



IBFD/UN Training Workshop on Tax Treaty Negotiation

The IBFD International Tax Academy hosted the first joint IBFD/UN Training Workshop on Tax Treaty Negotiation from 9 to 12 February 2009 at the IBFD premises in Amsterdam. The workshop included participants from Egypt, Turkmenistan, Thailand and 10 partially UN-funded participants from Brazil, Ghana, Jamaica, Lesotho, Mexico, Oman, Peru, Saudi Arabia, Sri Lanka and Vietnam.

The main focus of the workshop was on the interpretation and practical application of tax treaties based on the UN Model Convention and OECD Model Convention, with a view to upgrading the technical skills of tax treaty negotiators from developing countries to a good working level of understanding on practical tax treaty issues. The course addressed practical interpretation and application of tax treaties, such as the treatment of permanent establishment issues, personal income, business income (construction activities, furnishing of services, distribution activities), passive income (branch profit taxes, leasing, technical services), dividends/interest/royalties, capital gains, independent/dependent personal services, director's fees, pensions, non-discrimination, exchange of information, elimination of double taxation (credit and exemption methods, tax sparing credits) and mutual agreement procedures.

The workshop concluded with a simulated bilateral treaty negotiation involving the participants, which gave practical insight into the art of negotiation itself as well as into positions that would arise in treaty negotiations and the choices that would need to be made. This part of the workshop gave participants a framework for analyzing which positions might be the subject of "trade-offs" (and if so, for what) or which might need, on the other hand, to be dealt with more insistently.

The workshop included discussion of the policy issues behind certain treaty provisions commonly encountered, which will be of value to treaty negotiators as well as those administering tax treaties. The main differences between the UN and OECD Models were discussed, such as in the criteria for constituting permanent establishments, the differing treatment of services provision and differing provisions relating to host state taxation of dividend, interest and royalty flows. The workshop also considered possible perspectives on issues such as exchange of information and the use of arbitration to resolve tax matters, both of which will be encountered in tax treaty negotiations.

As part of the workshop, representatives from the United Nations Financing for Development Office, which services the UN tax work, gave a short presentation on the history of the UN Model Convention and the UN work on tax matters, including in particular the current activities of the UN Committee of Experts on International Cooperation in Tax Matters.

Participants were, in general, extremely satisfied with the quality and content of the workshop especially as the workshop discussed both the UN and OECD Models, reflecting the expected exposure to both models in international policy making settings and in bilateral tax treaty negotiations.

The workshop followed the IBFD's successful hosting of a UN Expert Group Meeting on transfer pricing issues for developing countries in 2008 and, in view of the obvious linkages between the work of the two organizations, and the natural partnership that exists between their respective missions and mandates, will hopefully lead to further such events in future in this and other subject matters of particular interest to developing countries.



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