

as to increase profits made and taxable in that country, another country will not decrease its calculation of the profits made (and tax payable) in that country by making an adjustment.

In that case, some part of the profits may be taxed twice, with a possible discouragement or deterrence of investment that can itself hinder development. In FfD terms, this is an aspect of *mobilising foreign direct investment*, as a private flow, in support of development.


There is a further aspect, which in FfD terms, is referred to as a *systemic issue* and involves what could be termed »the rules of the game« for transfer pricing. Whether one agrees with them, or disagrees, current approaches

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smaller ones) and taxpayers of a single approach, more






Efficient capacity building also involves encouraging countries to share experiences, both good and bad, with a view to building enduring networks and limiting the risk of costly policy and administrative dead-ends. This South-South sharing of successful tax practices is something we have been working on closely with the Special Unit for South-South Cooperation of the UN Development Programme and others<sup>6</sup>. At the global level, effective capacity building requires that the United Nations, the Bretton Woods institutions<sup>7</sup>, the OECD<sup>8</sup>, non-governmental organisations and regional institutions, all working closely and effectively together, seek to avoid unnecessary duplication, but also remain true to their differing mandates, memberships and guiding philosophies. This will sometimes mean that developing countries have alternative views to choose from in the context of their situations and priorities, and that is a good thing.

### 3.2 Dispute settlement

The need for clarity and predictability to promote investment and to avoid long and resource-intensive disputes raises questions regarding the potential role of dispute avoidance and resolution mechanisms such as



needs to be taken with caution, and with a full understanding of all the potential scenarios, including not only the best case scenarios, but also the worst case ones.

Advance Pricing Agreements also have great long term potential, but agreeing upon such issues in advance requires a good understanding of the rules of the game and of potential loopholes that need to be closed off. There is also a concern frequently expressed, that in the early years of a transfer pricing regime, APAs can tie up key resources as an administration deals with taxpayers seeking the APAs (taxpayers likely to be broadly in compliance) rather than allocating those resources to address the greatest transfer pricing risks.

#### 4. The Role of the United Nations?

The complexities in the area of transfer pricing, and the issues they raise from the perspective of developing countries, lead us to consider what special characteristics the United Nations, with its current limited tax co-operation resources, can bring to the table in meeting these challenges.

The first such characteristic is its universal membership and legitimacy. The challenges in this area, the growing recognition of the development aspect of tax systems, and even the emergence of multinationals that are »home grown« to developing countries, all mean that efforts to reduce the complications of transfer pricing, in a way that is fair to all stakeholders, must have broader input and ownership than in the past. An approach of *inclusive*





