



# SUMMARY OF DELIBERATIONS

## STRENGTHENING THE EFFECTIVENESS OF TRANSFER PRICING RULES IN ECOWAS

### A NOTE FROM MEETINGS BETWEEN ECOWAS MEMBER COUNTRIES, INTERNATIONAL AND REGIONAL ORGANISATIONS, ABUJA, 11-13 OCTOBER 2016

We, the representatives from Tax Administrations and Ministries of Finance of ECOWAS member states, together with international and regional organizations, met in Abuja, 11- 13<sup>th</sup> October 2016, to:

- review the effectiveness of ECOWAS member states in countering profit shifting from transfer pricing
- identify the challenges they face in introducing and effectively implementing transfer pricing rules
- identify actions to address those challenges.

We noted that:

- transfer pricing represents a significant risk to the tax revenues of ECOWAS countries, and there is a need to ensure a fair and equitable allocation of profits to ECOWAS countries in accordance with the Arm's Length Principle (ALP)
- the design and implementation of transfer pricing rules has an impact on the environment for business and FDI, we see the benefits in providing greater certainty and predictability to investors
- although most ECOWAS countries have introduced some rules related to transfer pricing, the legal and administrative framework require improvements to address the transfer pricing issues arising in a modern globalized economy
- more investment is required in the establishment of effective transfer pricing audit regimes
- obstacles to effective implementation include a lack of relevant auditing experience and paucity of information needed to apply transfer pricing rules
- regional co-operation is key to removing these obstacles
- political commitment is essential to progress on these issues.

**We recommend that the ECOWAS Commission, member states, and regional organizations consider the following actions:**

#### *Establishing a framework for regional co-operation*

- The ECOWAS Commission, WATAF, UEMOA, and ATAF can provide a framework for regional co-operation
- We suggest a high level meeting between those organizations, together with international organizations and key donors, to establish a coordinated approach.

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### *Strengthening legislation*

- Regional organizations, working with international organizations, have a role in supporting countries wishing to strengthen their rules, using ATAF's model legislation as a foundation, but recognizing that countries have different legislative conventions
- We suggest exploring how ECOWAS and UEMOA, in collaboration with ATAF and WATAF, can support the legislative reforms in member states.

### *Addressing scarcity of relevant skills*

- ECOWAS countries can build on existing international and regional initiatives to provide mutual assistance and support, and explore, for example, joint audits, bilateral support (including shadowing etc.), joint training etc., including WATAF's train the trainers initiative
- We also agree that training programs need to include measures to increase the understanding of transfer pricing in the judiciary.
- We also recommend the development of a standard transfer pricing manual for auditors.

### *Addressing a lack of relevant information to conduct effective audits*

- To enable the sharing of information, and the conduct of joint audits, ECOWAS member states could sign and ratify an ATAF Agreement on Mutual Assistance in Tax Matters, consideration could also be given to signing the Multilateral Agreement for Mutual Administrative Assistance
- To take advantage of ATAF's initiatives to acquire access to a commercial database for the use in African countries, and assistance in using such databases
- We recommend to explore the impact and potential of introducing safe harbors and consider the potential for co-operation in their introduction
- We suggest to consider the potential of creating a regional database of independent comparable data derived from tax return information, maintaining taxpayer confidentiality
- Finally, we aim for the development of model rules and approaches for transfer pricing documentation, return schedules and country-by-country reporting. In light of the envisaged revision of the approach to country-by-country reporting by 2020 we also suggest a coordinated review on how to make this tool most effective for ECOWAS member states in the future.