Sixth Meeting of the OECD Forum on Tax Administration

15-16 September 2010

Istanbul Communiqué

CTPA

September 2010

OECD

Istanbul Communiqué

16 September 2010

We, the Heads of revenue bodies from 42 economies, met in Istanbul, Turkey on 15 and 16 September 2010 for the sixth meeting of the OECD's Forum on Tax Administration (FTA).

The economic backdrop against which we currently manage revenue administration is still fragile but there appear to be indications of emergence from the worst economic crisis for many decades. Governments across the world have a legitimate expectation that public sectors as well as private sectors will play important roles in helping to facilitate a return to robust economic growth. We are intent on ensuring that revenue bodies play their part through delivering revenue from improved compliance, including through facilitating a constructive dialogue with key stakeholders, and contributing to a regulatory environment which is supportive of enterprise and which also underpins public confidence in revenue administration. We committed ourselves to intensify our international cooperation to achieve these goals.

To take forward our discussions we commissioned, from project teams composed of subject experts nominated by FTA participating countries, reports on key issues related to international tax compliance and taxpayer services.[1] We asked these teams to give particular attention to identifying ways in which international tax compliance could be further improved.

FTA Projects to support strategies to improve compliance and taxpayer services

- Offshore compliance - renewing our collective focus on offshore compliance.
- Joint Audits - moving beyond cooperation to coordinated action designed both to boost international tax compliance and reduce costs for taxpayers and revenue bodies alike.
- Working with banks to improve tax compliance
    - Losses from the financial crisis – how revenue bodies and banks should deal with the tax risks relating to these losses.
    - Designing a Framework for a Voluntary Code of Conduct to improve tax compliance by banks and to improve transparency between banks and revenue bodies and which can be used at the national level where revenue bodies and banks wish to do so.
- High Net Worth Individuals – sharing experiences and expertise on tax compliance by this taxpayer group.
- Taxpayer Services - reviewing cutting edge developments in the electronic delivery of taxpayer services, and surveying initiatives to reduce administrative burden, particularly on businesses.

[1] The following reports were put on the OECD website today:
- *Joint Audits Report*
- *Voluntary Code of Conduct for Revenue Bodies and Banks*
- *Addressing Tax Risks involving Bank Losses*

Progress made in FTA Projects

Since our May 2009 Paris meeting we have worked together on several fronts to achieve better compliance. In particular, we have sought out and prepared the ground for initiatives to achieve better tax compliance.

i) **Renewing our collective focus on improving offshore tax compliance.**

We have given particular attention at this meeting to considering how our administrations can cooperate more closely in confronting offshore non-compliance, including undertaking multilateral actions, and intend to continue this dialogue. Many countries have serious concerns about offshore non-compliance and want to identify their taxpayers who have hidden money or assets offshore. A recent survey by the FTA identifies over 190 offshore compliance initiatives which have yielded billions of dollars of uncollected tax for government. Revenue bodies also recognise the need to identify the beneficial owners of complex structures. In this regard, several countries have implemented initiatives to address this issue.

We plan to increase international cooperation by putting renewed emphasis on programmes to recover revenues lost through offshore arrangements and to ensure that offshore arrangements no longer offer an avenue of escape from legitimate taxation. We recognise that the adoption of the international standard on information exchange developed by the OECD and now used in bilateral tax treaties and in tax information exchange agreements and the existence of the expanded multilateral *Convention on Mutual Administrative Assistance in Tax Matters* offers significantly enhanced tools for cooperation between revenue bodies – over 500 Agreements incorporating the standard have been signed since our last meeting.

We recognise the important role played by banks as intermediaries and in particular the significance of this role in relation to the offshore compliance of their clients and the ability of portfolio clients to access their entitlement to treaty benefits. We also are encouraged to note the efforts revenue bodies are making to build legal frameworks and technology platforms for (1) facilitating access to treaty benefits for portfolio investors and (2) enabling improved compliance through facilitating exchanges of information between countries in relation to the income and assets of their residents. We note the ongoing work in this area by the OECD[2] and the European Union.

In this more transparent environment, we see an opportunity for revenue bodies to achieve a significant long-term improvement in compliance by individuals. We have catalogued and shared our experiences of initiatives designed to detect offshore non-compliance. We have identified successful unilateral strategies as well as constraints faced by revenue bodies in replicating those strategies and we have explored how multilateral strategies might be used to deal with non-compliant individuals and their advisors. We have discussed initiatives to encourage voluntary disclosure by taxpayers of previously undisclosed offshore income and assets[3], country experiences of sourcing information from banks and other data depositories, how revenue body staff can make effective use of the tools for information exchange in case work and the possible operational strategies which can be used to target offshore risks. We have decided to establish a multilateral network to enhance opportunities for the sharing of experiences and best practices at the operational and strategic levels.

---

2 See "*Treaty Relief and Compliance Enhancement*"(TRACE)

3 *Offshore Voluntary Disclosure: Comparative analysis, guidance and policy advice*, September 2010, OECD.

ii) Moving beyond cooperation to coordinated action in managing international tax risks through joint audits

We also agreed that putting greater emphasis on joint audits can be an important means of increasing international coordination. Audits of internationally operating businesses and globally active high net worth individuals have traditionally been carried on separately or simultaneously which could lead to an increased burden on businesses, individuals and governments. Joint audits are one way of reducing this burden. In the future taxpayers will encounter joint audits between FTA participating countries. Joint audits go beyond simultaneous audits. A joint audit is a process where two or more countries join together to carry out a single audit of a taxpayer, with all countries receiving the same information and presentations from the taxpayer. If fully realised, joint audits could have the potential of both boosting international tax compliance and reducing costs for taxpayers and revenue bodies alike.

To support coordinated action through joint audits we are today publishing a report and a practical Guide intended to inform tax auditors and their strategy teams. The Guide highlights best practice for joint audit procedures and the roles of each participant involved in joint audits accelerating the audit process and providing certainty sooner. By conducting a fully-coordinated audit between participating countries, we aim to enhance compliance with tax rules, as well as to reduce taxpayers' burden of multiple countries conducting separate audits.

We noted that, in the past, coordinated audit activity was primarily carried out under the exchange of information provision in tax treaties or under the EU Mutual Assistance Directive or Nordic Assistance Convention which enabled closer cooperation for countries which are parties to these agreements. However, in addition we now have a truly multilateral convention which provides a further basis for enhanced cooperation and does, subject to the applicable domestic laws, form a framework for joint audits. We are intent on ensuring that greater cooperation on international tax risk analysis between FTA countries emerges as a major response to the new global environment in which revenue bodies operate.

iii) Working with banks to improve compliance

In our 2009 Report on *Building Transparent Tax Compliance by Banks,* we identified actions that need to be undertaken to foster and improve transparent tax compliance by banks. Today in Istanbul, we are publishing two new reports which we commissioned focusing on tax risks in this sector.

The first report addresses tax risks associated with the losses of at least $700 billion incurred by the banking sector during the financial crisis and considers how banks and revenue bodies should deal with these risks. The scale of those bank losses in some countries, and the potential regulatory capital, profit and cash-flow benefits for banks able to convert them into cash, mean that revenue bodies must be alert to potential tax compliance risks as a result of aggressive tax planning involving losses. The report contains a number of recommendations to reduce these risks e.g. on real time engagement, improved disclosure, and better international and domestic co-operation. We intend this report to inform FTA countries' risk-analysis programs and to identify situations which are best addressed through cooperation with banks, with regulators, and between countries' revenue bodies, e.g. using joint audits where appropriate. We will continue to use the outputs from the OECD work on aggressive tax planning which provides real time information on emerging aggressive tax planning and equally important identifies strategies which can counter such arrangements.

We have approved for publication a study by a team under the leadership of the United Kingdom and South Africa which proposes a Framework for a Voluntary Code of Conduct to guide relationships between banks and revenue bodies in countries that choose to adopt it. For countries interested in this approach we see this Framework as offering a platform to build on initiatives for enhanced engagement which have been undertaken in a number of FTA countries. The Code provides a Framework for constructive two-way dialogue between banks and revenue bodies built on transparency and openness and includes a commitment by banks not to use or promote aggressive tax planning. Revenue bodies will continue to have in place effective enforcement strategies to deal with banks not prepared to deal with transparency and disclosure in relation to their tax strategies.

iv) High Net Worth Individuals

We have set up a network of experts in our countries to enable us to share experiences and expertise with respect to the tax compliance of high net worth individuals (HNWIs). The network has shared information on trends in dealing with HNWIs strategies implemented to counter aggressive tax planning by HNWIs, organisational responses to deal with tax risks posed by HNWIs, co-operative strategies and voluntary disclosure initiatives regarding past non-compliance by HNWIs. We intend to continue sharing information and welcome the participation of other countries in this initiative.

v) Taxpayer Services

We are committed to ensuring that our cooperation also extends to taxpayer services and have reiterated our wish to see continuous improvement of these services in all our countries.

We have commissioned a project to identify best practice in making repayments and tax credits available to taxpayers in a ways which can balance speed and integrity. This project will be completed later in the year. We are confident that the findings will assist revenue bodies to strike the appropriate balance between the needs of taxpayers to access repayments speedily and the need to prevent revenue loss resulting from fraudulent claims.

We have recently published a review of cutting edge developments in the electronic delivery of taxpayer services across the world and are confident that this will allow revenue bodies to plan future service delivery strategies informed by the newest technologies. We continue to be conscious of the administrative burden of tax compliance. In this context we have in recent months conducted and made available to FTA countries a survey covering twenty countries' initiatives to reduce the administrative burden[4], particularly that of the business community.

[4] *Information note - Programmes to Reduce the Administrative Burden of Tax Regulations - Follow up report*

Progress made on other initiatives

(i) We will continue to facilitate a constructive dialogue with key stakeholders

We engaged today with heads of tax in global accounting firms as part of our continuing dialogue with taxpayers and tax intermediaries. In prior meetings[5], we concluded that establishing an enhanced relationship with taxpayers, leading to a cooperative approach to compliance, was one of the options for achieving improved compliance. Prior work focused on the tripartite relationship between taxpayers, revenue bodies and tax intermediaries and underlined the importance of mutual trust, transparency and understanding in underpinning these enhanced relationships. We intend to share experiences of revenue bodies which have chosen this as one route to improved compliance with both businesses and tax intermediaries. We continue to publicly promote a collaborative approach as we understand that strengthening our relationships with taxpayers to promote and to facilitate cooperative compliance arrangements will improve tax compliance.

(ii) We will continue to research and innovate in our approach to SME compliance

We have cooperated in recent years in ensuring that good practice and experiences of successful innovation in relation to small and medium enterprises (SME) compliance are catalogued and shared among us through a sub-group specialising in this taxpayer segment. We are satisfied that this sharing of experiences has been, and will continue to be, a factor in compliance improvement in this sector.

(iii) We will continue to promote strong corporate governance in the area of tax

We remain committed to engaging with business and with regulators and other agencies responsible worldwide for the development of corporate governance codes and guidelines, to work towards ensuring that the oversight of tax risk by corporate boards is recognised as a principle of good corporate governance. Our experience has shown that corporate boards of directors need to be aware of the reputational and financial risks associated with tax non-compliance and aggressive tax planning, and establish policies and controls for assessing this risk. Building on the experience of a paper presented to our 2009 Paris meeting (*Corporate Governance and Tax Risk Management*), which outlined the experience of three countries in linking tax to governance, we have formed a project group to further develop this work.

We welcomed the constructive engagement of the private sector in developing these projects, including businesses from the banking and technology sectors, as well as other industries. The FTA seeks to enhance, whenever possible, the value of its work products by considering private sector perspectives.

---

5 FTA Cape Town Communiqué: *www.oecd.org/dataoecd/26/43/39886621.pdf* ; FTA Paris Communiqué *www.oecd.org/dataoecd/29/12/42885057.pdf*

(iv) We will continue to support tax administration in developing economies

We are convinced that effective tax administration is a core contributor to domestic resource mobilisation in developing countries. We recognise that the environment in which tax administration is conducted in many developing countries is different to that experienced by FTA countries. We are nevertheless satisfied from our interaction with colleagues in these countries that the shared experience of FTA countries and the guidelines issued by the FTA are potentially a valuable contribution to strengthening the capacity of all revenue bodies to improve compliance. We expressed our support for the Task Force on Tax and Development, a joint OECD Committee on Fiscal Affairs (CFA) – Development Assistance Committee (DAC) initiative aimed at realising the full potential of tax policy and administration in growing the economies of developing countries. In particular we intend to continue to support our sister forum, the African Tax Administration Forum (ATAF).

****

We expressed our thanks to all those who have led and contributed to the studies on which our discussions were based.

We expressed our appreciation to the Turkish government and to the Presidency of Revenue Administration of Turkey for hosting this sixth meeting of the Forum on Tax Administration.

Finally we welcomed the offer of Brazilian Federal Revenue Secretary Cartaxo to host the 7th meeting of the FTA in Brazil on 18-19 January, 2012.

****

ANNEX I

KEY FINDINGS FROM REPORTS

1. Joint Audit Report and Participant Guide

1. The study was commissioned to examine how, in the light of the increase in cross-border activities and investments of business entities and individuals, international coordination and collaboration could be advanced through the use of joint audits.

2. A joint audit is where two or more countries join together to form a **single audit team** to examine an issue(s) or transaction(s) of one or more related taxable entities or persons.

- The main objectives of joint audits include:
    - Reducing the burden for taxpayers of multiple countries of being subjected to audits on the same or similar issues.
    - Improving case selection by mutual risk identification and analysis.
    - Reaching joint/mutual agreement on audit results to avoid double taxation.
- Joint audits can, subject to the applicable domestic laws, contribute to:
    - enhancing the tax compliance of multinational companies.
    - more effective management of tax issues in real time.
    - the provision of certainty for taxpayers.
    - the development of enhanced relationships between revenue bodies and taxpayers.
    - more effective challenges to taxpayers who push legal boundaries and rely on lack of transparency in cross-border transactions.

2. Framework for a Voluntary Code of Conduct for Banks and Revenue Bodies

- There are concerns about the tax compliance of some banks despite proposals set out in the earlier FTA reports *Study into the Role of Tax Intermediaries* and *Building Transparent Tax Compliance by Banks*.

- The new study developed a framework for a voluntary code of conduct for banks and revenue bodies as a means through which revenue bodies, wishing to engage with banks on this basis, can work cooperatively. It sets out commitments for the bank and revenue body in countries which choose to enter into agreements under the code.

- The framework must be based upon a relationship characterised by transparency, openness and trust which can permit a constructive two way dialogue.

- It also requires reciprocal commitments from the bank and the revenue body.

- Whether or not a country considers the need for a voluntary code of conduct for banks will depend on the existing relationship between the banks and the revenue body and the country's existing legislative and regulatory framework.

3. Addressing Tax Risks Involving Bank Losses

- As a result of the financial crisis a large number of banks have sustained substantial losses reflected in write downs globally of USD 1.3 trillion to January 2010. Whilst there is no reliable publicly available information on the likely extent and fiscal cost of bank's tax losses; deferred tax asset statements in banks' published accounts suggest that the stock of realised and unrealised tax losses may be at least USD 700 billion.

- The extent of governments' tax exposure to banks tax losses and to potential aggressive tax planning involving these losses will depend to a large extent on the likely availability of future profits against which those losses can be offset.

- There are indications that it may take 3-8 years for the overall stock of bank losses to be utilised by banks.

- Country rules differ in the extent to which write-downs and losses on bank's loans and securities are recognised for tax purposes. There are also wide variations in country rules giving relief for overall tax losses. This gives rise to potential international tax planning opportunities.

- There is some evidence of tax planning by banks primarily aimed at maximising the recognition of tax losses for regulatory capital purposes.

- Losses give rise to various tax risks for banks, mainly related to certainty. Banks expect to receive tax relief for commercial losses, including appropriate loss carry-back. However, they are conscious of the restrictions in the rules and are concerned about potential future uncertainty.

- The report makes a number of recommendations for both revenue bodies and banks on how risks involving bank losses can best be managed and reduced.

ANNEX 2

FTA VISION

The Forum on Tax Administration (FTA) vision

The FTA vision is ***to create a forum through which tax administrators can identify, discuss and influence relevant global trends and develop new ideas to enhance tax administration around the world.***

Within the context of a global economy, rapid technological change and fiscal challenges for government, the forum aims **to improve taxpayer services and tax compliance -** by helping revenue bodies increase the efficiency, effectiveness and fairness of tax administration and reduce the costs of compliance.

The FTA achieves this vision and aim through the engagement of participating countries by:

- Providing **a unique global forum** where the heads of revenue bodies and their teams can share experiences and expertise on tax administration issues.
- Harnessing the collective strength of participating revenue bodies and, where appropriate, speaking with one voice and developing **joint programmes of action** on key tax administration issues.
- Developing and promoting **world class products and standards** on high integrity, effective, efficient and fair tax administration.
- Engaging in **dialogue with key stakeholders** (including business and individual taxpayers, tax intermediaries, tax policy makers and financial regulators) and supporting parallel dialogue at a national level.
- **Promoting co-operation between countries** and working co-operatively with other OECD fora, international and regional tax organisations.

****

Objectives

Building on from the FTA's vision and aims, and in response to the challenges and opportunities presented by the global tax environment, the objectives of the FTA over the next five years are:

1. To **inform revenue bodies' strategic planning and decision-making** by:

   - Providing a platform to envisage the future. The FTA brings together perspectives from across the world on emerging global trends (economic, societal and political) and their impact on tax administration.

   - Undertaking comparative analyses, identifying and promoting good practice.

2. To **increase public trust in the fairness of tax administration** by promoting the core values which underpin the work of revenue bodies and the essential role of tax in providing the financial basis for all public spending. These core values include: impartiality; integrity; openness and transparency; accountability and excellence in programme delivery.

3. To **further develop capability** within revenue bodies by**:**

   - supporting the identification, development and promotion of appropriate programmes to develop the expertise of tax administration staff, recognising that those who work in tax administrations are key to delivering the FTA's vision; and

   - providing mutual support and sharing the experiences of implementing the strategies, organisational structures, integrity frameworks, knowledge and information systems, business operations and technologies which are the building blocks of modern effective tax administrations.

4. To **develop innovative approaches to tax compliance and service issues,** including in response to key international risks.

5. To **support and strengthen both global and national level dialogue with key stakeholders** (including business and individual taxpayers, tax intermediaries, tax policy makers and financial regulators) in order to promote important tax administration issues, including:

   - improved relationships with these stakeholders;

   - the reduction of unnecessary administrative burdens;

   - increasing transparency from revenue bodies, taxpayers and tax intermediaries; and

   - the role of tax compliance as an essential element of good business governance.

6. To **take, where appropriate, a leadership role in influencing the global response to developing countries' requests for assistance with capability building in tax administration.** To achieve this, the FTA will increase its understanding of the needs of developing countries in the area of tax administration and share relevant FTA products, experience and expertise. The FTA will work through existing OECD programmes (including Global Relations and the International Tax Dialogue) as well as in co-operation with other international and regional bodies.

ANNEX 3

COUNTRIES AND ORGANISATIONS PARTICIPATING IN THE SIXTH MEETING OF THE OECD FORUM ON TAX ADMINISTRATION AND NAMES AND COUNTRIES OF CURRENT CHAIR AND VICE-CHAIRS

FTA Participating Countries: Australia; Austria; Belgium; Canada; Chile; Denmark; Estonia; Finland; France; Germany; Hong Kong, China; Hungary; India; Ireland; Italy; Japan; Korea; Luxembourg; Malaysia; Mexico; the Netherlands; New Zealand; Norway; People's Republic of China; Poland; Russian Federation; Singapore; Slovenia; South Africa; Spain; Sweden; Switzerland; Turkey; United Kingdom; United States of America.

FTA Participating Organisations: European Commission (EC); Inter-American Centre of Tax Administrators (CIAT); International Monetary Fund (IMF); Intra-European Organisation of Tax Administrators (IOTA).

Observer Countries: Azerbaijan; Gabon; Indonesia; Kosovo; Morocco; Saudi Arabia; Senegal.

FTA Chair: Mr Douglas H. Shulman, United States of America.

FTA Vice Chairs: Mr Michael D'Ascenzo, Australia; Mr Jean-Marc Fenet, France; Mr Dave Hartnett, United Kingdom.