related) technical assistance and capacity building resources and the types of assistance and resources that they provide.⁷ A listing of relevant contact details is provided in Appendix 1.

i) International and Regional Organizations and Financial Institutions

A number of international and regional organizations and financial institutions are active in the provision of transfer pricing technical assistance and capacity building resources to developing countries. The assistance provided differs extensively between organizations, namely due to their differing priorities and resources.

⁶ Further information on the course offered by WCO/OECD:

http://www.wcoomd.org/learning_customshome_customselearninghome_detailshome_detailstp.htm

⁷ The listing is not intended to be comprehensive

Generally, the provision of technical assistance and capacity building resources by these organizations is limited to member countries; however assistance and resources are available in some instances through outreach programmes or more generally through access to training courses and conferences and publically available reference materials. Set out below is an overview of the types of transfer pricing technical assistance and capacity building resources of such organizations.⁸

Asian Development Bank

Established in 1966, the Asian Development Bank (ADB) is a regional development bank focused on delivering projects that create economic and development impact for its member countries. Headquartered in Manila, Philippines, the ADB has 48 members from the Asia and Pacific region and 19 non-regional members. Transfer pricing and related technical assistance and capacity building activities undertaken by the ADB include:

- **Country level technical assistance** – The ADB funds and provides technical assistance for its member countries, including in the area of taxation. Delivery of technical assistance in the field of taxation is generally implemented through contracted experts. To-date the ADB has limited experience delivering technical assistance specifically focused on transfer pricing, however some of its current country-level technical assistance programmes cover the negotiation of tax treaties (including Article nine of the OECD and UN Models).
- **Regional/International Conferences** – Since 1991, the ADB, in cooperation with the Ministry of Finance, Japan, has provided an annual tax conference programme and these conferences have in the past (and likely will in the future) addressed transfer pricing and related topics.⁹

As the technical assistance provided by the ADB is demand-driven, (member) developing countries which plan to reform tax policy and administration frameworks with respect to international taxation, including transfer pricing, are encouraged to communicate their request for assistance to the ADB headquarters or the applicable resident mission.

European Commission

The European Commission's Directorate General for Development and Cooperation (EUROPAID) conducts development projects on behalf of the European Union's 27 member countries. As the regional organization with the highest development assistance budget, the European Commission has wide-ranging policy dialogue with, and technical and financial cooperation programme for, developing countries. Its main aim is to contribute to their achieving the Millennium Development Goals.

An important element of this programme is its Tax and Development agenda, which seeks to strengthen developing countries' capacity to mobilize domestic revenues, thus increasing these countries' ability to finance their development efforts and strengthen their ownership of development processes. In this effort, EUROPAID relies on the advice from, and the coordination with, the Directorate General for Taxation – (TAXUD).

Transfer Pricing is one of the international areas on which the European Commission's Tax and Development agenda is focusing its efforts, following a policy paper it adopted and issued in April 2010 ("Communication on Tax and Development: Cooperating with Developing Countries on Promoting Good Governance in Tax Matters"). Said Communication highlighted Transfer Pricing as one of the key areas for work and support in developing countries. In response, the Commission launched a study on "Transfer Pricing and Developing Countries", whose final report was released in July 2011 and which provided a set of both general and country-specific needs assessments to guide the international community, and the European Commission in particular, in its capacity building and other assistance efforts in this area.

⁸This is not intended to be a comprehensive listing of all providers of transfer pricing (and related) technical assistance and capacity building resources. Numerous other organizations may provide transfer pricing (and related) technical assistance and/or capacity building resources, however insufficient information was able to be obtained in relation thereto (given the scope of this research project). The descriptions provided in this document are based on information available from the websites of the respective organizations and from direct communication with representatives thereof (a survey was conducted by the author during July/August 2012).

⁹ Materials are available via the Asian Development Bank Institute Website: <http://www.adbi.org/>

Most of the Commission's efforts since then have followed a triple track. Firstly, the Commission has continued to participate actively in the discussions on Transfer Pricing in the OECD, including in its Tax and Development Forum. Secondly, it has helped fund the editing and publication of a United Nations (UN) Practical Manual on Transfer Pricing for Developing Countries so as to facilitate their interpretation and implementation of the OECD Transfer Pricing Rules. Thirdly, it has joined forces with the World Bank and the OECD in a Tripartite Initiative on Transfer Pricing that is seeking to increase the capacity of a number of interested countries to deal with Transfer Pricing issues; initial efforts have focused on Vietnam, Ghana, Honduras and Colombia. Consideration is being given now to extending this unique initiative to other countries such as Kenya, Tanzania, etc.

International Monetary Fund

The International Monetary Fund (IMF) is an organization of 188 countries, working to foster global monetary cooperation, secure financial stability, facilitate international trade, promote high employment and sustainable economic growth, and reduce poverty around the world.¹⁰

- The IMF provides technical assistance on transfer pricing and related issues mainly through its technical assistance missions on tax policy, legal drafting or revenue administration for member countries. For the technical assistance on tax policy and revenue administration, the experts from the Fiscal Affairs Department (FAD) review the existing tax system and/or tax administration, identify issues to be addressed, and provide the authorities with strategic advice, which is tailored to the country's particular circumstances (legislation, economy and capacity), on necessary reforms, including transfer pricing and related issues in a diagnostic mission.

Specifically, transfer pricing and related technical assistance provided by the IMF includes:

- **Pre-implementation assistance:** Undertaking transfer pricing needs assessments, drafting of legislation and regulations and development of financial reporting requirements¹¹
- **Implementation assistance:** Development of appropriate disclosures, procedures and guidelines and implementation of appropriate organizational structures and risk based assessment for transfer pricing
- **Training:** This is provided within the context of wider technical assistance engagements at the stage of the implementation of transfer pricing rules.
- **Communication and outreach:** Assistance with private sector communication and consultation
- **Broader policy advice:** Assistance on broader tax policy and administration reform that would complement transfer pricing reform

Whilst the IMF does not provide application assistance per se (i.e. provision of experts to provide assistance with actual audit cases, negotiation of advance pricing agreements or negotiation of tax treaties), IMF experts may deliver training to officials based on actual cases and conduct simulated tax treaty negotiations.

Member countries can make a formal request for technical assistance by sending a letter from the relevant Minister or Head of Organization to the head of the relevant IMF department (Fiscal Affairs Department or Legal Department).¹² The department will address the request within its budget and resources.

International Tax Compact

The International Tax Compact (ITC) is an initiative established to intensify international cooperation with partner countries on fighting tax evasion and avoidance and to promote building of transparent and effective tax systems. Originally launched following the proposition of the German Federal Ministry for Economic Cooperation and Development (BMZ) at the Doha Conference, today the ITC Core Group meeting brings together the main actors and technical assistance providers in the area of taxation (i.e. IMF, OECD, UN, CIAT, African Tax Administration Forum (ATAF), European Commission (EC), the Netherlands, Germany, France, Spain, Switzerland and others). The ITC promotes the need for strengthening development cooperation in tax matters and the need for stronger

¹⁰ <http://www.imf.org/external/about.htm>

¹¹ Generally undertaken by the Legal Department (LEG) in conjunction with the Fiscal Affairs Department (FAD)

¹² See Annex 1 for contact details

consolidation of the efforts of different actors in this area by working closely with different partners. The work of the ITC focuses on:

- **Activities at country and regional level:** Support to partner countries and capacity development in countries' tax policy and institutional, support with regard to policy formulation, legislation, and implementation as well as increased exchange of experience between the countries
- **Activities at the international level:** ITC facilitates access to and exchange of information among policy makers, tax administrators, donors, civil society and private sector
- **Analytical work and studies**
- **Networking and dialogue:** The ITC intends to foster networking and dialogue on taxation and development both between ITC partners and vis-à-vis other initiatives.

Transfer pricing, double tax treaties and exchange of information are important activity areas of the ITC. The transfer pricing and related technical assistance and capacity building activities undertaken by the ITC (in conjunction with its partners) include:

- **Publications and analyses** – In cooperation with the EC, the ITC developed and supported the completion of a study on “Transfer Pricing and Developing Countries” (which was undertaken by PricewaterhouseCoopers (PwC)).¹³
- **Pre-implementation assistance** – The ITC provides assistance with undertaking a needs assessment and drafting legislation. For example, the ITC provided support (in close cooperation with GIZ's Good Governance Programme in Ghana and the OECD) to the Ghana Ministry of Finance and Revenue Authority in developing transfer pricing legislation
- **Implementation assistance** – The ITC provides assistance with implementing appropriate organizational structures, processes and guidelines and with the implementation of risk-based assessment. For example, the ITC provided technical advice (in close cooperation with the German *Gesellschaft für Internationale Zusammenarbeit* GmbH (GIZ) Good Governance Programme in Ghana and OECD) to the Ghana Ministry of Finance and Revenue Authority on process organization etc.
- **Application assistance** – The ITC provides technical experts on a mid- to short-term basis, who provide technical expertise for negotiating tax treaties and conducting transfer pricing audits (note: the experts do not however sit in actual negotiations or undertake the actual audit per se).
- **Training** – The ITC provides in-country, regional and international training on transfer pricing and tax treaties. For example, the ITC provided training (in close cooperation with the GIZ Good Governance Programme in Ghana and OECD) to auditors and policy makers from the Ghana Ministry of Finance and Revenue Authority, and ITC has supported CIAT in the development of its online-course on transfer pricing (see below under CIAT).
- **Regional Conferences** – The ITC organizes and facilitates the organization of international and regional conferences, workshops, dialogue and exchange of experience seminars. Several such events have been hosted to date in Latin American countries, done in close cooperation with CIAT, Economic Commission for Latin America and the Caribbean (ECLAC) and other partners.¹⁴
- **Communication and outreach** – The ITC regularly organizes dialogues between the private sector and tax administrations on a range of topics, including transfer pricing and related topics.
- **Other** – The ITC provided support to the United Nations Committee of Experts on International Cooperation in Tax Matters and S4TP (South-South Sharing of Successful Tax Practices for Development) in drafting of this manual, including the support to corresponding dialogue activities on UN level. Additionally, the ITC (in cooperation with other partners) is providing the platform for a feasibility evaluation of a project to enable the exchange of public information at regional level, for the control of economic sectors and if possible their application to identify regional comparables for transfer pricing control.

The ITC Secretariat coordinates the implementation of ITC activities and serves as a facilitator to allow the partners a more intensive exchange of experiences and dissemination of good practices. It is currently located in Bonn,

¹³ Available here: <http://www.taxcompact.net/activities-events/Transfer-Pricing-Study.html>

¹⁴ For more information on ECLAC consult: <http://www.eclac.org/>

Germany and financed by the BMZ. The BMZ has contracted GIZ GmbH (see below for more information) with implementation.

International Tax Dialogue

The International Tax Dialogue (ITD) is a collaborative arrangement involving the EC, Inter-American Development Bank, IMF, OECD, World Bank Group and CIAT to encourage and facilitate discussion of tax matters among national tax officials, international organizations, and a range of other key stakeholders. The ITD Secretariat is currently hosted by the OECD. The transfer pricing and related technical assistance and capacity building activities undertaken by the ITD include:

- **Provision of a platform for knowledge/information sharing** - Core to the mandate of the ITD is sharing information and avoiding a duplication of effort within the group of members. This is achieved through a variety of means, including updating of the ITD website, which provides a knowledge platform for countries to share information and a searchable map detailing the various technical assistance activities of numerous providers around the world.¹⁵
- **Regional/International Conferences** - Additionally, the ITD organizes conferences, which are managed together with host countries and with support from other organizations and governments. The conferences topics vary, but have included transfer pricing and are likely to do so in the future. For example, in May/June 2012 the ITD organized the conference “Transfer Pricing in Eastern Europe and Central Asia – Protecting the Tax Base and Building a Strong Investment Climate” which was held in Tirana, Albania and hosted by the Albanian Ministry of Finance. This conference brought together officials from 19 countries from Europe and Central Asia¹⁶ to discuss how to best develop or strengthen transfer pricing regimes while ensuring a good investment climate. Presentations by country representatives were complemented by presentations from representatives of the OECD, World Bank Group, International Chamber of Commerce, The Global Forum on Transparency and Exchange of Information.¹⁷

Organisation for Economic Co-operation and Development

The Organisation for Economic Co-operation and Development (OECD) is an international organization comprising 34 member countries from across the globe, traditionally the industrialized countries from North America, Europe and the Asia-Pacific region but increasingly countries from other regions such as Mexico, Chile and South Africa. . The OECD also works closely with countries like China, India and Brazil and developing economies in Africa, Asia, Latin America and the Caribbean. OECD activities on transfer pricing are focused on as wide and inclusive a dialogue as possible through a demand-driven programme of events to share approaches and experience. This is delivered through an extensive Global Relations Programme, a Tax and Development platform focused on direct support to developing countries and a Global Forum on Transfer Pricing in which 90 countries help set the OECD’s agenda in the transfer pricing area.

The OECD’s **Global Relations Programme** consists of over 70 demand driven events per year at venues in Africa, Asia, Eastern Europe and Latin America, as well as the OECD’s Multilateral Tax Centers in Ankara, Budapest, Mexico City, Seoul and Vienna.¹⁸ Around 25 of these events per year are dedicated specifically to transfer pricing and typically focus on practical cases provided by participants. These events bring together officials from OECD and non-OECD Economies to discuss and share their country approaches to transfer pricing, including policy, practical auditing and implementation issues. Over 100 developing countries take an active part in this programme. The content and form of the programme is guided by the Advisory Group for non-OECD Economies, bringing together emerging economies such as India, China and South Africa along with developing countries and OECD countries. The Advisory Group meets annually. As well as providing a vehicle for finding practical solutions and sharing knowledge between tax administrations, the programme also provides a means for feeding developing country views and perspectives into the OECD’s ongoing work-programme on transfer pricing.

¹⁵ The website <http://www.itdweb.org/> contains relevant government contact details and links to legislation of a large (and increasing) number of countries

¹⁶ Albania, Armenia, Bosnia and Herzegovina, Croatia, Estonia, Georgia, Greece, Hungary, Italy, Kyrgyz Republic, Republic of Kosovo, Moldova, Montenegro, Poland, Romania, Tajikistan, Turkey, Ukraine, Uzbekistan

¹⁷ Conference materials can be obtained at the ITD website: <http://www.itdweb.org/Pages/Conferences.aspx>

¹⁸ A calendar of events can be accessed online: <http://www.oecd.org/tax/globalrelationsintaxation/participatinglobalrelationsevents.htm>

Transfer pricing is a key element of the OECD's **Tax and Development Programme**, a joint programme between the OECD's directorates responsible for taxation and development, and guided by a Task Force on Tax and Development, including business and non-governmental organization (NGO) membership. A major pillar of the programme consists of bilateral work with developing countries to strengthen their capacity to adopt and effectively implement transfer pricing rules. The OECD is working with, or is putting in place programmes with, Ghana, Kenya, Colombia, Vietnam and Rwanda, and is exploring opportunities for working on a regional basis. These programmes, each expected to span two to three years, recognise that building capacity in transfer pricing represents a significant longer-term investment for developing countries. The heart of each programme is extensive skills-building amongst auditors, supplemented by assistance on building effective regulatory and administrative frameworks. A key aspect of these programmes is close co-operation with international organizations and donors. In particular, the OECD, World Bank and European Commission have formed a partnership to co-ordinate their respective country support programmes on transfer pricing.

The first meeting of the **Global Forum on Transfer Pricing** took place in March 2012, and was attended by 282 delegates from 90 jurisdictions and international organizations. This new annual event provides a forum for government officials from OECD and non-OECD countries to share their expertise and exchange their views on theoretical and administrative aspects of transfer pricing. It provides a valuable platform for non-OECD economies to input their views and perspectives on transfer pricing into the OECD's work processes. The work of the new Global Forum is guided by a Steering Committee, which includes twelve non-OECD economies (including developing countries) amongst its membership. This Committee plans the agenda for the Global Forum meetings and carries out its programme of work, focusing on issues of priority interest to non-OECD economies. This Forum complements the increasing involvement of non-OECD economies in the core work of the OECD. The current work on transfer pricing aspects of intangibles and transfer pricing simplification, for example, benefits from the direct input of nine non-OECD economies.

The types of transfer pricing and related technical assistance and capacity building activities undertaken by the OECD (through the aforementioned programmes and other activities) include:

- **Publication of reference materials**, including:
 - **Practical guidance** – The OECD has developed and published numerous transfer pricing related publications, including:
 - The OECD Transfer Pricing Guidelines for Multinational Enterprises and Tax Administrations, which provide comprehensive guidance on the interpretation and application of the arm's length principle.
 - A series of "explanatory notes" on selected topics (arm's length range, comparability, comparability adjustments, location savings and transfer pricing methods).¹⁹
 - Various other topical studies and reports (e.g. Multi-Country Analysis Of Existing Transfer Pricing Simplification Measures, Employee Stock Option Plans: Impact on Transfer Pricing, Manual on Effective Mutual Agreement Procedures, E-Commerce: Transfer Pricing and Business Profits Taxation).²⁰
 - A Report by the OECD's forum on Tax Administration on "Effectively dealing with the Challenges of Transfer Pricing" (2012) that addresses the practical administration of transfer pricing programmes by tax administrations.²¹
 - **Suggested approach to legislation** – The OECD Secretariat has developed a "Suggested Approach to Transfer Pricing Legislation" which includes model legislation and explanatory notes.²²

¹⁹ Available online: <https://www.oecd.org/tax/transferpricing/resourcesfortransferpricing.htm>

²⁰ *Ibid*

²¹ Available online: <https://www.oecd.org/tax/taxadministration/dealingeffectivelywiththechallengesoftransferpricing.htm>

²² Available online in English, French and Spanish: <https://www.oecd.org/tax/transferpricing/45765682.pdf>

- **Training materials** – Participants at the “Train the Trainer Programme” on transfer pricing (see below) are provided with training materials (presentations, case studies etc.) that they can take back and use to train staff in their own country.
- **Needs assessment tool** – The OECD Secretariat has developed a “Country Transfer Pricing Needs Assessment Tool” which provides assistance for countries in assessing the extent of transfer pricing risk and their capacity to adopt and implement an effective transfer pricing regime.
- **Pre-implementation assistance**, including:
 - **Needs assessment** – The OECD Secretariat is able to provide some assistance to countries in applying the “Country Transfer Pricing Needs Assessment Tool” referred to above.
 - **Drafting legislation** – The OECD’s Global Relations and Tax and Development programmes provide a platform for countries to share their approaches and experiences on the drafting of legislation. In addition, the OECD is able to review and comment on the wording of relevant legislation.
- **Implementation assistance**, including:
 - **Procedures and guidelines** – The OECD Secretariat is able to review and comment on country procedures and guidelines.
 - **Disclosures, organizational structure and risk based assessment** – The OECD Secretariat can provide details of country approaches to, and experience of, transfer pricing disclosure requirements, organizational structures and risk based assessment.
- **Training**, including:
 - **Train the trainer** – The OECD offers a “Train the Trainers Programme” on transfer pricing aimed at building the skills of transfer pricing specialists from attending countries so that they can conduct transfer pricing training for their colleagues.
 - **Global relations programme** – Through its Global Relations Programme (see above) the OECD organizes around 25 events per year on transfer pricing which bring together officials from OECD and non-OECD Economies to discuss and share their country approaches to transfer pricing, including policy, practical auditing and implementation issues.
 - **Country specific** – At the heart of the Tax and Development Programme (see above) is extensive skill-building amongst auditors, supplemented by assistance on building effective regulatory and administrative frameworks.
 - **Provision of transfer pricing specialists** – The OECD supports the technical training and policy dialogue programme of regional organizations including ATAF, IOTA and CIAT, in particular by providing transfer pricing specialists as presenters at conferences and seminars
- **International Conferences** – In 2012 the OECD launched a new annual event - the Global Forum on Transfer Pricing (see above).
- **Communication and outreach**: Through the OECD’s Business and Industry Advisory Committee, the OECD encourages a dialogue between business and tax administrations on related issues. For example, business is providing experts to assist on the OECD Tax and Development bilateral transfer pricing programmes. The experts provide tax administrations with a greater commercial understanding of specific industries. The OECD also works with the Trade Union Advisory Council (TUAC), as well as the major NGOs, in the area of Tax and Development.

The OECD does not provide direct input into actual transfer pricing cases or advance pricing agreement negotiations; however, the OECD is currently undertaking a feasibility study to investigate the possibility for tax officials from more experienced tax administrations to provide direct assistance to tax administrations of developing countries. The project was first announced in May 2012 by the OECD’s Task Force on Tax and Development, meeting in Cape Town, South Africa and has been earmarked “Tax Inspectors without Borders”.²³

²³ See further: <http://www.oecd.org/newsroom/taxoecdlaunchestaxinspectorswithoutborders.htm>

United Nations

The United Nations is an international organization currently comprising 193 Member States working on a broad range of fundamental issues, among them sustainable development. The Department of Economic and Social Affairs (UN DESA) is part of the United Nations Secretariat. Its **Financing for Development Office (FfDO)** is responsible for providing effective support for sustained follow-up within the United Nations system to the agreements and commitments reached at the International Conferences on Financing for Development, as contained in the 2002 Monterrey Consensus and 2008 Doha Declaration, as well as financing for development-related aspects of the outcomes of major United Nations conferences and summits in the economic and social fields, including the Millennium Development Goals. As transfer pricing has a negative impact on domestic resource mobilization and thus on countries' ability to finance development it features high on the agenda of the FfDO.

The Secretariat of the **Committee of Experts on International Cooperation in Tax Matters** is part of the Financing for Development Office. The Committee comprises 25 Members nominated by Government and acting in their expert capacity. The members are appointed by the Secretary-General, after notification of the Council, for the term of four years, drawing from the fields of tax policy and tax administration and reflecting an adequate equitable geographical distribution, representing different tax systems. Adhering to its mandate to provide a framework for dialogue with a view to enhancing and promoting international tax cooperation, the Committee provides the **United Nations Manual on Transfer Pricing**. This Manual is a response to the need, often expressed by developing countries, for clearer guidance on the policy and administrative aspects of applying transfer pricing analysis to some of the transactions of multinational enterprises (MNEs) in particular. Such guidance should not only assist policy makers and administrators in dealing with complex transfer pricing issues, but should also assist taxpayers in their dealings with tax administrations.

The Committee is also tasked with the review and update of the **United Nations Model Double Taxation Convention between Developed and Developing Countries (UN Model Convention)**, which provides in its article nine and in the commentary guidance on how to minimize double taxation disputes between countries while ensuring that developing countries' investment climate remain good.

Moreover, the Committee makes **recommendations on capacity-building and the provision of technical assistance** to developing countries and countries with economies in transition. This includes, but is not limited, to capacity building measures on transfer pricing issues.

Starting in 2012, FfDO/DESA secured limited funding for establishing a small capacity development programme on international tax cooperation. To date, the immediate focus has been on developing capacity to negotiate, interpret and administer double tax treaties drawing on the UN Model Convention. Transfer pricing issues are likely to be a major focus of future efforts, which would then complement the work on the Practical Manual on Transfer Pricing for Developing Countries.

World Bank Group

The World Bank Group (WBG) consists of five organizations that offer loans, advice, and an array of customized resources to more than 100 developing countries and countries in transition. The five organizations are:

- **International Bank for Reconstruction and Development (IBRD)**, which lends to governments of middle-income and creditworthy low-income countries
- **The International Development Association (IDA)**, which provides interest-free loans — called credits — and grants to governments of the poorest countries
- **The International Finance Corporation (IFC)** provides loans, equity and technical assistance to stimulate private sector investment in developing countries
- **The Multilateral Investment Guarantee Agency (MIGA)** provides guarantees against losses caused by non-commercial risks to investors in developing countries
- **The International Centre for Settlement of Investment Disputes (ICSID)**, which provides international facilities for conciliation and arbitration of investment disputes.

The Global Tax Simplification Programme (GTSP) was launched in July 2007 by FIAS, a joint advisory service of the World Bank (IBRD and IDA), IFC and MIGA. The GTSP is aimed at providing customized advice to governments to help reduce the burden of complying with tax policies and procedures and introduces a new approach to tax reform, which focuses on how businesses are affected by the tax system. By streamlining business taxation, the GTSP sets out to broaden the tax base, reduce informality, and spur growth and investment. Since its inception, the GTSP has launched multi-year, multi-work stream projects in every region, covering simplification of income tax policy and administration, value-added tax (VAT) administration, small and medium enterprise (SME) tax systems, transfer pricing, transparency and capacity building programmes.

In the area of Transfer Pricing, the Global Tax Simplification Team of the Investment Climate department offers technical assistance to developing countries with the design and implementation of transfer pricing frameworks (legal and administrative), to identify and combat transfer pricing abuse and to create a transparent and level playing field for multinationals' intra-company transactions. This work is part of a broader World Bank initiative, the tax transparency initiative, which was launched in July 2011 and endorsed by the WBG's Board on November 10, 2011 as part of the WBG Offshore Financial Center policy. It is also part of the WBG response to the action plan issued by the G20 at the Cannes Summit in November 2011. As at September 2012, the GTSP has tax programmes with substantial transfer pricing components underway or in the pipeline in over 15 countries. A key aspect of these programmes is close co-operation with other international organizations, development agencies and donors in the design, funding and delivery of the programmes. For example, the OECD, World Bank and European Commission have formed a partnership to co-ordinate support programmes on transfer pricing in a number of countries, and the GTSP works closely with the OECD, IMF and other technical assistance providers active in the countries that it has programmes.

The technical assistance offered by the GTSP is provided by WBG staff and expert consultants contracted by the WBG. The types of transfer pricing and related technical assistance and capacity building activities undertaken by the WBG through the GTSP include:

- **Publication of reference materials** – The GTSP has drafted a publication (to be published in late 2012) aimed at assisting policy makers in developing countries with the implementation and application of transfer pricing. Additional publications and research papers are currently planned for the future.
- **Pre-implementation assistance**, including:
 - **Needs assessment** – The GTSP undertakes needs assessments in countries looking to undertake transfer pricing reforms. These needs assessments analyze the existing legal and administrative framework, identifying transfer pricing risks and provide high level recommendations in relation thereto that provide a framework for the delivery of future technical assistance.
 - **Drafting legislation** – The GTSP assists policy makers with drafting of transfer pricing legislation, in particular by providing examples of other countries approaches, undertaking reviews and providing comments and recommendations in relation thereto.
- **Implementation assistance**, including:
 - **Procedures and guidelines** – The GTSP assists tax authorities developing appropriate procedures (internal and external) and practical guidelines, in particular by providing examples of other countries approaches, undertaking reviews and providing comments and recommendations in relation thereto.
 - **Disclosures and risk based assessment** – The GTSP has significant experience in the implementation of risk based assessment which it draws upon to assist tax authorities in developing appropriate disclosures for transfer pricing and implementing risk based assessment for transfer pricing.
 - **Organizational structure** – The GTSP assists tax authorities in establishing transfer pricing responsibility within the tax administration (i.e. setting up on transfer pricing team).
 - **Dispute resolution and exchange of information procedures** – The GTSP provides advice to tax administrations/ministries of finance on the formalization of the competent authority function for mutual agreement procedures and exchange of information purposes, and through its

dispute resolution work stream provides assistance with the strengthening of dispute resolution processes generally.

- **Training:** As part of its transfer pricing technical assistance programmes, the GTSP provides a comprehensive range of training to its client countries (on transfer pricing and related issues), including in-country tailored trainings (for government and the private sector) and assists tax officials with access to other training events and courses.
- **Regional/International Conferences** – IFC is involved in regional and international training events and conferences (for example, the GTSP was a major contributor to the ITD conference in Tirana (see above)) and provides specialists to speak at a range of conferences around the world.
- **Communication and outreach:** The GTSP encourages (and assists governments with) extensive private section communication and consultation as part of its technical assistance programmes

The GTSP does not provide direct input in to actual transfer pricing cases or advance pricing agreement negotiations or the negotiation of tax treaties; however the GTSP is supporting the OECD’s “Tax Inspectors without Borders” initiative (see above).

ii) Regional Groupings of Tax Authorities

Tax Authorities around the world have established various regional groupings to share and discuss experiences, organize trainings etc. Generally speaking such groupings have a strong regional focus; however there are examples of groupings with far reaching memberships.²⁴ Set out below are details of select tax authority groupings identified as actively providing transfer pricing capacity building and technical assistance to developing countries.²⁵ The level of engagement and coverage of transfer pricing issues differs significantly as between groupings, depending on their priorities, resources and capacity.

African Tax Administration Forum

Established in 2009, the African Tax Administration Forum (ATAF) is a platform to promote and facilitate mutual co-operation among African Tax Administrations (and other relevant and interested stakeholders) with the aim of improving the efficacy of their tax legislation and administrations. ATAF’s mission is “[t]o encourage and support new partnerships among all African countries in developing the capacity of African Tax Administrations in their ability to achieve their revenue objectives,” and its objectives are as follows:

- Promotion of economic development, good governance and accountability
- Domestic resource mobilization
- Culture of professionalism and mutual support
- Mutual cooperation and increase the level of voluntary tax compliance
- Combating tax evasion and avoidance
- Implementation of African tax strategies
- Capacity development aimed at strengthening tax administrations²⁶

ATAF is active across a vast range of taxation sub-topics considered of importance to African Revenue Authorities, including transfer pricing and related matters. Reflecting the importance ATAF attributes to transfer pricing as a potentially high tax risk to its members ATAF has formed a **Transfer Pricing Working Group** which held its inaugural ATAF Transfer Pricing Working Group meeting on the 18th and 19th April 2011 in Pretoria, South Africa. This working group fulfills a key element of the ATAF Transfer Pricing Project’s objective of building capacity in African Revenue Authorities to effectively tackle intricate and complex tax planning schemes which have led to loss of much needed revenue. The main purpose of the ATAF Transfer Pricing Working Group will be to develop products to assist in building the capacity of ATAF members to identify and address the risk to their tax base from

²⁴ See for example CIAT

²⁵ This is not intended to be a comprehensive listing of Regional Tax Authorities Groupings. There are numerous other Regional Tax Authorities, which may or may not be active in providing transfer pricing capacity building and technical assistance and which do or do not have developing country membership or engagement. The descriptions provided are based on information available from the websites of the respective organizations and from direct communication with representatives thereof (a survey was conducted by the author during July/August 2012).

²⁶ <http://www.ataftax.net/about-us/overview.aspx>

transfer pricing and thin capitalization issues. The scope of the products will cover areas of policies and procedures.

The Working Group's remit is to determine the capacity and capability needs of the member countries and design and develop products to meet those needs in the area of transfer pricing and thin capitalization. The Working Group has the mandate to deal with the following:

- Providing advice and sharing of best practice on how to identify the key transfer pricing risks in the member's country
- Offering guidance on developing effective transfer pricing and thin capitalization legislation
- Supply products to enable the members to build the technical capacity to effectively implement their transfer pricing rules
- Providing access to transfer pricing specialists from other tax administrations to answer anonymized technical transfer pricing queries from ATAF members

The Working Group consists of seven members who are tax officials from the tax administrations of ATAF member countries. The members selected have vast experience in addressing transfer pricing risk in their tax administration work. The Working Group also has in its membership a Technical Adviser who has extensive experience of working for and with tax administrations on transfer pricing issues in Africa and other developing countries out of the African continent. The Working Group is accountable to the ATAF Secretariat and reports to the Secretariat on its Work Plan and on progress in delivery of the Plan. The Secretariat sets the strategic direction for the Working Group.

The types of transfer pricing and related technical assistance and capacity building activities undertaken by ATAF (with support from development partners²⁷) include:

- **Publication of reference materials** – Through the e-resource center on its website, ATAF publishes guidance and examples of other countries transfer pricing and thin capitalisation legislation and details of previous technical events and provides access to presentations and documentation from previous trainings which can be accessed by members.
- **Pre-implementation assistance**, including:
 - **Needs assessment** – As part of the ATAF work plan deliverable of developing in-country transfer pricing training programmes the ATAF Transfer Pricing Working Group carries out a review of each ATAF member's transfer pricing capacity.
- **Implementation assistance**, including:
 - **Procedures and guidelines** – Through its platform for sharing of best practices ATAF provides input to the development of guidelines and procedures in developing countries.
 - **Risk based assessment** – The provision of advice on transfer pricing risk assessment is one of the deliverables specified in the ATAF work plan.
- **Training** – Provision of in country transfer pricing training on international principles and hosting of regional training events falls within the ATAF work plan. To date ATAF (in collaboration with the OECD) has already delivered a number of regional transfer pricing events.²⁸ Similarly training is provided on related tax treaty issues (such as training on the negotiation of tax treaties).
- **Communication and outreach** – One of ATAF's work plan deliverables is to establish an ATAF Transfer Pricing Business Forum that the ATAF transfer pricing working group will consult with on the work plan deliverables.

ATAF does not provide direct input in to actual transfer pricing cases or advance pricing agreement negotiations or the negotiation of tax treaties; however ATAF will maintain a database of experts who can assist country specific queries, and will make recommendations as necessary and appropriate.

²⁷ African Development Bank, GIZ and OECD and others, see: <http://www.ataftax.net/about-us/development-partners.aspx>

²⁸ The ATAF events calendar can be accessed here: <http://www.ataftax.net/e-resource-centre/workshops-and-seminars.aspx>

Requests for assistance from ATAF countries can be made to the ATAF Secretariat who will then decide how best to obtain the assistance that the country is requesting. The Secretariat has a wide and diverse range of sources it can use to try and find the assistance required and is also in the process of finalizing the establishment of a Technical Assistance Focus Area (TAFE), which will mainly focus on providing technical assistance as part of its designated Capacity Development tool to member countries.

Centre de rencontres et d'études des dirigeants des administrations fiscales

The *Centre de rencontres et d'études des dirigeants des administrations fiscales* (CREDAF) is an organization of the tax administrations of French-speaking countries that was established in 1982. The CREDAF facilitates dialogue between its members by providing a platform for consultations and meetings between the heads of tax administrations of French (or partly) French-speaking countries in order to exchange experiences and ideas. The CREDAF also organizes a core of materials for its member countries and carries out studies. The CREDAF does not provide technical assistance directly to individual member countries per se.

The types of transfer pricing and related technical assistance and capacity building activities undertaken by CREDAF include:

- **Publication of reference materials** – CREDAF documentation on a range of tax issues for its developing country members, including transfer pricing and related areas.
- **Training** – The CREDAF organizes seminars on a range of taxation topics that are dedicated to sharing experience and best practices. To date CREDAF has organized 3 seminars on transfer pricing (in 2000, in 2005 and in 2010).

Commonwealth Association of Tax Administrations

The Commonwealth Association of Tax Administrations (CATA) is an association of tax administrations of Commonwealth countries. CATA membership is spread throughout the world including in Africa and the island states in the Caribbean and the Pacific. CATA's purpose is to promote the improvement of tax administration in all its aspects within the Commonwealth with particular emphasis on developing countries. To this end the activities of CATA may include:²⁹

- holding meetings of technical and administrative personnel in tax administration for the exchange of ideas and experiences;
- organizing seminars, workshops and training courses on aspects of tax administration; collecting, analyzing and disseminating information on tax administration;
- providing directly or, collaborating with, and generally facilitating, the work of bilateral and multilateral agencies providing technical assistance and research facilities in the field of tax administration;
- generally carrying out functions related to the overall improvement of the capabilities of tax administrations

The types of transfer pricing and related technical assistance and capacity building activities undertaken by CATA include:

- **Training** – CATA runs three training programmes every year in the United Kingdom and Malaysia.³⁰ One of the two programmes in the United Kingdom is a technical programme (Commonwealth Tax Inspector Course) dealing with a broad spectrum of technical tax issues including transfer pricing. A majority of the facilitators are from HM Revenue and Customs, although there is often input from other subject area experts from non-Commonwealth countries. The programme undertaken in Malaysia (Taxation of International Transactions workshop) is more comprehensive in its approach to transfer pricing and in the three weeks of the workshop, transfer pricing takes up at least one third of the time. Participants at both programmes are from around the Commonwealth, although on occasion the programme accepts participants from outside the Commonwealth.

²⁹ <http://www.catatax.org/resources/our-mission>

³⁰ Commonwealth Tax Inspectors Course (UK); Achieving Management Potential Programme (UK); and, Taxation of International Transactions Workshop (Malaysia). See further: <http://www.catatax.org/event-type/course>

- **Conferences** – On an annual basis, CATA hosts a Technical Conference during which at least two topics of interest are discussed by participating members. In the past, the topics discussed and presented on have included transfer pricing.

Although CATA does not provide technical assistance directly to its member countries, CATA has in the past been able to facilitate specialists to work in member countries.³¹

Inter-American Center of Tax Administration

The Inter-American Center of Tax Administrations (CIAT) is a non-profit international public organization that provides specialized technical assistance for the modernization and strengthening of tax administrations. Founded in 1967, CIAT currently has 39 member countries and associate member countries from four continents: 31 countries of the Americas, five European countries, two African countries and one Asian country. CIAT promotes mutual assistance and cooperation among member countries by:

- Developing specialized technical assistance programmes based on the particular needs and interests expressed by member countries, through technical cooperation activities;
- Encouraging studies and research projects about tax systems and administrations, promoting timely dissemination of relevant information and the exchange of ideas and experiences through general assemblies, technical conferences, seminars, publications and other appropriate means; and
- Entering into headquarters agreements as per international law.

The products and services that CIAT provides for tax administrations include technical assistance (in the form of specific assistance from the Executive Secretariat, grants for bilateral cooperation programmes, and project support and execution); training activities for administration official (onsite, as well as through the virtual platform of the virtual campus); and query management. Members of the CIAT community, just as the administrations and their officials, may additionally benefit from tax studies, through the Revenue Observatory or countries' profiles on tax matters; by accessing the documents produced and published by CIAT; and, with queries to the documents available in the CIAT library.

The types of transfer pricing and related technical assistance and capacity building activities undertaken by CIAT include:

- **Publication of reference materials** – Although as of September 2012 only one publication dealing specifically with transfer pricing, it is noted that through its website CIAT publishes models, manuals, studies and member country experiences on a range of taxation topics. Additionally, CIAT is involved in the publication of the CIAT/AEAT/IEF Tax Administration Review, which is a publication for the discussion and exchange of knowledge on tax policy and administration.³²
- **Pre-implementation assistance** – CIAT provides assistance to member country tax administrations with undertaking needs assessment, drafting legislation and developing appropriate financial reporting requirements.
- **Implementation assistance** – CIAT provides assistance to member country tax administrations to develop appropriate disclosures and to implements appropriate organizational structures and risk based assessment for transfer pricing. Assistance with developing procedures and guidelines could also be provided if specifically requested by a member country.
- **Training** – CIAT provides in country training on transfer pricing, both on international principles and tailored to the local legislation, capacity and economy. CIAT has also developed, as part of its extensive training programme, an online training on transfer pricing.³³
- **International/Regional Conferences** – Since 2008, the CIAT Executive Secretariat, in partnership with GIZ and the OECD, has been promoting a dialogue between tax administration officials and civil society on

³¹ Although there are currently no formal processes in place for this type of assistance, CATA is working towards developing structures that would enable such assistance either jointly with other organizations or independently. For example, CATA is currently involved in the OECD's new initiative "Tax Inspectors Without Borders" (see below).

³² Arias, G., "Comparative Study on the Current Situation of the Transfer Pricing Legislations in Latin America" (*Estudio Comparado sobre la Situación Actual de las Legislaciones de Precios de Transferencia en Latinoamérica*)

³³ Available in English and Spanish: <http://www.ciat.org/index.php/en/products-and-services/training.html>

issues relating to corporate taxation and particularly on reasonable transfer pricing through international seminars.³⁴ CIAT also participates in a range of conferences and events around the world that address transfer pricing.

▪ **Application assistance –**

- **In-country technical assistance** – CIAT facilitates the provision of specialists from member country tax administrations with specialist resources to assist member countries with large taxpayer audits and actual transfer pricing cases (including advance pricing agreement negotiations). To date weeks of technical assistance has been provided in this way to Latin America and Caribbean member countries.
- **Secondments** – CIAT coordinates internships between less developed tax administrations and more developed and experienced ones.
- **Comparables database project** – Currently, CIAT is planning activities under the ITC framework, together with GIZ and other potential partners, to initiate the feasibility evaluation of a project to enable the exchange of public information at regional level, for the control of economic sectors and if possible their application to identify regional comparables for transfer pricing control.

Inter-European Organisation of Tax Administrations

The Inter-European Organisation of Tax Administrations (IOTA), is an inter-governmental, non-profit international organization, that delivers an annual work programmes for its 46 member administrations. The main purpose of IOTA is the exchange of experiences and the sharing of best practices in the taxation field. As part of its annual work programmes, transfer pricing issues are covered in the form of case study workshops.

The provision of transfer pricing assistance is realized in the form of international consultation, training covering the issues listed below, rather than direct assistance to a specific county or group of countries. Another important aspect is that the delivery of best practices is targeted to European countries, irrespective of the fact whether they are developed or developing countries.

The types of transfer pricing and related technical assistance and capacity building activities undertaken by IOTA include:

- **Publication of reference materials** – Reference materials, including practical guidance, reports and materials from training courses on transfer pricing and related topics, are made available to IOTA members through the reference library section of the IOTA website.³⁵
- **Implementation assistance** – Through its best practice and experience sharing platforms, IOTA members share and discuss issues relating to the implementation and administration of transfer pricing in their respective countries
- **Training** – IOTA organizes yearly case study workshops on transfer pricing for its members. At these workshops (around seven to ten) representatives of member countries (developed and developing) present cases for discussion and analysis. The cases discussed are generally at an intermediate to advanced level.

Whilst IOTA does not provide technical assistance directly to member countries, the 2012-2017 strategy envisages this possibility to facilitate and coordinate or support capacity building or other development initiatives for as well as by IOTA member countries, where such assistance would be welcomed. The needs of the membership for a targeted technical assistance and the organization's capacity to deliver it will be evaluated further in the coming years.

³⁴ Buenos Aires 2008, Sao Paulo 2009, Bogota and Quito 2010, Lima and Guatemala 2011, Montevideo 2012

³⁵ <http://www.iota-tax.org/>

iii) Bilateral Assistance

The development agencies, tax authorities, ministries of finance etc. of numerous developed countries around the world provide transfer pricing and related technical assistance to developing and transition countries on a bilateral basis either; directly through involvement and/or support of the activities of international organizations, regional tax authorities groupings etc. and/or, through the provision of funding (see above).

Bilateral assistance may be provided on an ad hoc or short term basis, i.e. provision of experts to deliver training and hosting of study visits or secondees (see examples one and three) or as part of a longer term programme of assistance, such as long term outward secondments (see example one) or multi-year structured programmes of assistance (see examples 2 and 4). The activities conducted on a bilateral basis will depend inter alia on the available resources of the relevant institution³⁶, the availability of funding, the needs of a requesting country and the priorities of the country/countries) providing the assistance and/or funding.³⁷

An advantage of bilateral assistance can be the flexibility regarding the type of technical assistance that can be provided and the potential for direct access to specialists from tax administrations of countries with developed transfer pricing regimes. Bilateral assistance between tax administrations can however be hard to implement in practice however, particularly due to the staffing constraints in the field of transfer pricing, taxpayer confidentiality and potential conflicts of interest.³⁸

Set out below are specific examples of bilateral assistance in the field of transfer pricing. It is important to note that, although not provided as examples below, many other countries provide technical assistance (or funding for technical assistance) in the field of taxation, and more specifically transfer pricing.³⁹ For example, the European Commission reported in 2012 that “[i]n the past years, about half of the Member States had already provided assistance with implementing OECD guidelines on transfer pricing. Eight Member States, as well as the EU, supported new initiatives in this area during 2011.”⁴⁰

Example 1 - HM Revenue and Customs (United Kingdom)

*HM Revenue & Customs (HMRC) has been actively involved in tax and customs capacity building and technical assistance work for many years. The International Relations team is the single point of contact within HMRC for all requests for assistance and has responsibility for:*⁴¹

- *Assessing and prioritizing requests for overseas assistance*
- *Contributing to targeted improvements and capacity building in the Customs and Tax administrations of strategically important countries*
- *Coordinating HMRC's international assistance and capacity building activities*
- *Facilitating inward visits from overseas Revenue and Customs Authorities*

*Specific to transfer pricing, the HMRC Transfer Pricing Team (within Corporation Tax, International and Anti-Avoidance (CTIAA) Business International) provided over 230 FTE days of resources to the delivery of transfer pricing and related technical assistance to over 25 developing countries during the three year period 2009-2011. Examples of technical assistance provided include:*⁴²

³⁶ For example, whether the tax administration has specific experience in the particular topic and specialists who can be made available to provide the technical assistance requested

³⁷ For example, countries are more likely to provide assistance to developing countries that have been earmarked as development priorities or that have significant economic, political or historical ties

³⁸ I.e. there appears to be more scope for the provision of application assistance (i.e. assistance with actual cases) under bilateral arrangements than is currently available through international organizations and tax administration groupings

³⁹ The examples provided are for illustrative purposes only and are not intended to be a comprehensive survey of bilateral transfer pricing technical assistance

⁴⁰ European Commission, “EU Accountability Report 2012 on Financing for Development: Review of progress of the EU and its Member States” Staff Working Paper (available here: http://ec.europa.eu/europeaid/what/development-policies/financing_for_development/documents/swp-199-main-report.pdf)

⁴¹ <http://www.hmrc.gov.uk/intassist/index.htm>

⁴² Excluding the Long Term Outbound Secondment of a Senior Transfer Pricing Specialist to SARS

- **Long Term Outbound Secondment to South African Revenue Service (SARS)** – In 2009 HMRC seconded a Senior Transfer Pricing Specialist to SARS for a 2 year period. The secondee helped develop SARS transfer pricing capacity through assistance with the training of SARS dedicated transfer pricing unit, assistance with legislative reforms, delivery of training and assistance with transfer pricing audits conducted by the SARS officials in the transfer pricing unit. Additionally, the secondee was made available to provide technical advice to and conduct training for ATAF
- **Short Term Inbound Secondments from the State Administration of Taxation of the People’s Republic of China (SAT)** –In recent years HMRC has hosted 4 pairs of secondees from SAT for 6 month periods. During the secondment period the SAT officials sat with HMRC transfer pricing specialists (job-shadowing), attended trainings and were involved (to the extent possible in the day-to-day activities of the Transfer Pricing Team).⁴³
- **Short-term training and consultancy** – HMRC has provided specialists to conduct training on transfer pricing topics on a bilateral basis and through trainings and conferences organized by international organizations and tax administration groups such as the OECD, CATA and IOTA.
- **Inward Visits** – Through its inwards visit programme HMRC host’ delegations of officials from foreign tax administrations and explains the HMRC approach to various topics (technical and organization) and provides seminars in relation thereto. Such visits may include a transfer pricing component, or be focused on transfer pricing especially. For example, in 2011 4 delegates of the Income Tax Department of India attended HMRC premises for best practice sharing on advance pricing agreements. Similarly in 2011 inward visits focused on transfer pricing from Uganda and Russia were hosted.

Example 2 - United States Department of Treasury (Office of Technical Assistance)

The United States Department of Treasury, through its Office of Technical Assistance (OTA) Revenue Advisory Programme provides countries with the knowledge and skills required to move towards financial self-sufficiency. OTA programmes generally follow a three- to five-year project cycle that is aimed at creating maximum impact and then exiting when local capacity has been created. OTA does not engage with a country without a signed bilateral Terms of Reference on the high-level terms and aims of the engagement, followed by a tactical-level work plan specifying activities in support of those aims.

OTA engagements are based on close interaction between advisors and working-level partners, whether in a finance ministry, central bank, financial intelligence unit, tax administration, or other relevant government agency. One of the technical areas in which OTA provides technical assistance is transfer pricing. Transfer pricing assistance provided includes:

- **Legislative assistance** – advisors can assist with the drafting of transfer pricing law and regulations and/or review existing legislation and provide recommendations for areas of improvement.
- **International Agreements** – advice is available in recommending and evaluating of tax treaties and exchange of information agreements.
- **Public Guidance** – in addition to legislation and regulations, advisors can assist with the development of taxpayer guidance for dealing with transfer pricing
- **Internal administrative procedures** – advisors can assist with the development of internal administrative procedures and guidance relating to transfer pricing administration (e.g. audit manuals, procedural guidelines for competent authority requests and advance pricing agreement procedures)
- **Building the International Organization** – advisors are able to provide organizational guidance including advice on risk assessment, organizational structure, capacity needs and resource acquisition (databases etc.)
- **Training** – advisors are able to provide training on the theory and practice of transfer pricing. For example, OTA has developed an audit technique course which includes the steps necessary to take a transfer pricing case from identification of issues through the steps of performing the transfer pricing audit and concluding with the preparation of a final report. Other training courses and workshops can be conducted on specific

⁴³ Limitations on their involvement were necessary due to taxpayer confidentiality, resourcing and continuity requirements

transfer pricing topics including case studies, permanent establishment issues, sourcing of income issues and transfer pricing issues in particular industries.

- **Case Assistance** – as part of the on-going assistance and capacity building of auditors there is discussion of specific transfer pricing cases. The adviser can then conduct a workshop with all the transfer pricing audit staff to share the observations from individual audits to help build the capacity of all auditors.
- **Other Transfer Pricing Assistance** – OTA has the ability to tailor its assistance to the individual needs of a country in the area of international taxation and will incorporate these needs into the technical level work plan developed with the country.

In 2012 OTA provided transfer pricing technical assistance to Cambodia, Colombia, Guatemala, Liberia, Mongolia and Tanzania. Most OTA projects are funded by direct appropriations to the United States Department of Treasury; however, some projects, or aspects of, are funded or co-funded from other sources, such as USAID⁴⁴ and the Millennium Challenge Corporation.⁴⁵

Example 3 – Agenzia delle Entrate (Italian Revenue Agency)

Since 2011 the Italian Revenue Agency has consciously increased its technical assistance activities in the area of international taxation for the tax administrations of developing and transitioning economies. Key areas where the expertise of international tax experts from the Italian Revenue Agency has been deployed include:

- **Transfer pricing technical assistance**, including the organization of, or provisions of expert speakers, for seminars and workshops on the practical application of transfer pricing principle, and the provision of assistance with drafting of primary and secondary legislation
- **Expertise sharing regarding aggressive tax planning schemes** (i.e. sharing with other officials experience gained in challenging schemes targeted at tax avoidance/evasion, such as hybrid mismatch arrangements)
- **Assistance with tax administration organizational issues**, such as those pertaining to the structuring and key features of setting up a Large Business Division (with a specific focus on risk management techniques and the implementation of an enhanced relationship programme) and/or the setting up of a Transfer Pricing Unit, with a specific focus on developing expertise for the development and subsequent management of an Advance Pricing Agreement (APA) and Mutual Agreement Procedure (MAP) Programme
- **Provision of secondment opportunities** for short periods to the Italian Revenue Agency for officials of requesting countries (such as under the European Union in the context of the so-called "Fiscalis Programme")

As a matter of principle, the performance of any such activity comes about either in the context of direct requests submitted by foreign tax administrations to the Italian Revenue Agency; or by invitation from international organizations to provide technical experts, such as the World Bank Group or the OECD.

One example for technical assistance was a request from the Georgian Revenue Service received by Italy Revenue Agency in May 2011 for assistance with approaches (international and Italian) to transfer pricing legislation and risk management techniques for managing large taxpayers. This request resulted in the organization of a two day visit by the Italian Revenue Agency to Georgia in order to conduct meetings with representatives of the Georgian Ministry of Finance and Revenue Service. Several months later, a Georgian delegation of high level officials from the Ministry of Finance and the Revenue Service visited the headquarters of the Italian Revenue Agency in order to get a better insight of organizational issues. During this study tour, meetings were organized with representatives of the Divisions dealing with Large Taxpayers and International activities (within which the Transfer Pricing Unit is located).

In addition to the example above involving Georgia, to date, the Italian Revenue Agency has been engaged in providing technical assistance to the tax administrations of numerous countries (either directly or through cooperation with international organizations), including; Croatia; Thailand; Liberia, and Honduras.

⁴⁴United States Agency for International Development: <http://www.usaid.gov/>

⁴⁵<http://www.mcc.gov/pages/about>

Example 4 – Australian Taxation Office

The Australian Taxation Office (ATO) provides capacity assistance to the Papua New Guinea (PNG) Internal Revenue Commission (IRC) through the Papua New Guinea-Australian Taxation Office Twinning Scheme (PATOTS). This scheme is funded as part of a package of capacity assistance to IRC under Australia's Aid Programme. PATOTS involves ATO officials providing short term capacity assistance activities to the IRC on key focus areas identified in the IRC's Corporate Plan. It closely aligns to the other forms of capacity assistance to IRC funded by the Australian Agency for International Development (AusAID), including the placement of three senior ATO officials for two years under the Strongim Gavman Programme (SGP, which stands for Strengthening Government Programme) and the Economic and Public Sector Programme (EPSP). ATO officials under SGP assist in building capacity in the IRC through the provision of appropriate capacity development assistance, advice and a joint management approach while EPSP focuses on corporate capacity building reforms.

The ATO has been providing transfer pricing assistance to the IRC through PATOTS since 2007, but has recently adopted a revised approach to addressing this risk in PNG. The ATO in conjunction with the IRC have developed a 4 year transfer pricing capacity building timeline to introduce a comprehensive transfer pricing regime. This includes a mix of public education as well as targeted enforcement activities in an endeavor to limit the amount of international profit shifting occurring from PNG. In support of this, the ATO also provides twinning expertise with the aim of establishing case selection and intelligence capability over time. The support will be in the form of short term capacity assistance transfer pricing activities consisting of two annual visits of two ATO Transfer pricing experts to PNG for a period of up to three weeks each.

Example 5 – Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ)

The Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ) GmbH is a German federal agency for international cooperation. GIZ operates in more than 130 countries worldwide and has more than 17,000 staff across the globe. GIZ mainly operates on behalf of the German Federal Ministry for Economic Cooperation and Development (BMZ) and other German ministries, states and municipalities. Additionally, GIZ is often commissioned by the European Commission, international institutions and organizations, governments, foundations as well as private sector clients.

Capacity development for partner countries is a major component of GIZ services. GIZ's support usually follows a long-term collaboration programme (several years) which has been agreed upon with the partner institution in the recipient country (e. g. Ministry of Finance). Under such a collaboration programme the categories of support provided can be long- and short-term expert assistance, including integrated or returning experts, Human Capacity Development (HCD) programmes (e.g. training, professional study strips), promotion of networking and dialogue among actors, financing, materials and equipment, etc.

GIZ has numerous bilateral and regional projects in the area of taxation in which it supports the ministries of finance and tax administrations of the partner countries (e.g. in Ghana, DRC, Nepal, Pakistan, Serbia, with East African Community, etc.) and regional tax organizations or fora (like ATAF and CIAT). The project spectrum ranges from advisory services on tax policy, organizational support (internal structure, organization of work and processes, etc.), legislative advice, implementation assistance, training, networking and dialogue. Support in the area of international taxation as well as transfer pricing is an integrated part of the long-term institutional collaboration programmes. The concrete activities follow the needs and priorities of the partner institution. GIZ programmes seldom concentrate only on one particular tax area⁴⁶. To provide the expertise required GIZ closely works with the German Federal and State Ministries of Finance and Tax Administration. GIZ has both an internal pool of experts as well as extensive network of international specialists. If there is a need for support in the area of transfer pricing the request for such support can be send to the GIZ office in the country.

⁴⁶ For example, GIZ support in the area of transfer pricing in Ghana is a part of a multi-year governance program, which includes support in tax policy, legislation, organizational support, etc.

iv) Other Providers (e.g. Educational Institutions and Commercial Providers)

In addition to the providers of transfer pricing technical assistance and capacity building resources referred to above, there are numerous other providers, such as educational institutions and commercial providers that provide transfer pricing training and/or technical assistance, such as:

- **Bloomberg BNA** - Bloomberg BNA International Tax Training organizes “intensive, classroom-based, two-day courses and one-day workshops on specialist topics” in London on transfer pricing and tax treaties and offers the same courses as in-house trainings.⁴⁷
- **International Bureau of Fiscal Documentation (IBFD)** – The IBFD has an international tax academy (ITA) which offers; open training courses on transfer pricing and tax treaties at various locations around the world, tailored in-house courses for governments, multinationals and advisory firms and online training courses and study guides (ITA Online). The IBFD also provides technical assistance and research services to governments through its government consultancy and tax research services offerings.⁴⁸
- **International Management Forum** – The International Management Forum Academy offers distance learning courses on transfer pricing.⁴⁹
- **International Tax Center (University of Leiden, The Netherlands)** – ITC Leiden offers a Master of Advanced Studies in International Tax Law that includes a 4 week course on “Transfer Pricing Rules in International Taxation” which can be taken as a stand-alone course.⁵⁰
- **Central Asian Tax Research Center (CATRC)** – CATRC is hosted by the KIMEP University School of Law (Almaty, Kazakhstan) and aims to be a hub of practical and academic tax knowledge for Central Asia. CATRC offers degree and non-degree education and organizes workshops and seminars (itself and in conjunction with other universities and institutions) on tax issues, including transfer pricing and tax treaties. Members of the Central Asian Tax Research Center, together with research fellows from Kazakhstan and abroad, participate in numerous consulting projects that are mainly focused on tax policy, and also include practical tax consulting with a focus on international taxation.⁵¹

⁴⁷ See website for details: <http://www.bnai.com/training/default.aspx>

⁴⁸ See website for details: <http://www.ibfd.org>

⁴⁹ See website for details: http://www.imfacademy.com/areasofexpertise/tax/Transfer_Pricing.php

⁵⁰ See website for details: <http://www.itc-leiden.nl/>

⁵¹ See website for details: <https://sites.google.com/site/catrczk/>

Annex 1 -Contact Details

- **African Tax Administration Forum**
Website: <http://www.ataftax.net/>
Contact: see website for details
- **Agenzia delle Entrate (Italian Revenue Agency)**
Website: <http://www.agenziaentrate.it>
Contact: Giammarco Cottani, Advisor to the Deputy Commissioner, Central Assessment Directorate International Tax (giammarco.cottani@agenziaentrate.it)
- **Asian Development Bank**
Website: <http://www.adb.org>
Contact: see website for details
- **Australian Taxation Office**
Website: <http://www.ato.gov.au/>
Contact: see website for details
- **Bloomberg BNA International Tax Training**
Website: <http://www.bnai.com/training/>
Contact: see website for details
- **Central Asian Tax Research Center (CATRC)**
Website: <https://sites.google.com/site/catrczk/>
Contact: see website for details
- **Centre de rencontres et d'études des dirigeants des administrations fiscales**
Website: <http://www.credaf.org/>
Contact: see website for details
- **Commonwealth Association of Tax Administrators**
Website: <http://www.catatax.org/>
Contact: see website for details
- **HM Revenue and Customs (United Kingdom), International Relations and Capacity Building**
Website: <http://www.hmrc.gov.uk/intassist/index.htm>
Contact: see website for details
- **Inter-American Center of Tax Administrations**
Website: <http://www.ciat.org/>
Contact: see website for details
- **Inter-European Organisation of Tax Administrations**
Website: <http://www.iota-tax.org/>
Contact: see website for details
- **International Bureau of Fiscal Documentation**
Website: <http://www.ibfd.org/>
Contact: see website for details

- **International Management Forum Academy**
 Website: <http://www.imfacademy.com/>
 Contact: see website for details
- **International Monetary Fund**
 Website: <http://www.imf.org>
 Contact: Mr. Kiyoshi Nakayama for Fiscal Affairs Department (knakayama@imf.org)
 Mr. Victor Thuronyi for Legal Department (vthuronyi@imf.org)
- **International Tax Center (University of Leiden, The Netherlands)**
 Website: <http://www.itc-leiden.nl/>
 Contact: see website for details
- **International Tax Compact**
 Website: <http://www.taxcompact.net/>
 Contact: see website for details
- **International Tax Dialogue**
 Website: <http://www.itdweb.org/>
 Contact: see website for details
- **Organisation for Economic Co-operation and Development**
 – *Global Relations Programme*
 Website: <http://www.oecd.org/tax/globalrelationsintaxation/>
 Contact: Richard Parry (richard.parry@oecd.org) and Ubaldo Gonzalez (Ubaldo.gonzalez@oecd.org)
 – *Tax and Development Programme*
 Website: <http://www.oecd.org/ctp/wwwoecdorgtaxglobalrelationsdevelopment.htm>
 Contact: Colin Clavey (colin.clavey@oecd.org) and Lee Corrick (lee.corrick@oecd.org)
 – *Global Forum on Transfer Pricing*
 Website: <http://www.oecd.org/tax/globalrelationsintaxation/>
 Contact: Joe Andrus (joe.andrus@oecd.org) and Stefaan de Baets (stefaan.debaets@oecd.org)
- **United Nations**
 Website: <http://www.un.org/esa/ffd/>
 Contact: taxffdoffice@un.org
- **United States Department of Treasury, Office of Technical Assistance, Revenue Advisory Programme**
 Website: <http://treasuryota.us/>
 Contact: Bill Remington, Associate Director, in charge of the Revenue Advisory Programme
 (wremington@ota.treas.gov)
- **World Bank Group, Global Tax Simplification Programme**
 Website: <https://www.wbginvestmentclimate.org/advisory-services/regulatory-simplification/business-taxation/>
 Contact: Rich Stern, Programme Manager (rstern1@ifc.org)