



United  
Nations

Department of  
Economic and  
Social Affairs



## Concept Note

### UN-WATAF Workshop on Fundamental Principles of Transfer Pricing

### The Gambian Revenue Authority

09-11 November, 2022

#### Background

The Financing for Sustainable Development Office of the United Nations Department of Economic and Social Affairs (FSDO/UNDESA) and the West African Tax Administration Forum (WATAF) are organising a **Workshop on Fundamental Principles in Transfer Pricing** for government officials in The Gambia. This workshop is intended to strengthen the capacity of the Gambia in dealing with the pricing of cross-border related party transactions (transfer pricing).

“Transfer pricing” is the general term for the pricing of cross-border transactions in goods, intangibles, or services taking place between related parties. It has attained the interest of a broader global audience that is concerned with equitable fiscal policy and sustainable development, as transfer prices may be manipulated to shift profits from one jurisdiction to another to lower a company’s overall tax position.

Pricing cross-border related party transactions represent one of the main challenges for developing countries when dealing with international tax issues, as the potential for profit shifting is great and tax authorities are faced with limited resources and training in such a specialised area of taxation.

The generally accepted principle applied in the pricing of cross-border related party transactions is the arm’s length principle, i.e. the price charged in a transaction between related enterprises should not differ from prices charged in third-party transactions/transactions taking place between independent enterprises under comparable circumstances. The arm’s length principle provides the legal framework to govern cross-border intragroup transactions and to ensure appropriate tax revenues for governments, by countering profit shifting; and avoiding double taxation of company profits.

As transactions within a multinational enterprise group may span different jurisdictions, efforts have been made, both at the national and international level, to apply and interpret the arm's length principle consistently across countries – to avoid cases of double taxation or double non-taxation. The international community has therefore collaborated to create guidance on the appropriate interpretation of the arm's length principle. This guidance is found in two important sources, the [United Nations Practical Manual on Transfer Pricing for Developing Countries](#)<sup>1</sup> and the [OECD Transfer Pricing Guidelines for Multinational Enterprises and Tax Administrations](#)<sup>2</sup>. The UN Manual and the OECD Guidelines are generally consistent on transfer pricing issues. The UN Manual differs from the OECD guidelines primarily in its focus as it provides specific guidance on practical and policy challenges typically encountered by developing countries.

The guidance in these two sets of guidelines has been implemented in one form or other under the domestic legislations of many countries globally and is recognised as international best practice. For example, some countries make specific reference to either or both the UN Manual and/or OECD Guidelines as relevant sources in interpreting domestic legislation.<sup>3</sup>

Clear rules on the pricing of cross-border related party transactions are a step towards creating efficiency and effectiveness in administration and enforcement for the tax authorities. Effective and efficient taxation of cross-border related party transactions ensures that the government is able to close any gaps/loopholes that would result in revenue leakage. Having proper legislation in place provides an avenue for targeted capacity enhancement for officials dealing with policy and practical aspects of the taxation of cross-border related party transactions. At the same time, investors would welcome the certainty of transfer pricing legislation, i.e. knowing what is required from them, thereby managing tax compliance. Ultimately, an effective and efficient tax system will help reduce risks and build resilience, allowing focus on mobilising domestic resources for sustainable development.

## **Objective**

The main learning objectives of the workshop are to provide the participants with a comprehensive introduction to the fundamentals of transfer pricing and enable participants to understand the basic issues involved in auditing cross-border related party transactions. In addition, participants will learn about the concept of comparability and transfer pricing methods. The workshop will also introduce participants to the process to be followed in conducting a transfer pricing analysis, as

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<sup>1</sup> [https://www.un.org/development/desa/financing/sites/www.un.org.development.desa.financing/files/2021-04/TP\\_2021\\_final\\_web%20%281%29.pdf](https://www.un.org/development/desa/financing/sites/www.un.org.development.desa.financing/files/2021-04/TP_2021_final_web%20%281%29.pdf)

<sup>2</sup> <https://www.oecd.org/tax/transfer-pricing/oecd-transfer-pricing-guidelines-for-multinational-enterprises-and-tax-administrations-20769717.htm>

<sup>3</sup> Examples of countries here include Nigeria and Tanzania.

well as the context and content of the international standard for documenting transfer pricing. Participants should come away from the workshop with an awareness of key considerations in designing transfer pricing rules and the options for establishing transfer pricing capacity.

The course will be based mainly on the UN Transfer Pricing Manual, using illustrative and relevant case studies to the extent possible.

### **Target Audience**

The target audience of this workshop are officials with limited knowledge and experience with international transfer pricing. However, the workshop is also suitable for: those who have previous experience with transfer pricing and wish to refresh or consolidate their understanding of the topic; and tax auditors and policymakers who would like to understand the process and challenges of designing and implementing transfer pricing legislation.

The workshop will be facilitated by experienced transfer pricing experts from the region and from UNDESA/FSDO. It will be delivered in English.

### **Provisional Agenda**

The workshop will take place over three days (9 – 11 November 2022). The agenda will cover the following main issues:

#### **Day 1:**

- What is transfer pricing and why it is important for developing countries?
- What is the arm's length principle, and what is its legal basis?
- How is a transfer pricing analysis conducted?

#### **Day 2:**

- What are transfer pricing methods and how are they applied?
- What are the special considerations in conducting a transfer pricing analysis in special transactions such as services and financial transactions?
- What constitutes transfer pricing documentation, and what should be the key considerations?

#### **Day 3:**

- What are the key considerations in designing a transfer pricing regime?
- What are the options in establishing transfer pricing capabilities?
- What are the major considerations in planning a successful transfer pricing audit?
- Country experiences from around Africa and specifically WATAF Member Countries.