news and developments

in the field of tax and development since june 2013

itc

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international tax compact

Welcome to the new edition of the ITC newsletter

Dear Reader,

2013 was a dynamic year regarding international cooperation in the field of tax and development. Political authorities are increasingly pushing for more international cooperation in this area as there is broad consensus that many existing problems in international taxation will only be solved through internationally binding rules which take into account the high degree of economic integration of today's world.

Countries of the North and South have realised the need for international cooperation to close opportunities for avoiding tax – often created by differences in domestic tax rules and international standards. Political initiatives, such as the renegotiation of outdated tax treaties in specific cases by the Dutch Government, underline the importance of further harmonising the domestic and international sphere of taxation.

Intensifying cooperation between tax administrations on a technical level is crucial in this context. The work of regional organisations such as the African Tax Administration Forum (ATAF) and the Inter-American Center of Tax Administrations (CIAT) – articulating the region's needs, strengthening South-South cooperation and facilitating the exchange of knowledge and best practices among tax administrations in the region – is highly relevant for the development of an international architecture of taxation which equally respects the needs of industrialised and developing countries.

The following articles provide a concise overview of the latest developments in international tax cooperation. Please note that the perspectives and opinions expressed in this newsletter are entirely those of the contributing institution and do not necessarily reflect the views of the International Tax Compact (ITC). If you have any questions or suggestions regarding this newsletter, or if you would like to contribute an article for the next issue, please do not hesitate to contact us.

Happy reading!
Best regards,
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international tax compact:
strengthening
effective, efficient and fair
tax systems

Outcome of 9th session of the Committee of Experts on International Cooperation in Tax Matters Geneva, 21–25 October 2013

The United Nations Committee of Experts on International Cooperation in Tax Matters concluded the first session of its new members, selected for the period of four years. The Committee elected its Bureau, decided its agenda of work, and set up a system of sub-committees which will carry its work forward between the annual sessions.

The Committee established the following subcommittees: (1) on Article 9 (Associated Enterprises): Transfer Pricing (with a dual mandate of providing a draft of a revised commentary on Article 9 of the UN Model Double Taxation Convention between Developed and Developing Countries and updating the United Nations Practical Manual on Transfer Pricing for Developing Countries); (2) on Tax Treatment of Services; (3) on Exchange of Information; (4) on Base Erosion and Profit Shifting Issues for Developing Countries; (5) on Extractive Industries Taxation Issues for Developing Countries; (6) on Negotiation of Tax Treaties – Practical Manual. In addition, an Advisory Group on Capacity Development was established. During its four-year term, the Committee will aim, inter alia, to produce an update of the United Nations Model Double Taxation Convention between Developed and Developing Countries, an update and enhancement of the United Nations Practical Manual on Transfer Pricing for Developing Countries, a new version of the United Nations Practical Manual on Negotiation of Double Tax Treaties between Developed and Developing Countries, and guidance on extractive industries taxation issues.

Other matters which the Committee decided to include on its agenda for the next session are: the issues of 'connected projects' under Article 5 and the physical presence requirements of that Article; the meaning of 'auxiliary' activities under Article 8 (Shipping and Air Transport) and the issue of the application of this Article to cruise shipping; the issue of conflicts of qualification and conflicts of interpretation under Article 23 (Methods for the Elimination of Double Taxation); the application of treaty rules to hybrid entities (Article 4); royalties (including equipment royalties) under Article 12; the practical implications of Article 13(4) on indirect sales of land-rich companies; taxation of development projects; corporate tax compliance and corporate governance in tax matters; and trade in goods tax issues.

Finally, the Committee agreed to hold its next session on 27–31 October 2014 in Geneva.

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Dutch government to tackle international tax avoidance

The Netherlands will improve tax transparency and update tax treaties with low-income countries and low-middle-income countries. Tax treaties with Zambia and 22 other poor countries will be revised to allow the incorporation of anti-abuse clauses where necessary. This was announced by Lilianne Ploumen, Minister for Foreign Trade and Development Cooperation, and Frans Weekers, State Secretary for Finance, in a letter to the Dutch Lower House in which they also responded to studies by SEO Amsterdam Economics (SEO) and the International Bureau of Fiscal Documentation (IBFD).[1]

The Netherlands has tax treaties with over 90 countries. The studies show that these international treaties of the Netherlands are not out of line compared to tax treaties of other countries. However, the tax treaty with Zambia, stemming from 1977, is outdated, and most treaties do not include anti-abuse clauses. Among other things, this means that their unintended use continues to be a risk in the Netherlands. A core problem, according to Lilianne Ploumen, is that *'By making use of loop-holes in tax treaties in combination with differences between national tax rules, internationally operating companies can avoid paying tax. It means that poor countries miss out on tax revenues, funds they clearly need for matters such as infrastructure and education.'*

In this context, the Netherlands wants to help developing countries put a stop to this loss, preferably by means of internationally binding measures. Frans Weekers emphasised that:

'The Dutch Government favours a worldwide tightening of the rules and greater transparency through consultations in the Organisation for Economic Co-operation and Development (OECD), G20 and the European Union. Measures taken by the Netherlands on its own cannot prevent companies from using a different route; they merely shift the problem. But there are some things we can do. And so we will focus our efforts on improving transparency.'

The Government is taking the following general measures:

- The substantial activity requirements (companies must run genuine risks in the Netherlands and the actual management of the company must be conducted in the Netherlands) will apply to more companies.
- The Netherlands will inform its treaty partners when a company turns out in retrospect not to meet the substantial activity requirements. Thanks to this improved information exchange with the source country, that country will be in a position to deny the treaty benefits to a company.
- Information exchange will also apply to particular financing companies that have obtained advance certainty.
- The tax administration will process requests for a tax ruling from holding companies (these companies receive dividends from non-residents and pay out dividends to non-residents) only if the group in which they operate has sufficient ties with the Netherlands.

The measures are complemented by specific measures aimed at low-income countries and low-middle-income countries. These are:

[1] The study is presented in the 'Analytical Work' section of this newsletter.

- The Netherlands will suggest to Zambia that the treaty, dating from 1977, be renegotiated and that anti-abuse provisions be included in the new treaty. The Netherlands will also approach the other low-income countries and low-middle-income countries to see if they wish to add anti-abuse clauses to the existing treaties. In concluding new treaties, the anti-abuse clauses they wish to incorporate will be given careful consideration in close consultation with the partner countries. As a follow-up to the IBFD study mentioned above, the tax treaties with other developing countries will be reviewed to see if they might be conducive to unintended risks of tax evasion.
- The Netherlands provides technical assistance to strengthen tax administrations in low-income countries and low-middle-income countries so that they can collect more tax revenues, reduce the number of unnecessary tax exemptions and combat tax evasion and tax avoidance. This support will be expanded wherever possible. If necessary, the Government will release extra funds for this purpose.

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Interview with Mr Logan Wort, Executive Secretary of ATAF

ITC: Domestic resource mobilisation in Africa has commonalities and differences with other world regions. What are the key challenges for African tax administrations?

Wort: Challenges arise on various levels. On the more strategic policy level, we see that tax policy decisions have an influence on the revenues collected. Examples are the costs of tax incentives, costs of administration, or opportunity costs where investment in skills is lacking.

On a more technical level, the ability to conduct domestic resource collection is obviously a critical challenge, with requirements ranging from better IT systems to more skilled personnel when it comes to specialised aspects of taxation such as transfer pricing.

Nevertheless, domestic resource mobilisation is not only about revenue collection. Africa needs the ability to mobilise the existing human capacity on the continent and leverage domestic resources, be it revenue generating manufacturers or revenue from natural resources. However, resource mobilisation must also consider the ideal 'how to', meaning the use of fair and effective measures.

And finally there is a political challenge: besides becoming less reliant on foreign aid, African countries have the unique opportunity to further strengthen the social contract between citizens and States. Africa has seen a further rise of democracies in the last 15 years – governments are increasingly forced to be accountable to their citizens.

ITC: How does ATAF address these issues, what is the concept for supporting African tax administrations?

Wort: ATAF, founded in 2009, clearly fills the gap by serving as a platform for articulating and discussing African tax priorities, considering good practices, and South-South learning activities – there have been over 27 technical events so far, including an online programme on 'Tax Audit' and (very soon) 'Tax Treaties'. Speaking of which, we have previously assisted member states with tax treaty negotiations and served as a catalyst to make the African Agreement on Mutual Assistance in Tax Matters (AMATM) possible.

Our philosophy is to always involve ATAF member states in our projects. Our home-grown research projects are participatory rather than observational, and would not be possible without good practice analyses from member states. A good example is our current study on Small and Medium Enterprise (SME) taxation in Africa, where we are in the process of analysing several countries' reform measures. ATAF's research division takes the lead and receives strong support in the design of a sound methodology from the GIZ programme 'Good Financial Governance in Africa'. We strive to support our members with access to research both on the continent and the world, and the outcome of our joint work then informs ATAF's work programme over the next years.

Since ATAF enjoys a strong sense of ownership on the part of its members, we can also initiate our own consultation processes with African countries on highly topical issues such as Base Erosion and Profit Shifting (BEPS). The international taxation rules are currently being rewritten, and developing countries must take care to not be left out of the process. ATAF is already engaged with the OECD: we aim for genuine involvement in the working groups on the BEPS process, but would also like to make sure that African political leaders are aware of what is going on. This means that – beyond the technical aspects – we also seek to inform the African Union and African ministries in charge of tax policy. ATAF wants to get involved in bridging the divide between tax policy and tax administration.

ITC: Can you give us another example of how specific requirements of tax administrations are addressed? And what were the outcomes of ATAF's intervention?

Wort: A good example is our joint IMF-ATAF training seminar for CEOs and board chairpersons of African revenue authorities in April this year. We have certainly improved the relationship between boards of tax administrations and management, informal communication networks were strengthened, and the governance and accountability structures improved.

ITC: Does the international agenda on tax and development sufficiently reflect the specific needs in ATAF member countries?

Wort: Most of what is important to developing countries is certainly included, since the agenda reflects a broad range of topics. Nevertheless, the needs of African countries in particular are still very basic and elementary. Other topics on the international tax agenda, for example, standards for the exchange of information, VAT or transfer pricing, are a huge burden on African tax administrations. Stronger financial and technical support over a significant time period is essential to allow these countries to fully participate. The barrier is generally not defective governance structure but lack of skills and infrastructure. Results are, for example, transfer pricing losses that still account for about 60% of total losses of African revenues. It is important to stress that there are many taxpayers in more developed countries that already operate in Africa. Helping to set up more effective tax administrations would eventually improve their experience and investments in Africa – rules don't help if nobody is there to implement them.

ITC: Where do you still see scope for improvement in international cooperation on tax matters?

Wort: We still see much duplication in technical support for African tax administrations, and cooperation should therefore mean first and foremost better coordination, instead of competition between projects in the very same countries. Ultimately, there is enough work to be done, and we could certainly benefit more from synergies if efforts and resources were pooled more.

The dialogue with donors and agencies involved is already very productive and regular. We should, however, build on the very good work done by the ITC, for example, with its 2010 mapping survey. This was done with a view to improve donor cooperation. The next step is still to be determined, and follow-up on this effort would be very beneficial for all stakeholders.

On a higher level, we nevertheless find it very encouraging that world leaders have emphasised the importance of domestic revenue mobilisation in recent times, and the time they have spent on dealing with these issues.

ITC: Mr Wort, we thank you for this interview.

Logan Wort, Executive Secretary of the African Tax Administration Forum (ATAF)

Logan Wort is currently the Executive Secretary of ATAF. Mr Wort is a Group Executive at the South African Revenue Service. Prior to working at SARS, Mr Wort was Chief Operating Officer at the South African National Treasury and was spokesperson for the South African Minister of Finance. Mr Wort also served as the Director of the Finance and Investment Sector Co-ordinating Unit of the Southern African Development Community (SADC).

ATAF's 1st International Conference on Tax in Africa

Heads and senior officials of tax administrations and representatives of finance ministries, business, international organisations, universities and research and journalists gathered in Victoria Falls in Zimbabwe from 25 – 27 September 2013 to discuss pertinent issues of 'The Taxation of Natural Resources' during the first International Conference on Tax in Africa (ICTA), convened by ATAF.

ICTA alternates annually with the Forum's General Assemblies and provides its member countries with a platform to discuss progress made, challenges faced and possible new directions for African tax policy and administration in the 21st Century. It also seeks to promote and facilitate mutual cooperation between African tax administrations (and other relevant and interested stakeholders) with the aim of improving the efficacy of their tax legislation and administrations. Over the three days, the meeting engaged in debates on the various types of natural resources, country experience, and debates on policy provisions for tax administrators to tax effectively what is an increasingly important sector in African development. South Africa, Kenya, Tanzania and Benin shared their experience in recruiting the appropriate skilled individuals to assist in taxation of industry. Other ATAF members noted how complex the sector is, requiring revenue administration with individuals who not only understand taxation but also the oil and gas sector, in order to provide a better taxpayer experience and relationship between the sector and administration.

Delegates also debated various initiatives in their countries towards increasing transparency in the natural resources sector, with many African countries having signed up with the Extractive Industries Transparency Initiative (EITI) to increase awareness and promote transparency. This was in line with the recommendations contained in the ATAF Good Tax Governance Report.

As usual with every ATAF high-level event, there was an exchange of ideas, sharing of experiences, and making new contacts and networking. Delegates, including from the People's Republic of China, shared experiences in taxation of the natural resources sector. International companies and multilateral organisations were also on hand to lend their voices to the debate.

ATAF members will meet again from 5 – 7 February 2014 in Johannesburg, South Africa, to debate 'Taxation of Small and Medium Enterprises as a Key Contributor to Economic Development in Africa'.

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CIAT
Technical Conference
2013

The 2013 CIAT Technical Conference took place from 9 – 12 September, under the auspices of the Kenya Revenue Authority, on the topic: 'Prevention and control of tax evasion'.

The technical sessions were held in the United Nations Building in Nairobi, Kenya. The conference was attended by a total of 50 delegations: 23 CIAT member countries, 14 invited countries, and 13 international organisations and institutions related to the CIAT.

This Technical Conference was about the most important challenge faced by tax administrations today: the prevention and control of tax evasion. Within this field, the conference focused on the role of auditing and existing practices. The conference was organised around three main topics: tax auditing in the digital age, presumptive taxation and the use of third-party information, and specialised control in critical sectors (gas, oil and lubricants; mining, and telecommunications).

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Discussing Regional Integration and Cooperation in Tax Administration in Africa

On Friday 13 September 2013, IFC (the World Bank Group), CIAT, ITC and ATAF jointly organised a workshop on 'Regional Integration and Cooperation in Tax Administration' in Nairobi, Kenya. The workshop discussed various issues including:

- What does Regional Integration mean for tax administrations within a common market?
- Why does Regional Integration matter for tax administrations?
- How can tax administrations help in the process of integration?

Kicking off the day-long workshop, the World Bank Group presented the 'Experience of the East African Community (EAC) tax harmonisation programme – role of tax administrations'. The subsequent panel enriched the seminar with a perspective from Latin America, discussing the issue of regional integration and trade blocs in Latin America and the Caribbean. The panel discussion showed that, while customs harmonisation has worked in Latin America, harmonisation of domestic taxes has not met with success. The workshop went on to discuss the 'International Standard for Electronic Invoicing', and the benefits to regional integration from a tax administration and commercial perspective.

Finally, the workshop deliberated the merits and usefulness of South-South cooperation, and discussed ways and means for taking it forward. The workshop agreed that the organisation of such events is itself an outstanding example of genuine South-South cooperation, and CIAT, IFC – The World Bank Group, and ITC agreed to continue to act as partners in the future.

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Civil society groups meet in Cairo

The project 'Capacity for Research and Advocacy for Fair Taxation (CRAFT)' organised two global meetings funded by the International Tax Compact (ITC), in Cairo in June 2013: the 1st CRAFT stakeholders meeting to support movement building around tax justice in the Middle East and North Africa (MENA), and the 2nd global training session of the CRAFT project.The meetings were hosted by the Egyptian Centre for Social and Economic Rights (ECESR).

A major achievement of the MENA meeting was the establishment of a committee of three representatives (ECESR Egypt, Al Marsad Palestine and ANND) to develop a draft regional vision and action plan for a regional MENA tax justice network. Across the region, it is felt that after the Arab spring many new loans are being provided to the new governments in the region with a variety of tax conditionalities attached. This needs careful study.

Moreover, why pay taxes when a large portion of the government budget goes to servicing the newly-acquired debt? One year after the Egyptian revolution, the new government has accumulated eight times more debt than in ten years under Mubarak. The situation in Tunisia seems similar.

The second global training session was very well received by 28 participants from 14 countries. The three training modules developed in the CRAFT project were the basis for the training session. These provide basic insights in taxation, more advanced concepts, and tax advocacy strategies. The VPRO Backlight documentary 'The Tax Free Tour' also made quite an impact on participants. The global CRAFT meetings and training sessions are followed up at national level by research (baseline and action – all countries, the studies from Senegal and Ghana are attached), training (so far national training sessions have been organised in Uganda, Mali and Ghana, preparations have been made for Nigeria and Bangladesh); civic education; policy advocacy and alliance building.

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Analyzing taxation of high incomes for reducing inequality in Latin America

At the workshop on inequality and high income tax held in Montevideo, Uruguay, on 1–2 October, representatives from governments and academia discussed the tools available to Latin American countries to tax high incomes and improve equitable distribution.

The workshop was organised by the Economic Commission for Latin America and the Caribbean (ECLAC), along with the Spanish Agency for International Development Cooperation (AECID) and Uruguay's Centre for Fiscal Studies (CEF).

In his opening statement Fernando Lorenzo, Uruguayan Minister of Economy and Finance, stressed that the issue of taxation of high incomes 'inevitably refers to the structure of income distribution and how tax instruments are able to affect that phenomenon'. Further elaborating on this aspect, the Director of ECLAC in Montevideo noted that 'the main feature of Latin American inequality is that a large amount of income is concentrated within a small number of families'. That is why 'greater taxation would bring more resources for social programmes and would improve society's perception of the effects of tax policy on equitable distribution'.

The workshop resulted in a number of observations and preliminary conclusions. Participants shared the view that, even though there has been significant progress in analysing the complex links between high incomes, the distribution of wealth and their contribution to income tax collection, there is still a long way to go. Particularly with regard to Latin American countries, these analyes are very recent and few. Further investigation into which tax reforms are still pending in Latin America to increase tax collection among high income groups is necessary to improve the distributive impact in the countries of the region.

The workshop's participants agreed that it is essential in order to contribute to filling this gap, to further study the participation of the richest households and individuals in distribution and to improve existing information by incorporating new analysis tools, such as adjustments for income underreporting or data from tax returns.

For additional information, please visit ECLAC's homepage at:
http://www.cepal.org/cgi-bin/getProd.asp?xml=/uruguay/noticias/noticias/9/51079/P51079.xml&xsl=/uruguay/tpl/p1f.xsl&base=/uruguay/tpl/top-bottom.xsl

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International experts and academia discuss new research fields in the area of tax and development

On 25–26 September 2013, the German Development Institute (DIE) organiszed it's Third International Workshop on 'Mobilising domestic revenue in developing countries'. The event was attended by participants from international organisations (IMF, OECD, World Bank, IADB, ECLAC, ADB), universities and research institutions (Germany, UK, Netherlands, Bangladesh, Chile) and German development institutions (BMZ, GIZ and KfW).

Opening the workshop, the IMF emphasised three major issues in taxation and development. Firstly, linking taxation to spending is the key to improving the effectiveness of pro-poor public policies. Secondly, it is necessary to further strengthen cooperation in tax matters and address regulatory deficiencies at an international level. Finally, governments need a better understanding of informality in order to tackle informality more efficiently and improve tax compliance.

The subsequent panel discussions and presentations focused on new research fields in the tax and development agenda, vulnerability and resilience factors of tax revenues in developing countries, and performance measurement in tax administrations. The workshop also discussed the impact of regime on tax policy choices in a context of global tax competition, and regional challenges in taxation and development. The discussions emphasised that this field of research has seen some progress in recent years. However, important gaps remain, especially in terms of systematically analysing the effect of political factors and providing reliable data series.

The detailed agenda together with most of the presentations can be downloaded from the DIE Domestic Revenue Mobilisation project website at:
http://tinyurl.com/TaxProject

For additional information, please contact Armin Schiller: **armin.schiller@die-gdi.de**

Taxation in ASEAN countries: ITC Workshop in Bangkok

The Revenue Department of Thailand hosted an ITC Workshop in Bangkok from 3 – 5 July 2013. The tax systems of six participating ASEAN countries were surveyed in 2012 by the ITC to inform pilot studies in the ASEAN region with a view to identifying the key areas for regional and international cooperation. The workshop in Bangkok discussed the results with the participating countries: Cambodia, Indonesia, Lao PDR, the Philippines, Thailand and Viet Nam.

International taxation which incorporates the areas of transfer pricing, double tax treaties and the exchange of information was identified by the surveys and participating countries as an important area for cooperation. Transfer pricing was identified as a priority topic by the participating counties to ensure that they receive an appropriate share of tax from cross-border transactions.

The implementation of transfer pricing measures involves enacting transfer pricing legislation and establishing transfer pricing capability which includes auditing and advising taxpayers. An interesting result of the surveys and workshop is that one of the participating countries has strong transfer pricing measures and a transfer pricing capability which would enable it, with support, to take a lead local role in assisting the other participating countries through future dialogue and cooperation.

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USAID's Review of Leading Tax Administration Practices

Despite considerable economic and social advances in the region, many Latin American and Caribbean governments struggle to collect sufficient tax revenues to provide critical goods and services to their citizens.

In a new book, **Detailed Guidelines for Improved Tax Administration in Latin America and the Caribbean**, the U.S. Agency for International Development (USAID) provides guidance on each of the functions of an effective tax administration (e.g., registration, filing and payment, audit, collections, etc.). The book aims to enable government officials and assistance providers to understand leading practices in tax administration, pinpoint areas with potential for improvement, and identify steps for moving forward.

The publication is comprehensive and detailed. Each chapter explains leading practices and trends in its respective area, illustrates the practices of tax administrations at various stages of development, and presents key benchmarks to measure performance. Although selected sections focus on Latin America and the Caribbean, the majority of the content is applicable across the world.

All materials are available for free in English and Spanish, in both PDF and eBook (MOBI and EPUB) formats on US AID's homepage:
http://www.usaid.gov/where-we-work/latin-american-and-caribbean/tax-administration

For additional information on the book or US AID's work in Latin America and the Caribbean, please contact Douglas Pulse: **dpulse@usaid.gov**

ITC – GIZ – CIAT Study on 'General Aspects of the inflation effects on transfer pricing adjustments processes.'

As a result of the collaboration between ITC, GIZ and CIAT, it has been possible to conclude an unprecedented work for the international tax community regarding the main effects of inflation on the processes of setting and adjusting transfer prices.

The objective of this exploratory work is to analyse if the most widely accepted methodologies for determining if transfer prices are set among related parties according to market values, and if they are appropriate when the company examined is located in a country with an inflationary economy.

In the present study several questions are discussed, including whether inflation is a factor that needs to be taken into account in the comparability analysis. If such is the case, can the inflation-ary effects be corrected by comparability adjustments? Does inflation have the same influence in all methodologies? Can we talk about acceptable inflation levels within the methodologies? Can we assume that above certain inflation levels (i.e. in the case of hyperinflation) the methodologies no longer suit the situation?

This work has been coordinated by CIAT's Cooperation and International Cooperation Directorate, with experts from various countries in the region and the tax administrations from Chile, Spain, Mexico, Peru, Dominican Republic, Uruguay and South Africa, which provided information on legal and procedural aspects.

For further information, please contact Gonzalo Arias: **garias@ciat.org**

ITC Study on Information and Communication Technology in Tax Systems

Information and communication technology often plays a key role in tax administration reforms leading to better taxpayer service, greater administrative efficiency and more tax revenue. An ongoing ITC study is looking at this subject, with a focus on experience in developing countries.

The first phase of the study has recently been finalised. It provides an analysis of eleven different integrated tax administration systems, both Commercial-Off-The-Shelf (COTS) and non-COTS, and benchmarks the functionality of each solution vis-à-vis the main components of a tax administration capability model.

The study also draws on the experience of 13 countries in Africa, Asia and Latin America in implementing integrated IT solutions in their respective tax administrations. Finally, there is an overview of donors and facilitating organisations supporting the automation of tax administrations in developing countries.

The second phase of the study will be conducted in the coming weeks and will provide an in-depth analysis of four countries that have implemented comprehensive IT modernisation programmes of their tax administrations.

The ITC study had been commissioned by KfW in close co-operation with GIZ, with funding from the German Federal Ministry for Economic Cooperation and Development (BMZ), and benefited from highly valuable inputs from the IMF, CIAT and others.

ITC partners who are interested in the first phase report and/or in sharing their experience with IT projects in tax administration can contact

MajaBott: **maja.bott@kfw.de**
and Jonas Blume: **jonas.blume@kfw.de**

at KfW's Sector and Policy Division Governance.

Study of the features susceptible for unintended use in the tax treaties between the Netherlands and selected developing countries

In August 2013, the International Bureau of Fiscal Documentation (IBFD) submitted a report to the Netherlands Ministry of Foreign Affairs analysing a number of tax treaties concluded by the Netherlands with developing countries. The aim of the research study was to analyse to what extent tax treaties concluded by the Netherlands with a number of developing countries give room for unintended use of the treaties.

The IBFD analysis reveals that the tax treaties concluded by the Netherlands with selected developing countries are in general similar to the same conventions that other developed countries have ratified.

However, many of the tax treaties concluded in the past do not contain the anti-abuse provisions, which make the fight against improper use of a tax treaty more difficult. Incidentally, the question arises to what extent the sole introduction of anti-abuse provisions, either in the tax treaty or under the national law of the relevant developing countries, will be sufficiently effective.

The Netherlands has an extended network of tax treaties, which could explain the attractiveness of the Netherlands as a state for establishment of so-called intermediate companies. The attractiveness of the Netherlands is also due to the quality of the Dutch tax authorities and the political and economic stability.

Moreover, the existence of the participation exemption in the Dutch tax law, the absence of withholding tax on outbound interest and royalty payments, and the Dutch Advance Pricing Agreement (APA) / Advance Tax Rules (ATR) practice are other factors which cannot be neglected. However, tax authorities in developing countries which are (re)negotiating treaties or applying treaties within the national legal framework have limited insight into such a complex landscape.

The analysis therefore suggests that strengthening the negotiation skills, administrative capacity within the administration, insights into the application of anti-avoidance measures and tax planning techniques is not only desirable but necessary.

For further information, please contact Anna Bardadin: **a.bardadin@ibfd.org**

The Tax Justice Network's 2013 Financial Secrecy Index

Political corruption and tax evasion continue to have appalling consequences for developing countries. Financial secrecy plays an important role in facilitating corruption and tax flight on an international level. While international political discourse tends to place much of the blame on so-called 'tax havens', the Financial Secrecy Index (FSI) reveals that the most important providers of financial secrecy are some of the world's biggest and wealthiest countries, where private financial wealth is ultimately located.

On 7 November, 2013 the Tax Justice Network (TJN) published its third edition of the FSI, which is available at **http://www.financialsecrecyindex.com/**. The FSI is the most comprehensive global survey of financial market secrecy, covering 82 jurisdictions. It combines a secrecy score with a weighting of each jurisdiction's market share in the global financial market in order to identify the biggest contributors to global financial secrecy.

In contrast to popular listings of tax havens, the FSI relies on verifiable, comparable and transparent criteria to assess a jurisdiction's secrecy score, placing each on the 'secrecy spectrum' ranging from excessively secretive to moderately secretive. In this way, the FSI overcomes the political bias behind most black or white lists, and identifies the need for essential reforms in many of the world's richest countries in order to re-establish the integrity of the international financial system and make it work for the poorest people on the planet.

For more in-depth information, a complete database report for every jurisdiction is available at: **www.financialsecrecyindex.com/introduction/fsi-2013-results**

For further information, please contact Andres Knobel at **andres@taxjustice.net**


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