



# Task Force on Tax and Development OECD

*Final Report  
on the Feasibility Study into the  
Tax Inspectors Without Borders Initiative*

*5 June 2013*

## EXECUTIVE SUMMARY

### FINAL REPORT ON THE FEASIBILITY STUDY INTO THE TAX INSPECTORS WITHOUT BORDERS INITIATIVE

This report sets out the key findings and recommendations from the feasibility study on establishing the *Tax Inspectors Without Borders* (TIWB) initiative.

The TIWB concept was proposed in May 2012 by the Task Force on Tax and Development (Task Force), and in June 2012 the OECD's Committee on Fiscal Affairs (CFA) and the Development Assistance Committee (DAC) agreed to jointly commission a feasibility study on the proposal.

The TIWB objective is to enable the transfer of tax audit knowledge and skills to tax administrations in developing countries through a real time, "learning by doing" approach. Experts would be deployed to work directly with local tax officials on current audits and audit-related issues concerning international tax matters, and to share general audit practices. In addition to improvements in the quality and consistency of audits and the transfer of knowledge to recipient administrations (tax administrations seeking assistance), broader benefits are also anticipated including the potential for more revenues, greater certainty for taxpayers and encouraging a culture of compliance through more effective enforcement.

The viability of translating the project's objective into action was made clear in the study's first phase of research and consultation in the Task Force and beyond. Demand from developing countries for this type of assistance is very strong, with a number of requests already received during the feasibility study.<sup>1</sup> Several existing initiatives have already demonstrated that these kinds of tax auditor<sup>2</sup> deployments are feasible.

In addition to assessing the feasibility of providing practical tax audit assistance, Part 1 of the report also addresses the key practical and legal issues which are likely to arise throughout the expert deployment cycle. These include:

- The importance of having a clear and consistent request process for TIWB assistance.
- Sourcing of experts, engaging with recently retired tax officials as well as currently serving officials in both developed and developing countries as available and appropriate.
- Funding of deployment costs, noting that throughout the feasibility study process there has been no demand for a central TIWB Secretariat itself to take on a role of directly funding expert deployments. However, a range of funding options for deployments are highlighted

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<sup>1</sup> See Box 2 in Section III(a) of the report for some examples.

<sup>2</sup> In this report, the terms "auditor" and "inspector" are used interchangeably.

based on current experiences, including recipient administration funded deployments and local funding “topped-up” by donor partners.<sup>3</sup>

- The range of modes of assistance, including short-term, long-term and remote deployment. There are certain merits in full-time, longer-term deployments (i.e. minimum 6-months), in terms of the expert developing a full appreciation of the local context. However, members of the Task Force emphasised the case-specific nature of each recipient administration and deployment, and therefore the need for flexibility in the modes and duration of assistance.
- The four main legal issues for deployments, relating to employment law issues (including visas or permits, and the capacity of non-nationals to assume the full role of a local tax auditor), potential conflicts of interest, protection of the confidentiality of tax information and professional and personal liability of deployed experts. There appear to be solutions which will allow the legal constraints identified to be overcome on a case by case basis.
- Possible measures of the impact and success of deployments.<sup>4</sup>

With the feasibility of carrying out practical audit assistance established along with strong evidence of demand, the creation of a central mechanism or Secretariat to facilitate the delivery of practical assistance to tax administrations found a high level of support amongst the members of the Task Force.

Part 2 of the report therefore considers the most appropriate functional role and organisational structure of a “TIWB Secretariat” in order to meet the project’s objective. Options have been examined for establishing a process that would efficiently match demands from developing countries with the right kind of audit expertise, drawn from a pool of experts including recently retired officials or, where available, currently serving officials.

Given that TIWB would act as a facilitator of the assistance and noting the initiative’s early stage of development, the report recommends that a Secretariat operating primarily in the role of a clearing house, to match demand for experts with supply, would meet current needs. The options of a more comprehensive service model and for an on-line platform to connect administrations in developing countries with experts were also considered. The former would be a disproportionately complex and costly response and the latter too passive to undertake the work required to support developing countries to articulate their needs and to match those needs with the right expertise.

The study concludes that a small, single-person TIWB Secretariat should be established as a mechanism to facilitate deployments of expert tax auditors to developing countries. Initially, TIWB should remain as a project of the OECD Tax and Development Programme, with the Secretariat operating the clearing house functions, engaging consultants as required, at an initial annual cost for salary and operating expenses estimated at EUR 250 000. The structure would include an Advisory Board, formed from the existing core leadership group of the Task Force on Tax and Development, to guide and inform the work of the TIWB Secretariat. Engagement with the TIWB programme, both in respect of deployments (through the provision of experts or financial support) and to support the Secretariat, will be wholly voluntary.

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<sup>3</sup> Some recent examples of practical audit assistance suggest direct-costs of deployment at EUR 15 000 for a 1-month deployment, and EUR 150 000 for a 1-year deployment. This is discussed further in Section III(e) of this report, including an outline of the types of expenses which arise.

<sup>4</sup> Possible measures of impact, as well as some examples on the impact of expenditure for deployments providing practical audit assistance, as well as other tax-focused capacity development programmes are discussed in Section III(g) of this report, as well as Annex 3.

Part 3 of the report sets out next steps, proposing an 18-month mandate to launch the TIWB initiative, to be divided into a 6-month interim implementation phase followed by a 12-month trial operational phase. During the implementation phase, a “TIWB Toolkit” would be developed by the Secretariat as part of the clearing house mechanism, to address some of the practical and legal challenges, including:

- A model request form to assist recipient administrations to focus their requests for assistance;
- A database of experts, through structured engagement with retired tax officials and encouraging South-South deployments;
- Engagement with potential currently serving officials through a central contact in potential supplying tax administrations in response to specific requests;
- A model Terms of Reference or guidelines for recipient administrations to use in the engagement of experts;
- Guidelines to highlight the potential legal risks and practical issues for recipient administrations, as well as individual experts and supplying administrations (tax administration seconding currently serving tax officials) to consider, and how they can be overcome; and
- A basket of indicators to measure the impact of deployments, which recipient administrations could use to define the aims of individual deployments.

At the end of the initial 18-month mandate, TIWB’s evolution and impact through individual deployments would be reviewed by the CFA and the DAC.

**The DAC and the CFA are requested to:**

- Approve all of the recommendations made in this report which are set out in full in Annex 1.
- Approve the establishment of TIWB as a project of the OECD’s Tax and Development Programme with an 18 month mandate, to December 2014. This period would include:
  - i. A six month implementation phase to December 2013, during which time the TIWB Secretariat would *inter alia* establish the TIWB Toolkit, work with the Task Force to agree on terms of reference and composition of the Advisory Board, and commence pilot deployment projects.
  - ii. A 12 month trial operational phase commencing in 2014, in which TIWB assistance would be launched, facilitating the deployment of experts to provide practical tax audit assistance in response to requests from developing countries.
  - iii. The TIWB Secretariat with the TIWB Advisory Board to report on progress to the DAC and the CFA at the end of 2014.

It is estimated that the TIWB Secretariat will cost EUR 250 000 per annum initially. These costs would be met by voluntary contributions to the OECD’s Tax and Development Programme, with initial indications of interest to support TIWB’s first mandate already having been received.

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## TAX INSPECTORS WITHOUT BORDERS: FEASIBILITY STUDY

### Introduction

1. Developing countries and development partners have for a long time identified the mobilization of domestic financial resources for development as a priority,<sup>5</sup> and in a changing era, taxation has taken on a higher profile as a means to support this goal. The demand for assistance from developing countries is changing too, as globalisation poses new challenges and opportunities in international taxation, particularly transfer pricing and tax information exchange. On the supply side, many countries that were once aid recipients are now active providers of assistance themselves on tax matters, adding a positive dynamic to international knowledge building.

2. Against this background, the *Tax Inspectors Without Borders* (TIWB) concept was proposed by the Task Force on Tax and Development in May 2012, following discussions amongst a number of stakeholders including civil society. This was followed in late June 2012 with the decision of the OECD's Committee on Fiscal Affairs (CFA) and the Development Assistance Committee (DAC) to jointly commission the Tax and Development Programme to undertake a 12-month feasibility study on the TIWB project.

### *What is TIWB?*

3. The TIWB initiative aims to facilitate the deployment of experienced tax inspectors (experts) on a demand-led basis to developing countries. The sharing of expertise and experience would focus on the transfer of knowledge and skills through a real-time "learning by doing" approach, working directly on current audits and audit-related activities relevant to international tax matters, and establishing general audit practices (for example case selection, risk review, and investigatory techniques).<sup>6</sup>

4. The narrow and precise emphasis on assisting audits in real-time distinguishes the TIWB proposal from the mainstream of existing international tax support. TIWB proposes to help bridge the gap between theory and practice.

5. Conversely, TIWB has not at any point been envisaged as a technical assistance provider itself or as a direct provider of financial support. TIWB would facilitate the deployment of experts who would provide the technical assistance. The experts are not intended to act as a substitution of local tax audit staff or to carry out audit work where no local audit personnel would otherwise exist. Rather, the experts must balance 'getting the job done' with the development of capacity in the recipient administration.

### *Benefits of TIWB Assistance*

6. Practical audit assistance to develop tax audit skills and effective audit processes has been considered an area which could improve the quality and consistency of frontline tax administration. For recipient administrations, beyond improvements in tax audit knowledge and skills and the downstream

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<sup>5</sup> For example, the Doha Declaration on Financing Development and the Busan Partnership for Effective Development Cooperation.

<sup>6</sup> Areas that experts could provide assistance on under the TIWB initiative would include transfer pricing, mutual agreement procedures, advancing pricing agreements, pre-audit risk assessment and case selection, and audit investigatory techniques. In this report for ease of reference, these activities are referred to globally, as audit activities.

potential for increased tax revenues, broader benefits will arise from improving confidence in the tax administration, including:

- Increases in voluntary compliance and effectively combating non-compliance. Demonstrating a clear culture of compliance by Multinational Enterprises, and effective enforcement measures in cases of non-compliance, sends an important signal to all taxpayers concerning transparency and fairness in tax administration;
- Providing greater certainty and consistency for business, creating an improved investment climate;
- Enhancing state-society relations, where taxation is one of the founding elements of that relationship, and by stimulating engagement with and confidence in the taxation process, a stronger link is established to a more effective and accountable state; and
- Fostering international dialogue on tax matters between tax administrations in developed and developing countries.

7. The study has revealed that potential supplying tax administrations face resource constraints, limiting their capacity to deploy currently serving officials to developing countries. Several OECD countries are partially off-setting these constraints through a whole of government approach to capacity building efforts in developing countries. This may involve financial support from the donor agency to meet the costs of the tax administration's expert deployments. Over time, this can lead to an increase in the overall cadre of trained and experienced international tax experts.

8. For those supplying tax administrations with capacity to share their expertise, the provision of experts to another revenue administration will provide significant and unique professional development opportunities for officials. Developing countries face significant challenges in building capacity to address international tax issues. Working closely with the local officials involved in meeting those challenges will provide the expert with a unique insight into the tax administration challenges faced by developing countries. Such experience can only be of benefit to the individual in developing their knowledge and a broader international tax perspective, which will also benefit their home administration post-deployment.

9. Importantly, a key element of TIWB would be to draw on a network of recently retired officials to expand the pool of available experts.

### ***The Feasibility Study***

10. The consultation process has been far-reaching, drawing on inputs from tax and development specialists within the OECD and also a broad range of tax administration officials involved in international tax issues and cooperation programmes. In addition, business, regional and international organisations working in tax and development, officials within development agencies and non-governmental actors have all made important contributions. See Annex 4 for details of the stakeholder consultations.

11. Based on initial research and dialogue, a draft interim paper on the TIWB feasibility study was discussed at a Task Force meeting in December 2012 involving more than 80 representatives from 42 delegations. The meeting was also an opportunity to discuss experiences and perspectives on sharing audit expertise, and to examine further some of the key implementation challenges posed by the TIWB proposal.

12. The second phase of the feasibility study has focused on clearly defining the scope of assistance falling within the TIWB concept, outlining solutions to address the key legal and practical issues, and exploring options for the project's structural framework.

13. In addition to the December 2012 meeting, a process of on-going bilateral and multilateral consultation with stakeholders has taken place including at opportunities presented at various meetings addressing international tax and development issues. This has included an important dialogue with tax administration officials and representatives from donor partners situated in country offices. These discussions have been critical to understanding the precise needs of developing countries in terms of practical assistance and the procedural support which developing country tax administrations would seek from the TIWB initiative, as well as to understand the constraints faced by donor partners and providers of expertise.

### ***About this Report***

14. Part I of this report addresses two main questions:

- What is the nature of demand for hands-on tax audit assistance and does current international experience suggest that the TIWB concept for expert deployments is feasible in practice?
- What are the key steps in the deployment process, and what are the significant practical and legal issues which could arise for expert deployments at each stage?

15. Part 2 of the report considers the functional approach and organisational structure which would best facilitate and support TIWB expert deployments; and Part 3 sets out next steps to make TIWB a reality.

## PART 1: FEASIBILITY AND KEY CHALLENGES

### I. Demand and feasibility for expert deployments that provide hands-on tax audit assistance

16. Feedback from the TIWB Task Force meeting in December 2012 as well as numerous separate consultations has made clear that there is a high level of demand among tax administrations in developing countries for in-depth, practical audit assistance from expert peers. Tax officials from developing countries emphasised that for an inexperienced individual official or audit unit, making the shift from theoretical knowledge (often obtained through workshops and seminars) to effective implementation can be daunting. Further, it was repeatedly expressed that a learning-by-doing approach could encourage the newly shared knowledge and skills to become more deeply entrenched in the administration, and could therefore be complementary to the range of theory-based training workshops currently available.<sup>7</sup>

17. While the number of niche projects currently providing practical audit assistance is limited, some examples do exist in diverse form.<sup>8</sup> These demonstrate strongly that the concept of TIWB is feasible, although some important procedural and technical issues need to be addressed. Some examples of existing practical audit assistance are described in Box 1, as well as in Annex 2. Even where practical audit programmes already exist, tax administrators in developing countries suggest there is a need for further support, for example in assisting with locating the right expertise and expanding the deployments to other countries.

18. The importance of defining TIWB's relationship with other tax-focused assistance programmes was also made clear during the consultations. There is an opportunity for TIWB assistance to be complementary to existing programmes, for example to add a TIWB deployment where an existing programme providing training workshops has provided an administration with the theoretical knowledge on a particular international tax issue.

#### **Box 1. Providing practical audit assistance in real-time - some case studies**

##### Germany's "integrated experts" program: Ghana

Germany's Integrated Experts programme recruits experts from Germany and other European Union countries, at the request of developing countries partnering with Germany. Under the program, the experts can work on development issues across a full range of sectors. In Ghana, under the Good Financial Governance programme supported by the German Agency for International Cooperation (GIZ), a tax expert recently worked in Ghana's Revenue Authority, the GRA, through the Integrated Experts program.

<sup>7</sup> In recent years, a number of tax-related technical assistance mapping exercises have been undertaken by international organisations. See for example the 2010 ITC Mapping Survey Tax and Development, the 2010 UN 2010 *Overview of co-operation on capacity building on taxation*, and the 2013 OECD/ITC/BMZ report *Aid Modalities for Strengthening Tax Systems*. On transfer pricing specifically, see the 2012 UN Secretariat note: *transfer pricing: technical assistance and capacity building resources* E/C.18/2012/CRP.14. These confirm that there is no risk of duplication with the type of assistance proposed through TIWB.

In addition, in the course of the feasibility study, practical tax audit-related needs have been discussed with more than 50 developing countries, donor partners and tax administrations.

<sup>8</sup> A list of some of the current, and proposed, programmes for practical tax audit assistance can be found in Annex 2 as well as in the case studies found in this report.

In 2011, the GRA made a request for an expert to strengthen capacity in one of the Small Taxpayer Offices (STO) in Kasoa, Central Region, near the capital Accra. The expert selected was an experienced tax auditor for small enterprises who had been working in the tax administration of Saxony in Germany. Under a 12-month contract, the expert was tasked with working with the STO audit team to share best practices from their experience in Saxony, and carry out audits of small and medium sized enterprises. In the course of the deployment, the expert also developed, in collaboration with the training unit of GRA, a new audit manual for small taxpayers, and assisted in the training on the audit manual.

Since the successful conclusion of that deployment at the end of 2012, GRA has now requested Germany's assistance to identify an expert able to assist with the roll-out of integration and modernisation programmes in tax offices in the assigned region. The expert should also assist the GRA to develop audit work plans, and design criteria for case selection and allocation of auditors.

#### Norwegian Audit Assistance in East Africa: Zambia, Mozambique and Tanzania

Since 2010, Norway has extended its engagement with Zambia, Mozambique and Tanzania to include practical tax audit assistance. The Norwegian tax administration (Skatteetaten or NTA) has signed memoranda of understanding for institutional cooperation with the revenue authorities of these countries to support the building of administrative capacity, in particular within the extractive industries. These programmes are multi-faceted, with each including some practical audit assistance activities.

Taking Zambia as an example, in a 4-year collaboration agreed between the Norwegian Ministry of Foreign Affairs and the Zambian government, Norway seconded tax audit experts with experience in audits of large companies to provide assistance to tax auditors and to develop audit capacity within the ZRA. The tax officials work on a wide range of audits covering both international and domestic tax issues. NTA officials participate in ZRA audits in a purely advisory function appointed by the Commissioner-General (with requisite confidentiality/secretcy agreements) and never engage directly with the Zambian taxpayer. However, often the main purpose of their participation is to observe how the auditors work in order to gain a better understanding of how the audit function in ZRA is implemented in practice. Targeted workshops both before and after the field audit, and training course more generally, are crucial elements in the overall capacity building programme.

Zambian tax officials have reported that the presence of highly qualified NTA auditors in the mining sector is significantly improving their auditing capacity, helping to build taxpayer and investor confidence in the revenue administration, and is having a positive spill-over effect on the ZRA's ability to audit other sectors of the economy where multinationals are operating (construction, trading, banking and insurance). It has also become more obvious during Norway's engagement with their partners of the importance of the framework for the audit function's capability to produce good results. Good preparations, routines, audit guidelines and legislation are all factors that must be considered when enhancing audit capacity.

Zambia has itself provided audit assistance to Zimbabwe, including on VAT matters.

#### UK support for building transfer pricing capacity: South Africa

In 2009 the UK seconded a transfer pricing specialist from HMRC to the South African Revenue Service (SARS), under a 2-year renewable agreement. The focus of the role was to develop the capacity of the existing SARS transfer pricing unit. The specialist worked with the unit on their transfer pricing audits providing practical audit assistance and skill-building opportunities. He also assisted South Africa to revise and update its transfer pricing legislation.

Contemporaneously, the specialist also worked as a Technical Adviser for the African Tax Administration Forum's Transfer Pricing Working Group, advising on the development of products to assist ATAF members to build their transfer pricing capacity.

19. In addition, there is some anecdotal evidence of officials from one tax administration being deployed to provide audit assistance to foreign administrations where no appropriate legal framework is in place. In particular, there are several cases where there has been no recognition of, or attempt to resolve, issues of tax information confidentiality or potential conflicts of interest. Due to subsequent taxpayer challenges based on the absence of due process, this approach has often jeopardised the outcome of those audits. Many of those consulted suggested that guidance and advice on how to put the necessary legal formalities in place is not currently available. The TIWB Secretariat could assist in such cases, working with the recipient administration to put in place an appropriate legal framework for practical audit assistance.

20. Thus one of the key responses from stakeholders is that practical, learning-by-doing assistance on real audit cases is a niche area that is rarely addressed in current technical assistance programmes. Coupled with the evidence of demand, there is a clear role for a Secretariat that could support and help formalise existing tax audit expert deployments, assist with creating a sound legal framework, and expand the opportunities for expert audit deployments. This in turn would help make practical audit deployments a mainstream means for tax administrations to improve their knowledge and skills in tax audit processes.

#### **I. FINDINGS:**

- Practical, learning-by-doing assistance on real audit cases is an unmet area of tax-focused technical assistance.
- Several existing programmes demonstrate that it is feasible, once certain practical and legal challenges are overcome.
- Strong demand exists from developing country tax administrations for this type of practical hands-on assistance.

#### **I. RECOMMENDATIONS:**

- A programme (TIWB) is established, to facilitate expert deployments to provide practical tax assistance on real audit cases, focusing on international tax issues and general audit practices.

## **II. Process for establishing TIWB expert deployments**

21. This Section of the report outlines the proposed process for setting-up individual deployments. The mechanism to match requests for assistance with an appropriate expert would be primarily the role of a TIWB Secretariat, but the active participation of the recipient administration and other partners is required to make deployments a reality. Clarity around the process and each partner's role will be important elements in ensuring an efficient mechanism for setting up deployments.

22. A preliminary outline of the expert deployment cycle process is described below in a flow-chart (Figure 1), and would be facilitated by a TIWB Secretariat. This process and the role of all of the key stakeholders would be further refined by the Secretariat on the basis of the valuable experience to be gained during pilot deployments. These pilots could take place during the early stages of TIWB's establishment, and be based on the requests for assistance received by the Secretariat from developing countries during the feasibility study.<sup>9</sup> Resources to assist partners in the deployment process would form a

<sup>9</sup> During the feasibility study, the Secretariat received a number of indications of interest from tax administrations (potential recipients and suppliers of expertise) seeking to participate in a TIWB pilot deployment program. Some examples of these can be found in Box 2, in Section III(a) of the report.

“TIWB Toolkit” such as template request forms, model terms of reference and guidelines, and would be developed by a TIWB Secretariat. This is taken up in Part 2 of the report below.

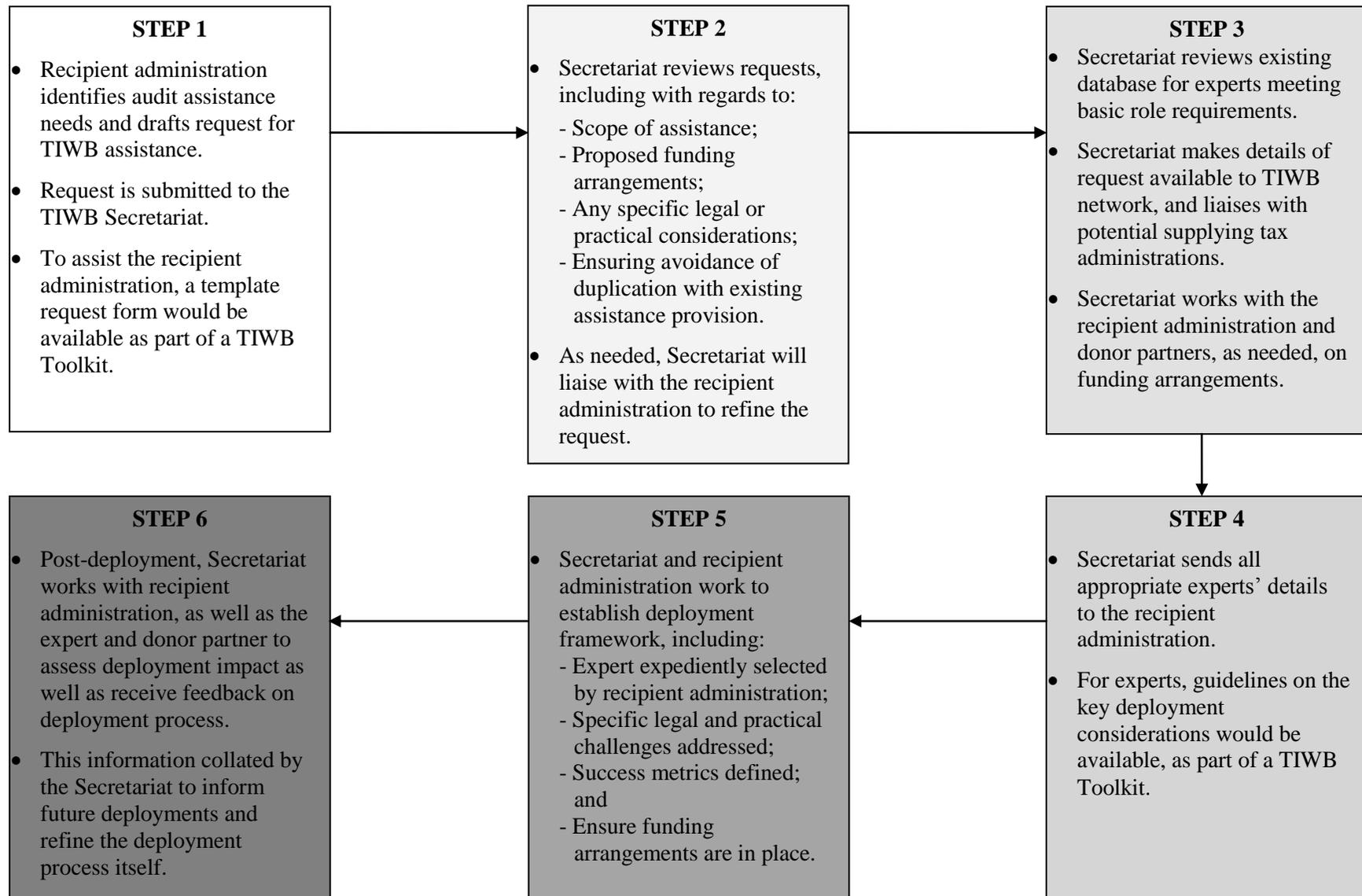
**II. FINDINGS:**

- There should be a clear process for fulfilling a request for assistance through to the post-deployment stage, defining the steps in the process to be taken by the different stakeholders.

**II. RECOMMENDATIONS:**

- A TIWB Secretariat facilitates a number of pilot deployment programmes during an initial implementation phase of the project.

**FIGURE 1: PROPOSED TIWB DEPLOYMENT PROCESS**



### III. Practical and legal challenges in the deployment process.

23. This section of the report addresses the key practical and legal challenges which may arise during the deployment process. Some of these are common to all international expert deployments generally, while others are specific to the tax context due to considerations such as conflicts of interest and tax information confidentiality.

#### (a) *Requests for expert audit assistance*

24. Tax administrations in developing countries seeking practical audit assistance will need to carefully consider and articulate their request within the niche scope of the TIWB concept i.e. the provision of practical expert tax audit assistance with a focus on international tax and general audit techniques. During the feasibility study, a number of developing countries provided specific examples of the practical audit assistance they sought, and some of these are found in Box 2 below. In some cases, these requests have arisen in the course of existing programmes of assistance to the recipient administration, and the TIWB deployment would integrate as an additional component of those programmes.

25. Further, these examples demonstrate the diverse range of requests, and give an indication of the importance of standardising a request template to cover the full range of considerations. This would also enable a potential expert to make an informed decision about whether they could respond positively to the request.

#### **Box 2. Requests for tax audit assistance**

##### **Country A request for tax audit assistance: case study**

Country A seeks to engage a tax audit expert with a minimum of 10 years relevant experience, for a period of 12 months (renewable) on-site. The expert would provide on-the-job assistance to assist with the development of tax audit and tax investigation techniques. In particular Country A's tax administration seeks assistance to improve:

- Risk review and tax audit case selection;
- Investigatory techniques including maintenance of appropriate audit records; and
- Sector-specific tax audit skills.

The expert would report to the Commissioner-General of Country A, working on a day-to-day basis with the Commissioner for Domestic Taxes and a number of Deputy-Commissioners.

Country A has funds available to engage the expert, and seeks assistance in defining the expert's role and locating and engaging an appropriate expert.

##### **Country B request for tax audit assistance: case study**

Country B seeks to engage a transfer pricing expert with experience in advancing pricing arrangements (APAs) for a period of approximately 60 days of on-site and remote assistance. In particular, they request assistance in creating the procedural framework for conducting APAs and building the relevant skills for negotiating and agreeing APAs. The expert would work with tax officials on:

- Developing skills to evaluate the most appropriate transfer pricing method in a request for a bilateral APA under a Double Tax Treaty;
- Internal procedures for coordinating and monitoring APAs; and
- Technical issues arising in APA procedures.

The expert would work with a Project Director and Project Coordinator, within the Ministry of Finance. Country B has funds available (of its own, combined with donor funds) to engage an appropriate expert, and seeks assistance in locating and engaging an appropriate expert.

**Country C request for tax audit assistance: case study**

Country C seeks expert assistance for an undefined period in respect of two tax audit areas:

- i.) Transfer pricing, following the recent establishment of a transfer pricing legal framework. An expert is requested to assist with carrying out transfer pricing audits, who would work within the revenue authority's newly created Transfer Pricing Unit.
- ii.) Tax audits on the natural resources sector, with a focus on oil and gas. The expert would work alongside officials in the Oil and Gas unit of the Large Taxpayer Office.

Country C has already identified a potential donor partner who has expressed interest in providing financial support for engagement of the expert(s). The donor partner may also, through their country's own tax administration, be able to make an appropriate expert available for at least one of the requested areas of expertise. Both Country C and the donor partner seek assistance in setting-up the framework for an expert deployment.

**Country D request for tax audit assistance: case study**

Country D seeks expert assistance for an undefined period in respect of two tax audit areas:

1. Tax audits of taxpayers' computerised records, working predominantly with the Large Taxpayer Office.
2. Carrying out spontaneous (without advance warning) inspections at taxpayer's premises.

In this case Country D's revenue authority would propose that in exchange for the provision of this expert assistance from Country E, it could provide expert assistance to Country E's revenue authority on money laundering issues. Country D would therefore wish to seek assistance from a revenue authority which needs assistance in the area of money laundering, and whom would wish to enter into such a reciprocal arrangement.

26. To assist recipient administrations in this process, a TIWB Secretariat would develop a template request form for recipient countries. A donor partner or tax administration which is already working with a recipient tax administration to provide other forms of assistance could also play a useful role to support the recipient administration in formulating the request. The form would request the recipient administration to consider and provide information relating to:

- Scope of the assistance required, including details on the skills and experience of the expert (including language skills)<sup>10</sup>;
- The division in which the expert would work, the broader organisational structure, and reporting lines;
- Preferred mode and duration of assistance (see (b) on modes of deployment below);

<sup>10</sup>

This may include identifying a need for better understanding of a particular business or industry. A strong understanding of how business is conducted, for example the global supply/value chain of a manufacturer, has been noted as an important element in certain areas of tax auditing (see, for example, the 2013 OECD report *Addressing Base Erosion and Profit Shifting*).

- Funding arrangements, including whether Secretariat assistance is requested for locating funding options with donor partners;
- Legal framework for engaging foreign nationals, including visas, work permits, tax information confidentiality and any limitations on a non-national expert's full participation in a tax audit (see further below on potential legal impediments to deployments);
- Opportunities for South-South collaboration, or for the exchange of expertise with another tax administration; and
- The deployment's place in the administration's broader training or development strategy including the appropriate timeframe for the requested assistance, and links to other donor support programmes.

27. Practical audit assistance will not always be an appropriate response to a tax administration's needs. For example, evidence from programmes supporting tax administration in fragile states suggests there may be other priorities for such administrations.<sup>11</sup> In other cases, TIWB deployments may be most effective when they are a component of a broader programme of assistance to the recipient administration. It is noted that TIWB deployments could also result in other needs being identified, with the deployment leading to a broader programme of tax-related assistance outside of the TIWB framework. There may be cases where TIWB cannot assist, for example because it does not fall within the scope of practical audit-focused assistance, or because establishing an appropriate legal framework may not be possible. In such cases, other means for building capacity on tax audits may be available.<sup>12</sup>

### **III(a) FINDINGS:**

- To be effective and avoid duplication, requests for assistance should be narrowly and precisely conceived within the scope of TIWB assistance – practical audit assistance focusing on international tax matters as well as general audit skills.

### **III(a) RECOMMENDATIONS:**

- A TIWB Secretariat develops a template request form, to assist developing countries to formulate their requests for practical tax audit assistance.

### **(b) Modes and duration of deployments**

28. The feasibility study explored possible modes of expert deployments that could be used under the TIWB programme. Although there may be benefits in some cases for full-time, longer-term deployments (i.e. minimum 6-months) where an expert can develop a fuller appreciation of the specific audit context, there was a clear call to retain flexibility on the issue of mode and duration of deployments. Those consulted noted the importance of being responsive to the specific needs of each recipient administration

<sup>11</sup> See for example, OECD 2013, *Fragile States 2013: Resource flows and trends in a shifting world*; and IMF 2011, *Revenue Mobilization in Developing Countries*.

<sup>12</sup> For example, joint audits and industry wide exchange under an appropriate legal mechanism (such as a double tax convention or the multilateral Convention on Mutual Administrative Assistance for Tax Matters) are also useful tools to share knowledge and build capacity to improve tax audit practices. Reference is made to the 2010 *Joint Audit Report* of the Forum on Tax Administration, <http://www.oecd.org/tax/administration/45988932.pdf>, where these and other tools for collaboration are discussed.

also recognising the constraints on the availability of appropriate experts. The cost of various lengths of deployments, and the different expenses which arise, are discussed in section III(e) below.

29. During the feasibility study, particular interest in the following forms of deployments was indicated:

- *Full-time secondments* whereby the expert joins an audit team in a “line” position. That is, the expert works alongside local audit staff and reports to the audit unit leader.<sup>13</sup> The duration of the secondment will depend on the need identified, and expert availability.
- *Periodic deployments* where the expert combines periods of onsite assistance with remote desk-based assistance. For example, onsite assistance could be timed with peak audit periods, with remote-assistance being provided on an on-going basis.
- *Remote, desk-based assistance*. In some limited cases it may be appropriate for an expert to provide only remote assistance. This could include cases where there is an existing relationship between two administrations so some knowledge of the audit process and context in the developing country is already known to the expert. Generally, however, it may be difficult for an expert to gain a full appreciation of the audit team’s working environment and constraints, without being present in the country.

30. Other modes of practical audit training, such as ‘reverse’ deployments, where a developing country tax audit official is seconded to develop their knowledge and skills by working in another administration, were also discussed with stakeholders. However, feedback indicated that while such engagements may assist to develop audit expertise, in general they would provide far more limited benefit than programmes where an expert was deployed to work as part of a local audit team. This is because the sharing of expertise would be spread across a team, rather than focused on developing the knowledge and skills of a single individual.

### **III(b) FINDINGS:**

- Developing country needs vary in terms of the most effective modes for delivering practical audit assistance, as well as the duration for which the assistance is required.

### **III(b) RECOMMENDATIONS:**

- A TIWB Secretariat monitors and records the modes and lengths of deployment employed by countries, to create awareness of the full range of options which are available and their various benefits, for use by recipient administrations planning future deployments.

### **(c) Sourcing experts**

31. Many stakeholders, in particular potential supplying administrations, made clear that demand for high-quality expertise is at a premium, particularly on prominent international tax issues such as transfer pricing. In addition, there is a direct financial cost for the supplying administration of providing the expertise. Addressing these constraints is key to assuring the on-going viability of TIWB.

<sup>13</sup> However, as noted in the report’s introduction, the experts are not intended to act as a substitution of local tax audit staff or to carry out audit work where no local audit personnel would otherwise exist.

32. There is no single solution to this challenge as the particular impediment for each supplying administration may vary, but there was strong support for a TIWB Secretariat playing a role to expand the pool of experts and develop a database of potential experts. Looking beyond secondments of currently serving officials, this could include engaging with recently retired officials as well as encouraging South-South cooperation between developing countries. Engaging with recently retired experts could significantly increase the size of the pool of experts, and this group could be strategically targeted for participation in TIWB deployments. The Secretariat could also work with donor partners to improve direct funding support to supplying administrations, an approach which is already adopted in some OECD countries. In the case of currently serving officials, engagement will be channelled through a central contact in potential supplying administrations, and they would not form part of the database of experts.

33. Further, the study revealed significant capacity in some low and lower middle income countries to themselves provide assistance in certain tax audit areas, which needs to be taken into account. For example, as indicated in the Country D request case study in Box 2 in Section III(a) above, some developing countries consider they have certain expertise that may be of assistance to some developed countries. Therefore there is potential for an exchange of experts which is mutually beneficial to both countries. The Secretariat could also assist experts who are not currently serving officials to engage with TIWB, by developing a template form to allow registration of their details in an expert database.

34. Finally, even though during the feasibility study a number of spontaneous expressions of interest in the TIWB concept have been received from tax audit experts, it is possible that after posting a request for assistance, that there are no responses from appropriate experts. Similarly, it may arise that a recipient country will have identified a need for international tax audit expertise, but is unable to allocate funding from their own budgets to support the expert's salary. In both scenarios, more in-depth support from a TIWB Secretariat to locate an appropriate expert or deployment funding will be required. Ultimately, there may be some cases where a request cannot be addressed because a suitable, available expert or funding cannot be located.

### **III(c) FINDINGS:**

- The pool of experts could be expanded significantly through structured engagement with recently retired experts, and by encouraging South-South cooperation.
- The availability of experienced, currently serving tax administration officials is limited. Direct funding by donor partners to supplying tax administrations may relieve this limitation in part.
- There is expertise in some developing countries that might provide opportunities for mutually beneficial exchanges between two revenue administrations.

### **III(c) RECOMMENDATIONS:**

- A TIWB Secretariat supports the development of a pool of tax audit experts, through:
  - Structured engagement with recently retired officials, including through the existing alumni networks managed by tax administrations;
  - Supporting tax administrations' capacity to second tax officials by working with development partners to improve direct funding support to those administrations;
  - Looking beyond traditional providers of expertise to tap new opportunities, including South-South deployments; and
  - Assisting countries to identify mutually beneficial exchanges between two revenue administrations.
- A TIWB Secretariat develops a database of potential experts, including the creation of a template form to be completed by potential experts to register on the database.

**(d) Expert selection and accreditation**

35. The specific skill requirements and professional experience required for a particular deployment role would be determined by the recipient administration when developing their request for assistance. However, where a number of potential experts exist, the question of expert selection arises and whether that selection will be done by a TIWB Secretariat or the recipient administration. In keeping with TIWB's facilitating role, the deployment will be a direct agreement between the recipient administration and the expert or supplying administration. Accordingly, final selection of the expert should be the decision of the recipient administration.

36. Over time, a TIWB Secretariat would build up experience and would be in a position to advise on some aspects of the selection process. It could also lead to consideration of an endorsement or referral system<sup>14</sup> for prospective experts which may be particularly pertinent in terms of ensuring recently retired officials have up to date professional knowledge.

37. There is also the question of expert accreditation, for example to improve an expert's non-tax technical skills relevant for deployments, such as training on how to encourage effective knowledge transfer in a foreign work culture including language barriers, awareness of differences in tax law and operating procedures, the scope and limits of the expert's role, and how to manage conflict of interest issues if they arise.

**Box 3. An accreditation programme for experts: case study**

The World Customs Organisation (WCO) runs an expert accreditation programme to support their Customs Modernisation Program. It is focused on accrediting individuals with comprehensive skills in change management, strategic planning, and organisational development. It includes a one-week training programme that is combined with an initial deployment undertaken with a more experienced expert. In its systematic and in-depth method, the WCO model demonstrates a very high-quality approach to the issue of expert accreditation.

38. Further consideration could be given to establishing an accreditation process as TIWB develops, based in part on whether the number of deployments warrant the cost. In that regard, the World Customs Organisation accreditation programme (see Box 3 above) could provide a useful reference point.

**III(d) FINDINGS:**

- The selection of experts is an important part of a successful deployment.
- It is the recipient administration who will define the expert requirements for the deployment, and they are best-placed to make the final selection of the appropriate expert.
- Based on their experience, a Secretariat would be able to offer guidance on the expert selection process.
- An expert accreditation process has proven useful in other organisations. Nonetheless, it is a potentially high-cost proposal, which is also likely to require a minimum number of expert deployments to be viable.

<sup>14</sup> For example, an expert seeking inclusion in the database could be requested to obtain the endorsement of a recognised expert in their professional field, for example from within their home administration.

**III(d) RECOMMENDATIONS:**

- A TIWB Secretariat will guide the recipient administration in the expert selection process. The recipient administration will be responsible for final expert selection.
- A TIWB Secretariat continues to assess the extent and viability of its involvement in the development of an expert accreditation programme, as the needs and capacity of TIWB develop over time.

**(e) Funding of deployments**

39. The varying needs of each developing country tax administration and their capacity to self-fund, means that stakeholders favoured a flexible approach to funding deployments. Stakeholders were also clear that TIWB itself is not anticipated to develop its own fund for subsidising deployments. Instead, recipient administrations should seek to cover the cost of expert engagements themselves, or work with donors or foreign tax administrations to cover the deployment costs.

40. With regards to identifying appropriate donor partners, recipient administrations are themselves generally well placed to act as the primary link due to the existence in most developing countries of donor coordination groups. However, as needed and drawing on its access to a network of stakeholders, a TIWB Secretariat would be able to assist recipient administrations to establish links with appropriate donor partners.

41. When determining funding requirements for international deployments, recipient administrations and experts will need to ensure that a range of potential expenses including travel costs (relocation cost and for travel undertaken as part of the expert's role), insurance (travel and health), pension/social security, accommodation and other miscellaneous costs (for example, office space, computer and phone use) are considered. Some of the recent cases of practical audit assistance allow for some preliminary cost estimates to be drawn, suggesting amounts of EUR 15 000 for a 1-month deployment, and EUR 150 000 for a year-long deployment. These costs include salaries, bonuses, travel, and in the case of the 1-month deployment, accommodation, and in the case of the 1-year deployment, relocation costs. These estimates do not include for example, any pension/social-security payments, insurance or other miscellaneous costs. Expenses and their allocation would generally need to be addressed as part of the deployment framework agreed between the expert or supplying administration, and the recipient administration.<sup>15</sup>

42. Deployment costs should also be viewed in light of the impact and success of deployments, including the impact on revenue for recipient administrations. Some examples of deployment impact from recent cases where practical audit assistance was provided, can be found below in Section III(g) of this report, as well as in Annex 3.

43. There are a variety of funding solutions. Possible arrangements to fund the engagement of experts include (see also examples in Box 4 below):

- Recipient administration funding: where all the costs of deployment are met by the recipient tax administration. During the feasibility study, a number of developing country tax administrations have indicated that rather than needing funding support, they would turn to TIWB primarily for its network of experts.

<sup>15</sup> These estimates are based on recent cases of OECD country tax administrations providing currently serving officials to four African countries.

- Donor top-up funding: in this case, the recipient administration provides some of the funding for the deployment, for example an amount equivalent to the salary of a senior auditor in the tax administration. This base funding is complemented by additional “top-up” funding, which can be provided by a development partner or the supplying tax administration. This top-up funding can be used to cover costs such as travel and relocation expenses, and increasing the base salary to an internationally competitive level.
- Sponsored secondments: the costs of deployment are fully funded by the supplying tax administrations, either directly or through funding it receives from its own country development agency. This is a model that is currently commonly used by tax administrations, including where the deployment forms part of a broader programme of development support that the supplying country provides. Further, where funding from their own country’s development agency is received, this can over time permit the supplying administration to increase the overall cadre of trained and experienced international tax experts in their own administration.

**BOX 4. Funding arrangements under some of the current practical tax-audit assistance programmes.**

Germany’s “integrated expert” programme works with partner countries to address development issues across a full range of sectors, including tax administration. The expert is sourced by Germany from within the EU, and then hired by a local employer in the developing country (public, private or civil society) through a local employment contract and funded from the partner’s own resources. As an incentive for experts to take up the position in the partner country, Germany provides a salary top-up, rent allowances and may also make social security contributions in Germany on the expert’s behalf.

A 2-year secondment programme saw the UK’s HMRC deploy a transfer pricing specialist to work with the South African Revenue Service (SARS). The secondment was funded by the host organisation, SARS, who met the full remuneration costs of the specialist determined in accordance with SARS policy. SARS also paid all travel expenses for the deployment. The specialist was a SARS employee for the duration of the secondment, and was subject to the direction of SARS. The specialist also remained an employee of HMRC at all times.

In Zambia a 4-year programme with the Norwegian government and other partners, includes periodic expert deployment to work on audit cases, provide training and suggest improvements in the audit framework. All costs relating to the expert’s assistance are covered by the Norwegian government. The audit assistance forms part of a broader programme of assistance to the Zambian tax authority, pursuant to an agreement between Zambia and Norway, as well as an agreement between Norway and the IMF regarding the supply of technical assistance in mining sector taxation, funded by Norway.

44. In addition, during the feasibility study, innovative proposals to establish deployment funding based on “payment by results”<sup>16</sup> or development bonds were also discussed. These options could be further

<sup>16</sup> “Payment by results” is a funding model where the commissioning body agrees to fund a provider on the basis that they will achieve specified outcomes as opposed to paying for services at the start of a contract. There are a number of ways that payment by results could be adapted to the TIWB initiative, and these would need to be explored over time. PBR is now used by a number of governmental and international organisations to achieve their objectives. The potential impacts of these options would also need to be

explored by a TIWB Secretariat subject to indications of interest from recipient administrations, potential donor partners or other sponsors.

### III(e) FINDINGS:

- Funding of deployments need to take into account a range of potential expenses, beyond the salary costs of the experts themselves.
- A range of funding options exist including recipient administration funding, donor top-up funding and sponsored secondments.
- TIWB itself will not finance deployments, but could assist recipient administration with links to appropriate donor partners.

### III(e) RECOMMENDATIONS:

- To the extent possible, a TIWB Secretariat assists recipient administrations to connect with donor agencies, drawing on their multi-stakeholder network.
- A TIWB Secretariat monitors and establishes a record of the funding models used, as a resource for recipient administrations to consider when planning future deployments.
- Where interest is indicated, a TIWB Secretariat explores innovative proposals on funding, for example payment by results models.

### (f) *Legal considerations for deployments*

45. Emerging from a review of developing countries across Asia, Africa (including several francophone countries) and Latin America, there are four key legal issues which need to be considered in the context of individual deployments. In each case, there appears to be viable solutions which will address the potential issues. In most instances, this will be by way of a legal framework for the deployment put in place in advance.

#### i) **Tax information confidentiality rules.**

In most or all countries, strict confidentiality rules protect tax information (generally, information obtained in the course of a person's duties as a tax administration official). In addition, some countries also have confidentiality rules in their laws or binding codes of conduct governing public service officials. Therefore, in order to be able to access information relevant to a tax audit, ensuring the deployed expert is properly subject to those laws, including appropriate recourse in the event of any breach, is crucial.<sup>17</sup>

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considered, to ensure that appropriate and non-distortive indicators for "results" are selected, as discussed in Section III(g) below.

<sup>17</sup> During the consultation process, some stakeholders raised the question of whether provisions in existing international tax agreements concerning joint audits or industry wide exchange could assist in achieving the TIWB objective. This was considered in the course of the feasibility study, and notwithstanding some similarities in objective, these forms of assistance under treaties include a crucial component of exchanging confidential tax information between the tax administrations. This is not an element of TIWB deployments. However, joint audits and industry wide exchange under an appropriate legal mechanism (such as a double tax convention or the multilateral Convention on Mutual Administrative Assistance for Tax Matters) are also useful tools to share knowledge and build capacity to improve tax audit practices. For more information see the 2010 *Joint Audit Report* of the Forum on Tax Administration, <http://www.oecd.org/tax/administration/45988932.pdf>, where these and other tools for collaboration are discussed.

Equally, the expert may also need to take into account the confidentiality rules from their home administration. These rules generally continue to apply even where the expert is retired. For example, tax information obtained while working in their home administration could not be shared with officials in the recipient administration even where it related to a taxpayer in that jurisdiction. In addition, in some cases by virtue of the definition of a 'public service official' in the law governing public service officials which often exists in common law countries, the foreign expert may also be subject to the public service code of conduct in the recipient country.

In all of the cases identified however, the issue of confidentiality rules could be addressed, with the foreign expert generally required to take an oath or affirmation binding them not to disclose confidential tax information obtained in the course of their work for the recipient administration, and which would also make them subject to the same or an equivalent penalty regime in the event of any breach.

**ii) Conflict of interest considerations.**

Issues which raise confidentiality considerations may also raise conflict, or potential conflict, of interest issues. This can include instances where the expert is asked to work on an audit where they had previously audited the same or a related taxpayer when working in their home administration. This may also include a situation where the counterpart to a transaction is a taxpayer in the expert's home country.

In one case, the issue of identifying potential conflicts of interest was left to the discretion of the expert. In that case the deployed expert was asked to work on an audit of a taxpayer whose affairs they had already audited in their home administration. The issue was raised with the taxpayer who agreed that no conflict of interest issue would be raised by them with respect to the audit. Depending on the degree of potential conflict, an alternative solution could also be to excuse the expert from working on that particular audit. It may also be appropriate for the recipient administration and the supplying administration to explore the possibility of joint audits or other forms of collaborative assistance under an appropriate legal mechanism.<sup>18</sup>

Another approach to overcome conflict of interest concerns is through the use of anonymised case data. Some practical audit assistance is already being provided to developing country tax administrations on the basis of anonymous cases. Anonymity can be necessary where, for example, there are particular confidentiality or conflict of interest concerns, or due to policy or legal restrictions on the full involvement of a foreign expert on tax audits. Box 5 provides an example of how in practice this approach could be applied.

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For example, joint audits and industry wide exchange under an appropriate legal mechanism (such as a double tax convention or the multilateral Convention on Mutual Administrative Assistance for Tax Matters) can be useful tools to share knowledge and build capacity to improve tax audit practices. The 2010 *Joint Audit Report* of the Forum on Tax Administration, <http://www.oecd.org/tax/administration/45988932.pdf>, outlines these and other tools for collaboration between administrations where an appropriate legal mechanism exists.

**BOX 5. Providing practical assistance on anonymised tax audits: a case study**

Officials in developing Country F provided the tax audit expert with a presentation of a particular case raising transfer pricing issues with respect to a local manufacturing subsidiary in the motor vehicle industry. Country F provided a verbal presentation to the expert, as well as written documentation, with all information which could identify the taxpayer removed or redacted.

With the expert, the Country F audit officials focused on the following issues:

- The facts of the case – in order to identify and clarify the key issues;
- The technical issues raised in the case;
- How Country F's transfer pricing rules apply to the various intra-group transactions, and the most appropriate transfer pricing methods to apply to them;
- Next steps in the audit – which further facts need to be obtained, and how that could be done; and what positions the tax administration might take at that stage in the audit; and
- Practical auditing techniques relevant to the case, aimed at progressing the case effectively.

This assistance is provided on an on-going periodic deployment basis. Feedback from Country F's audit team indicates that this form of assistance has been extremely useful and effective, both in the particular case and in developing audit skills generally.

**iii) Professional and personal liability of the expert or supplying administration**

The issue of liability can arise with respect to any irregularity, incompetence or fraud by the foreign tax expert. In general, where the expert works in the position of a local tax official they will be protected from liability for any damage arising from their tax audit work to the extent it arises from actions taken in good faith, or negligence. Where fraud or other criminal acts are involved, the person will be liable in accordance with the law of the recipient country.

In other cases, the terms of the particular contract under which the expert is deployed may affect liability, including the personal liability and safety of the expert, or their supplying administration. These considerations will vary depending on the particular requirements of the country or region where the expert is deployed. For example, where the expert is a currently serving official, the secondment contract may specify that the recipient administration indemnifies the supplying administration with respect to any liability arising (which could relate to the audit, but may also include any injury sustained by the expert in the course of their duties).

**iv) Recipient country employment law issues, in particular visas and work permits.**

An expert working in a foreign country will need to ensure they are legally able to do so. In some countries, work permits or visas will only be issued to non-nationals where it can be shown that the work could not be carried out by a national. Given the proposed scope of TIWB assistance (that is, to address a gap in local tax audit knowledge), it is likely that such a criteria could be satisfied in the case of a TIWB deployment. In other cases, a letter of invitation from a local employer (e.g. the tax administration) may be required before the permit or visa will be issued. Also in cases where obtaining permits or visas raise obstacles, a number of countries indicated that it may be simplest to overcome them by engaging the expert under a technical cooperation agreement between the two countries.

There may also be prohibitions on hiring non-nationals to work in the public service. In a few instances, there is a specific prohibition on a non-national carrying out a tax audit. However, that

prohibition does not prevent the foreign expert from having access to all the necessary tax audit information and providing advice to the recipient administration (provided tax confidentiality provisions were respected – see (i) above). Further details of potential local employment law issues in specific countries are discussed in Box 6.

#### **BOX 6. Engaging foreign experts: different approaches under common and civil law systems**

A survey of the legislative framework in a sample of 12 countries across Asia, Africa (including francophone countries) and Latin America regarding non-nationals working as tax audit officials suggest some differences which appear to distinguish common law from civil law countries.

In general, for common law countries there does not appear to be any significant barriers with respect to a non-national working in the tax administration as an auditor.

In contrast, a number of civil law countries require tax administration officials to be nationals of the country. In the context of TIWB deployments, there appears to be a number of possible solutions to address this issue however:

- a) The law in certain countries provides for an appointed, qualified person (regardless of nationality) to assist a tax audit where a particular expertise or technical skill is required. The expert will be subject to the same tax information confidentiality rules as a local tax auditor and have full access to all relevant information. However, they will generally not be able to fully participate as a local tax auditor for example to request information from the taxpayer or attend an on-site inspection of the taxpayer's premises.
- b) An expert who is a currently serving official could be deployed to the developing country pursuant to a technical cooperation agreement between the two countries. In these cases, the requirements on maintaining confidentiality of tax information should be incorporated into that agreement. This option may limit the ability of the recipient administration to themselves fund the expert deployment, and instead require funding and contractual engagements to be made with a supplying tax administration, or a third party donor partner. It may also limit the ability to engage experts who are not currently serving officials.

Ultimately, careful consideration of this issue of engaging non-nationals will need to be given in any context (civil or common law). It appears, however, that it would be possible to overcome this barrier by making appropriate adaptations to the deployment framework.

Finally, with respect to the conditions of employment of the expert, given that the expert will be contractually engaged to the recipient tax administration, they will be subject to the employment laws of that country. This may differ according to the precise arrangements of the deployment, particularly where the expert is a fully-funded secondee of their home administration, where they may also remain subject to the conditions of employment in their home country.

#### **III(f) FINDINGS:**

- There are a range of legal considerations for all expert deployments, and the evidence suggests that these can be addressed by an appropriate legal framework, adapted to the circumstances of each deployment.
- The issues which may arise are case-specific, but generally relate to one of four areas: employment law issues; tax confidentiality rules; conflict of interest; and professional and

personal liability. Developing guidance on measures to address potential conflicts of interest and confidentiality of tax information are considered particularly urgent by stakeholders.

### III(f) RECOMMENDATIONS:

- A TIWB Secretariat develops tools to assist recipient tax administrations and experts to put in place effective legal frameworks for deployments, such as:
  - Model Terms of Reference or guidelines for countries requesting assistance to use in the engagement of experts, including considerations of employment law (including engagement of non-nationals) and legal liability.
  - Guidelines regarding confidentiality of tax information, including examples of oaths/affirmations for experts used in existing deployments.
  - Guidelines regarding conflicts of interest, including outlining issues which can arise pre-, during, and post-deployment.

### (g) *Measuring impact*

46. Demonstrating the benefits of individual TIWB deployments and the long-term viability of the TIWB initiative as a whole, will depend on measuring the impact of each deployment. Therefore, outlining the indicators against which impact can be assessed should form part of the tools which recipient administrations can use in establishing their deployment framework. The impact indicators selected for each deployment should be made clear to the parties involved, in particular the expert and supplying administration, and any donor partner.

47. Box 7 below includes examples of various indicators used in some of the recent practical audit assistance programmes. Many of these indicators are useful for attribution and accountability purposes. Many stakeholders noted during the feasibility study that considerations such as sustainable knowledge transfer, improved consistency and fairness in audit processes and outcomes, or increases in taxpayer confidence towards the recipient administration could also be important, longer-term goals of TIWB deployments in addition to revenue-linked targets. The 2013 OECD/ITC/BMZ *Aid Modalities for Strengthening Tax Systems* report notes that:

Some superficially attractive indicators can be double-edged swords. The tax ratio [tax revenue to GDP] is a prominent case in point in that overambitious targets can lead to abusive collection practices at the expense of fiscal legitimacy.<sup>19</sup>

48. Further, recently the Forum on Tax Administration (FTA) has published a guidance note on measuring the effectiveness of different compliance risk strategies,<sup>20</sup> which could be useful in developing impact indicators where the deployment concerned general audit skills relating to assessing compliance risk. In 2012-2013, the FTA has also been working on cooperative compliance, including how to measure the impact of preventative (pre-return filing) interventions, and this work on measuring impact should be monitored by the TIWB Secretariat.

<sup>19</sup> Page 80, 2013 OECD/ITC/BMZ report *Aid Modalities for Strengthening Tax Systems*. This report discusses revenue-related indicators at pages 78-81. A list of possible indicators for assessing tax performance are set out in Box 4.2 on page 81 of that report.

<sup>20</sup> 2010 FTA Guidance note and background materials on *Evaluating the Effectiveness of Compliance Risk Treatment Strategies*.

49. Care must therefore be taken when selecting impact metrics, as a narrow focus on more easily quantifiable indicators such as increases in revenue, need to be balanced with more nuanced considerations. Capacity building through practical knowledge and skill transfer remains the over-arching objective of the TIWB programme.

#### **BOX 7. Increasing revenue – only one measure of success**

Increases in revenues (assessed or collected) are only one possible success metric, and remains fraught with problems (for example, the difficulty in demonstrating a causal relationship between the assistance and the increase, or challenges in measuring the increase over the course of a multi-year programme of assistance or audit).

With these limitations in mind, it is noted that some recent technical assistance appear to have resulted in increases in assessed liabilities, including

- In Country G, a programme of capacity building focused on transfer pricing and provision of assistance on anonymised cases at a cost of approximately USD 15 000. This programme led to an increase in assessed tax revenues from USD 3.3million in 2011 to USD 5.83million in 2012 – a 76% increase. This is a rate of return of approximately USD 170 of revenue per USD 1 spent. Country G claims that the increase was possible only due to the practical assistance provided. This programme of assistance also saw Country G pass revised transfer pricing legislation, in line with the international standard, based on the significant advice provided by the expert.
- In Country H, a medium-term programme of assistance has focused on increasing capacity to enforce transfer pricing rules. A recent audit of a large MNE resulted in increased tax collected of USD 3.9million.
- In Country J, a programme of assistance to increase transfer pricing audit skills of the revenue administration’s auditors, has led to increased revenues collected. Specifically in one audit the revenue administration successfully negotiated a transfer pricing adjustment based on the advice given by the programme which resulted in additional tax revenue collected of USD 12.9million.

In Country K, a recent development assistance program, which included a component of practical assistance on real tax audit cases, set the following project goals, purposes and outcomes relevant to the practical audit assistance:

“The Goal of the programme is to increase the total mining tax collected relative to the gross domestic product while maintaining investment, job creation and value addition.

The Purpose of the programme is to improve taxpayer compliance with a specific focus on mining.

The four main outcomes of the programme are:

- Mining tax audit scope, coverage and follow up increase
- Increased tax revenue efficiency covering all large taxpayer segments
- Successful investigations and litigation of large taxpayers in particular mining tax disputes
- Improved relationship with large taxpayers and the mining sector”

These four main outcomes were linked to twelve more detailed indicators such as a reduction in tax declaration discrepancies by tax type, number of mining sector audits conducted, and improvements in timeliness of tax liabilities by large taxpayers.

Information on the impact of other tax-focused capacity building assistance programmes can be found in Annex 3.

50. Success metrics will need to take into account the specific goals of each deployment, and invariably it is the recipient administrations themselves who are best placed to define and evaluate the projects goals, often with the input of the expert or supplying administration. A TIWB Secretariat could support this aspect of deployments, by working with stakeholders to develop a range of possible impact measures to which the recipient administrations could refer when planning the review and assessment aspects of each deployment. Measures of impact or “results” can also be linked to innovative models for funding deployments such as payment by results or development bonds, and these are discussed in Section III(e) above.

51. Information regarding the impact of deployments, including the chosen indicators of that impact, can be usefully shared by the recipient administrations with a TIWB Secretariat for wider dissemination, including with regional and international tax organisations.

**III(g) FINDINGS:**

- Quantitative indicators of the impact of practical audit assistance need to be complemented by other less easily identifiable but more nuanced measures, such as sustained knowledge transfer, improved consistency in audit outcomes and improvements in taxpayer voluntary compliance.
- Measuring the impact of individual deployments, and the deployment process as a whole, is important information to be collated and shared by a TIWB Secretariat and recipient administrations in respect of individual deployments.

**III(g) RECOMMENDATIONS:**

- A TIWB Secretariat develops a basket of potential impact indicators, which recipient administrations could consider when setting the project goals for specific deployments.
- A TIWB Secretariat collates and shares information on recipient administration’s assessment of individual deployments.

## **PART 2: FACILITATING THE TIWB INITIATIVE – A TIWB SECRETARIAT**

### **IV. Role, Structure and Cost of a TIWB Secretariat**

52. Part 1 of this report demonstrates that demand and support for a mechanism to facilitate practically focused tax audit assistance is clear and there are viable solutions to each of the potential legal and practical challenges of deployments. Part 2 considers how to most effectively and efficiently facilitate that assistance through a central unit, the TIWB Secretariat.

#### **(a) Role and Functional approach**

53. This section of the report examines the most effective functional approach to be undertaken by a TIWB Secretariat, in order to best facilitate and support tax audit expert deployments. At the December 2012 Task Force meeting, stakeholders encouraged the feasibility study to look closely at the three possible options outlined below.

54. Model 1 below proposes a comprehensive role for the TIWB Secretariat: arranging and implementing expert deployments, including an accreditation and sensitisation programme for experts, providing on-going support in the course of deployments, as well as assessing the impact and success of each deployment. Alternatively, as proposed under Model 2, the TIWB Secretariat could take a more modest role as a clearing house, facilitating the matching of appropriate experts with demand, implying a more significant role for other stakeholders, notably the recipient administration, in putting in place the deployment framework. Under this model, the TIWB Secretariat would also seek to cooperate closely with existing organisations and programmes working in the tax and development field. Model 3 proposes a much lower level of involvement for the TIWB Secretariat, managing a web-based platform that would act as an online meeting place for tax administrations and experts interested in setting-up deployments of tax audit experts.

#### *Model 1 – A Comprehensive Service: Role and Functions*

55. Model 1 foresees the TIWB Secretariat playing an active and comprehensive role in all aspects of the expert deployments. This would include the following functions:

- Maintain an up to date database of appropriate experts, including by seeking advance commitments of experts from tax administrations, and engaging directly with recently retired officials from tax administrations.
- Assist administrations in developing countries to identify and define opportunities for expert assistance, and work with those administrations to prepare appropriate TIWB assistance requests.
- Work with recipient and supplying administrations and individual experts (e.g. retired officials) to overcome any legal barriers to participating in a deployment programme. For example, legislative restrictions on the engagement of non-nationals by the recipient.
- Where necessary, act as a contractual intermediary between a recipient administration, and the individual expert or supplying administration. For example, where the expert cannot be directly engaged by the recipient administration due to legal impediments.

- Manage the practical arrangements of deployment, including travel, accommodation, and insurance concerns.
- Administer an in-depth accreditation and sensitisation programme for experts prior to their deployment.
- Develop and apply impact indicators and success metrics which are tailored for each deployment in partnership with the recipient administration and with input from the expert. This would include the implementation of an on-going and final-stage review mechanism for deployments.
- Develop a best practice manual on deploying tax audit experts for use by individual experts and tax administrations, drawing from the findings of the deployment review process.

56. Under Functional Model 1, the TIWB Secretariat could establish agreements with tax administrations to provide a minimum amount of seconded expert support per year. It could also seek agreements with development agencies to integrate support for TIWB deployments into their planning of tax-related, long-term development assistance programmes.

#### *Model 2 – A Clearing House: Role and Functions*

57. Functional Model 2 is a clearing-house mechanism to match the demand for, and supply of, experts to ensure a rapid and integrated delivery of the requested expertise. It would carry out a more limited range of functions than under Model 1 with greater emphasis placed on the development of cooperative relationships with stakeholders in order to meet the TIWB objective. The responsibilities of the TIWB Secretariat under Model 2 would include:

- Administer template request forms for recipient administrations on the preparation of appropriate requests for assistance, working with individual tax administrations and regional tax organisations to provide support in that regard, including to review draft requests for assistance.
- Maintain a database of appropriate tax audit experts, including liaising with tax administrations to contact their recently retired officials. The Secretariat would also work with potential supplying tax administrations to request the secondment of currently serving staff if available, in response to specific requests received from developing countries.
- Facilitate the bilateral relationships between recipient administrations and experts, including the expert selection process and guidelines on considerations in drafting a deployment agreement (or development of a model deployment agreement). The Secretariat would have no role however as an intermediary contracting entity between recipient administrations and the partnering experts or supplying administrations.
- Administer model guidance on common tax expert deployment issues such as addressing conflict of interests and the confidentiality of tax information. In respect of practical arrangements for deployments such as travel and insurance, the TIWB Secretariat would play no role under Model 2. Instead, these would be a bilateral matter to be resolved between the recipient tax administration, and the expert or supplying tax administration.

- Work with recipient administrations and donor partners to put in place appropriate funding arrangements for the deployment, looking to existing donor programmes, and in particular through the recipient country's donor coordination group.
- Develop a basket of impact indicators and success metrics which recipient administrations could consider when setting the project goals for specific deployments and which both supplying and recipient tax administrations could use to measure the impact of deployments.
- Support existing programmes of practical tax audit assistance, for example by providing access to a broader pool of experts to meet identified demand, and advising on the components of an appropriate legal framework.

58. Over time, the functions of the Secretariat under Functional Model 2 could expand in accordance with demand. For instance, the Secretariat could consider implementing an endorsement or referral requirement for prospective experts, as well as exploring the viability of developing a limited accreditation or sensitisation programme for deploying experts, such as a short online, module to be completed by experts prior to deployment. As an additional support tool for experts, the Secretariat may look to make available an informal web-based forum for experts to share their deployment experiences, and resources they developed to assist recipient administrations.

59. As part of its integrated delivery approach, the TIWB Secretariat would also seek out opportunities to incorporate TIWB deployments with existing bilateral and multilateral tax technical assistance programmes. For example, by adding TIWB assistance components to existing training seminars which establish a theoretical knowledge foundation about international tax issues.

60. The Secretariat would also aim to work with regional tax organisations such as the African Tax Administration Forum (ATAF), the Inter-American Center for Tax Administrations (CIAT), the Centre de rencontre des administrations fiscales (CREDAF) as well as international organisations such as the World Bank or the UN in the context of tax and development focused projects, to develop more formal relationships. These organisations are well-placed to closely assist their members to engage with TIWB to secure practical audit assistance, including through their network of tax officials and donor partners. Any role they may play in respect of TIWB deployments could be considered and develop over time.

### *Model 3 – An Online Platform: Role and Functions*

61. This model proposes the TIWB Secretariat role as creating and managing a publicly accessible online forum including a database of requests and available experts. This would be the central meeting place for tax administrations and experts interested in tax audit-related deployments. Functional Model 3 is a more modest, less involved proposal than Models 1 or 2, with the functions of the Secretariat limited to:

- Establishing a simple and user-friendly website where tax administrations could post requests for practical tax audit assistance and experts could also indicate their availability and areas of expertise. Stakeholders could also use the platform to post information or documents which may be relevant to the deployment of tax audit experts, for example summary outlines of current deployment programmes.

62. Under Model 3, the process of engaging with the platform, as well as matching requests and expertise would be driven entirely by the parties themselves, rather than a TIWB Secretariat. Similar structures are used in other fora, for example the Technical Assistance Coordination Platform of the Global Forum on Transparency and Exchange of Information for Tax Purposes.

**(b) Organisational structure and TIWB Secretariat costs**

63. As with the Secretariat's functional responsibilities, the organisational structure of TIWB would need to retain some flexibility to be able to develop in response to the project's needs. In addition to organisational structure, the study also considered possible oversight arrangements and the funding requirements for a TIWB Secretariat.

64. In particular, the feasibility study considered two organisational options for TIWB: as a stand-alone organisation, or as a project of the OECD's Tax and Development Programme. The stand-alone structure offers clear independence from any single stakeholder, and flexibility in governance and procedure as these will be defined by its own governing rules. Housing the TIWB Secretariat within the OECD's Tax and Development Programme at least initially would provide continuity for the early stages of the project, ensure the process of facilitating deployments could begin more immediately, and would benefit from the OECD's established network of tax administrations, development agencies and other Task Force stakeholders.<sup>21</sup>

65. To complement the work of the TIWB Secretariat, an oversight body in the form of an Advisory Board could provide timely input and guidance. Drawing its members from the Task Force's multi-stakeholder base, the Advisory Board would ensure the project benefited from a full range of expertise and perspectives, ensure on-going engagement in the long-term success of the initiative, and assist with TIWB's integration into the existing tax and development technical assistance landscape. In terms of the Board's composition, the Task Force core leadership group would provide an appropriate starting point, and the Board's full composition could be endorsed by the Task Force at its meeting in October 2013.<sup>22</sup> Looking forward, the role of the oversight body could be adapted to meet the initiative's changing needs including any developments in its organisational structure.

66. The size of the TIWB Secretariat would be very modest. A project manager would lead the Secretariat. They would be responsible for developing the TIWB mechanism, ensuring on-going engagement with all stakeholders, and working with the proposed oversight body. The project manager could be assisted by short-term consultants, according to need. In addition, the TIWB Secretariat would need access to administrative and IT support. Salary and related costs for staff would therefore be approximately EUR 200 000 in the first year, with additional annual costs relating to travel, IT support and miscellaneous expenses such as hosting meetings and translation estimated at EUR 50 000.<sup>23</sup> Initially, TIWB Secretariat costs would therefore be about EUR 250 000 per annum. As the role of the Secretariat develops, and on-going staffing requirements of the initiative are ascertained, the longer-term operating expenses of the initiative will need to be monitored.<sup>24</sup>

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<sup>21</sup> The OECD also has significant, proven experience in housing small, dedicated Secretariats, for example the African Partnership Forum Support Unit.

<sup>22</sup> The precise scope of the Advisory Board's role will be determined by the Task Force at its meeting in October 2013. Presently it is envisaged it would provide effective and timely input on the tools developed by the Secretariat, advise on priority areas for TIWB development, and identify opportunities to integrate TIWB into the existing array of tax-focused technical assistance to developing countries. It would be able to provide more regular input to the Secretariat's work, than the Task Force or OECD Committees.

<sup>23</sup> These cost estimates rely on OECD salary levels as a point of reference. Even where TIWB is established outside of the OECD, as a stand-alone organisation, salary and other related costs would be comparable.

<sup>24</sup> If the stand alone organisational structure was adopted, initial start-up costs would be more significant. As a point of comparison, the Extractive Industries Transparency Initiative (EITI), established under Norwegian law as a non-governmental organisation in 2007, recorded one-off establishment costs of USD 85 890 in its first two years (2007 – 2008).

## *Analysis*

67. In assessing these functional and organisational models, it is important to recall stakeholder demand for the Secretariat's role to be needs driven and proportionate, while also retaining sufficient flexibility to respond to future needs and development of the initiative.

68. Functional Model 1 represents an elaborate scaling-up of the TIWB proposal and the Secretariat would be responsible for providing a full-range of services to interested stakeholders, in particular the inclusion of an expert accreditation function and possible direct contractual involvement in deployments as needed. At least in the first stage of the TIWB initiative, Model 1 is likely to be a disproportionate response to current needs. Nonetheless, this model may include certain functions of the Secretariat which could become part of its role if it expands over time in response to need.

69. In the middle of the spectrum, Functional Model 2 aims for a clearing house role with integrated assistance delivery, fulfilling those functions necessary to meet demand for TIWB assistance. Effective deployments would rely in part on active partners, particularly the recipient administrations themselves ensuring a demand-driven approach is maintained. A key distinction from Model 1 is that under Model 2 the Secretariat would not at this stage operate an expert accreditation process and would not have any direct contractual involvement in any deployment.

70. Experience gained with structures similar to Model 3 suggests that it would be a low-maintenance model for TIWB and that it would be entirely driven by the interest of participants (on both the side of potential recipient administrations, and supplying administrations/individual experts). Equally, however, the absence of a dedicated focal point for practical tax audit assistance means that under Model 3, TIWB is very unlikely to develop the impetus required to effectively facilitate deployments. On balance, this model is too passive for the intensive work anticipated in soliciting correctly presented requests for assistance from developing countries, identifying appropriate experts, developing the necessary guidelines to overcome the practical and legal challenges, and working with myriad partners (recipient and supplying administration or expert, as well as donor partners) to bring each deployment to fruition.

71. In terms of organisational structure, at this point the greater administrative complexity and higher establishment costs of the stand-alone organisational structure would not correspond to the early-stage requirements of TIWB. The initiative as a project of the Tax and Development Programme fits the requirements of the project at its present stage. Its future development could include transferring the TIWB Secretariat to a stand-alone organisation in due course.

72. Complemented by an Advisory Board, and driven by a single-person Secretariat, Model 2 represents a low-cost TIWB model which is appropriately balanced in terms of current needs, flexibility, and scale. Model 2 is the preferred option of the large majority of countries consulted during the feasibility study. Housed initially within the OECD's Tax and Development Programme, this structure provides sufficient support to launch a new programme, to explore opportunities for partnerships and would be flexible enough to adapt the Secretariat's role based on its early experiences in facilitating deployments. Under the Tax and Development Programme structure, the Secretariat's costs would be met by voluntary contributions to the Tax and Development work programme, with initial indications of support already received. In time, the functional model, organisational structure and funding arrangements of TIWB would need to be assessed to ensure it remained responsive to TIWB's needs.

**IV. FINDINGS:**

- A central organising unit (TIWB Secretariat) is required to facilitate the TIWB concept.
- The TIWB Secretariat's role and function must be proportionate to current needs, but retain flexibility for future development.
- TIWB's organisational arrangements need to fit the proposed clearing-house role of the Secretariat. This includes an ability to maintain a strong network with all of the TIWB stakeholders, in particular tax administrations.
- The organisational structure should also be flexible to allow development over time. This could include the creation in due course of an independent stand-alone organisation.
- The recurrent funding requirements of the TIWB Secretariat are estimated at EUR 250 000 and except for differences in the initial establishment costs, would not vary greatly according to the organisational structure selected.

**IV. RECOMMENDATIONS:**

- A small-scale and low-cost TIWB Secretariat is formed to carry out a clearing-house role, responsible for the core functions necessary to facilitate expert deployments.
- TIWB is established initially as a project of the Tax and Development Programme of the OECD.
- Initial funding requirements of the TIWB Secretariat are met by voluntary contributions.

### PART 3: CONCLUSIONS AND NEXT STEPS

73. The main conclusion of this report is that a centrally organised initiative, TIWB, should be established under the OECD's Tax and Development Programme to facilitate the deployment of experts to provide practical tax audit assistance in response to demand from developing countries. The full findings and recommendations, covering the most appropriate functions, organisational structure, and deployment process to make TIWB a reality, are set out in Annex 1.

#### V. Next Steps

74. The deliverables required to establish TIWB's clearing-house framework include:

- Development of a database of available experts, including a mechanism for its regular update; to work with OECD and Task Force members to contact networks of recently retired tax officials, and to liaise with potential supplying tax administrations through an identified point of contact, regarding their capacity to second currently serving officials in response to specific requests for assistance.
- Creation of a TIWB Toolkit, including:
  - Develop model terms of reference or guidelines for countries requesting assistance which can be used to develop their framework for engaging an expert.
  - Draft template request form for countries seeking assistance, to define the scope of the request including with regard to scope, duration, required expertise, and deployment funding possibilities.
  - Develop template form for potential experts to complete in order to register details on the TIWB database.
  - Draft guidelines regarding confidentiality of tax information, including examples of oaths/affirmations for experts used in similar cases, and an outline of the legal obstacles for individual experts to consider.
  - Draft guidelines regarding conflicts of interest, including measures that could be taken, pre-, during and post- deployment to avert issues arising.
  - Draft guidance note for experts and supplying administrations of the key considerations in preparing for deployment, in particular the potential legal (visas, permits, conflicts of interest etc.) and practical (medical, insurance, accommodation etc.) issues.
  - Develop basket of potential success metrics for expert deployments, which could be referred to by recipient tax administrations when developing their expert engagement framework to assess the impact of individual deployments.
- Prepare draft TIWB terms of reference and consider the composition of an expanded Task Force core leadership group to serve as the TIWB Advisory Board, to be endorsed in October 2013 at the Tax and Development Task Force meeting in Korea.
- Set-up pilot deployments using the TIWB deployment model, based on the indications of interest from tax administrations (potential recipients and suppliers of expertise) already received.

75. These measures could be completed in an interim, six-month implementation period, to December 2013. In doing so, the TIWB Secretariat would gain experience in this innovative form of

facilitating real-time, tax audit assistance, which would form the basis of further refinement of the TIWB process.

76. From January 2014, operations would begin with a comprehensive roll out of the initiative. This would mean expanding deployments beyond the initial pilot deployment projects, continuing to grow the database of available experts and working with donor partners and supplying administrations to develop their support for deployments.

77. Over the following 12 months to December 2014, it would also be important to monitor the levels of engagement by all stakeholders in order to be able to properly assess the merits of the TIWB initiative at the end of 2014. This assessment would necessarily include a review of the request matching mechanism, the tax audit issues suitable and relevant for TIWB deployments; the viability of an endorsement, accreditation or sensitization program for TIWB-auditors; and consideration of how the practical and legal challenges of deployment have been addressed in practice. The assessment would also need to consider the functional responsibilities of the TIWB Secretariat, its organisational structure (including size and location of the Secretariat), and the Secretariat's on-going funding and governance arrangements. The Advisory Board with the Secretariat would report comprehensively to the CFA and DAC at the end of TIWB's first 18-month mandate.

#### **DECISIONS REQUIRED:**

##### **The DAC and the CFA are asked to:**

- Approve all of the recommendations made in this report which are set out in full in Annex 1.
- Approve the establishment of TIWB as a project of the OECD's Tax and Development Programme with an 18 month mandate, to December 2014. This period would include:
  - i. A six month implementation phase to December 2013, during which time the TIWB Secretariat would *inter alia* establish the TIWB "Toolkit", work with the Task Force to agree on terms of reference and composition of the Advisory Board, and commence pilot deployment projects.
  - ii. A 12 month trial operational phase, commencing in 2014, in which TIWB assistance would be launched, facilitating the deployment of experts to provide practical tax audit assistance in response to requests from developing countries.
  - iii. The TIWB Secretariat with the TIWB Advisory Board to report on progress to the DAC and the CFA at the end of 2014.

It is estimated that TIWB will cost EUR 250 000 per annum initially. These costs would be met by voluntary contributions to the OECD's Tax and Development Programme, with initial indications of interest to support TIWB's first mandate already having been received.

**ANNEX 1: FINDINGS AND RECOMMENDATIONS OF THE TIWB FEASIBILITY STUDY**

<b>SECTION</b>	<b>FINDINGS</b>	<b>RECOMMENDATIONS</b>
<b>I. Demand and Feasibility</b>	<ul style="list-style-type: none"> <li>• Practical, learning-by-doing assistance on real audit cases is an unmet area of tax-focused technical assistance.</li> <li>• Several existing programmes demonstrate that it is feasible, once certain practical and legal challenges are overcome.</li> <li>• Strong demand exists from developing country tax administrations for this type of practical hands-on assistance.</li> </ul>	<ul style="list-style-type: none"> <li>• A programme (TIWB) is established, to facilitate expert deployments to provide practical tax assistance on real audit cases, focusing on international tax issues and general audit practices.</li> </ul>
<b>II. Process for establishing TIWB expert deployments</b>	<ul style="list-style-type: none"> <li>• There should be a clear process for fulfilling a request for assistance through to the post-deployment stage, defining the steps in the process to be taken by the different stakeholders.</li> </ul>	<ul style="list-style-type: none"> <li>• A TIWB Secretariat facilitates a number of pilot deployment programmes during an initial implementation phase of the project.</li> </ul>
<b>III(a). Requests for expert audit assistance</b>	<ul style="list-style-type: none"> <li>• To be effective and avoid duplication, requests for assistance should be narrowly and precisely conceived within the scope of TIWB assistance – practical audit assistance focusing on international tax matters as well as general audit skills.</li> </ul>	<ul style="list-style-type: none"> <li>• A TIWB Secretariat develops a template request form, to assist developing countries to formulate their requests for practical tax audit assistance.</li> </ul>
<b>III(b). Modes and duration of deployments</b>	<ul style="list-style-type: none"> <li>• Developing country needs vary in terms of the most effective modes for delivering practical audit assistance, as well as the duration for which the</li> </ul>	<ul style="list-style-type: none"> <li>• A TIWB Secretariat monitors and records the modes and lengths of deployment employed by countries, to create awareness of the full range of</li> </ul>

	assistance is required.	options which are available and their various benefits, for use by recipient administrations planning future deployments.
<b>III(c). Sourcing Experts</b>	<ul style="list-style-type: none"> <li>• The pool of experts could be expanded significantly through structured engagement with recently retired experts, and by encouraging South-South cooperation.</li> <li>• The availability of experienced, currently serving tax administration officials is limited. Direct funding by donor partners to supplying tax administrations may relieve this limitation in part.</li> <li>• There is expertise in some developing countries that might provide opportunities for mutually beneficial exchanges between two revenue administrations.</li> </ul>	<ul style="list-style-type: none"> <li>• A TIWB Secretariat supports the development of a pool of tax audit experts, through: <ul style="list-style-type: none"> <li>- Structured engagement with recently retired officials, including through the existing alumni networks managed by tax administrations;</li> <li>- Supporting tax administrations' capacity to second tax officials by working with development partners to improve direct funding support to those administrations;</li> <li>- Looking beyond traditional providers of expertise to tap new opportunities, including South-South deployments; and</li> <li>- Assisting countries to identify mutually beneficial exchanges between two revenue administrations.</li> </ul> </li> <li>• A TIWB Secretariat develops a database of potential experts, including the creation of a template form to be completed by potential experts to register on the database.</li> </ul>
<b>III(d). Expert selection and accreditation</b>	<ul style="list-style-type: none"> <li>• The selection of experts is an important part of a successful deployment.</li> <li>• It is the recipient administration who will define the expert requirements for the deployment, and they are best-placed to make the final selection of the appropriate expert.</li> <li>• Based on their experience, a Secretariat would be able to offer guidance on the expert selection process.</li> <li>• An expert accreditation process has proven useful in other organisations. Nonetheless, it is a potentially</li> </ul>	<ul style="list-style-type: none"> <li>• A TIWB Secretariat will guide the recipient administration in the expert selection process. The recipient administration will be responsible for final expert selection.</li> <li>• A TIWB Secretariat continues to assess the extent and viability of its involvement in the development of an expert accreditation programme, as the needs and capacity of TIWB develop over time.</li> </ul>

	high-cost proposal, which is also likely to require a minimum number of expert deployments to be viable.	
<b>III(e). Funding of deployments</b>	<ul style="list-style-type: none"> <li>• Funding of deployments need to take into account a range of potential expenses, beyond the salary costs of the experts themselves.</li> <li>• A range of funding options exist including recipient administration funding, donor top-up funding and sponsored secondments.</li> <li>• TIWB itself will not finance deployments, but could assist recipient administration with links to appropriate donor partners.</li> </ul>	<ul style="list-style-type: none"> <li>• To the extent possible, a TIWB Secretariat assists recipient administrations to connect with donor agencies, drawing on their multi-stakeholder network.</li> <li>• A TIWB Secretariat monitors and establishes a record of the funding models used, as a resource for recipient administrations to consider when planning future deployments.</li> <li>• Where interest is indicated, a TIWB Secretariat explores innovative proposals on funding, for example payment by results models.</li> </ul>
<b>III(f). Legal considerations for deployments</b>	<ul style="list-style-type: none"> <li>• There are a range of legal considerations for all expert deployments, and the evidence suggests that these can be addressed by an appropriate legal framework, adapted to the circumstances of each deployment.</li> <li>• The issues which may arise are case-specific, but generally relate to one of four areas: employment law issues; tax confidentiality rules; conflict of interest; and professional and personal liability. Developing guidance on measures to address potential conflicts of interest and confidentiality of tax information are considered particularly urgent by stakeholders.</li> </ul>	<ul style="list-style-type: none"> <li>• A TIWB Secretariat develops tools to assist recipient tax administrations and experts to put in place effective legal frameworks for deployments, such as: <ul style="list-style-type: none"> <li>- Model Terms of Reference or guidelines for countries requesting assistance to use in the engagement of experts, including considerations of employment law (including engagement of non-nationals) and legal liability.</li> <li>- Guidelines regarding confidentiality of tax information, including examples of oaths/affirmations for experts used in existing deployments.</li> <li>- Guidelines regarding conflicts of interest, including outlining issues which can arise pre-, during, and post-deployment.</li> </ul> </li> </ul>
<b>III(g). Measuring Impact</b>	<ul style="list-style-type: none"> <li>• Quantitative indicators of the impact of practical audit assistance need to be complemented by other less easily identifiable but more nuanced measures such as</li> </ul>	<ul style="list-style-type: none"> <li>• A TIWB Secretariat develops a basket of potential impact indicators, which recipient administrations could consider when setting the project goals for</li> </ul>

	<p>sustained knowledge transfer, improved consistency in audit outcomes and improvements in taxpayer voluntary compliance.</p> <ul style="list-style-type: none"> <li>• Measuring the impact of individual deployments, and the deployment process as a whole, is important information to be collated and shared by a TIWB Secretariat and recipient administrations in respect of individual deployments.</li> </ul>	<p>specific deployments.</p> <ul style="list-style-type: none"> <li>• A TIWB Secretariat collates and shares information on recipient administration's assessment of individual deployments.</li> </ul>
<p><b>IV. Role Structure and Cost of a TIWB Secretariat</b></p>	<ul style="list-style-type: none"> <li>• A central organising unit (TIWB Secretariat) is required to facilitate the TIWB concept.</li> <li>• The TIWB Secretariat's role and function must be proportionate to current needs, but retain flexibility for future development.</li> <li>• TIWB's organisational arrangements need to fit the proposed clearing-house role of the Secretariat. This includes an ability to maintain a strong network with all of the TIWB stakeholders, in particular tax administrations.</li> <li>• The organisational structure should also be flexible to allow development over time. This could include the creation in due course of an independent stand-alone organisation.</li> <li>• The recurrent funding requirements of the TIWB Secretariat are estimated at EUR 250 000 and except for differences in the initial establishment costs, would not vary greatly according to the organisational structure selected.</li> </ul>	<ul style="list-style-type: none"> <li>• A small-scale and low-cost TIWB Secretariat is formed to carry out a clearing-house role, responsible for the core functions necessary to facilitate expert deployments.</li> <li>• TIWB is established initially as a project of the Tax and Development Programme of the OECD.</li> <li>• Initial funding requirements of the TIWB Secretariat are met by voluntary contributions.</li> </ul>

**ANNEX 2:  
EXAMPLES OF PRACTICAL TAX AUDIT ASSISTANCE -  
CURRENT AND PROPOSED PROGRAMMES**

In addition to the case studies presented in the report, there are other programmes which provide practical audit assistance, or which have been recently proposed to provide this type of assistance. A selection of these are presented here:

***Strengthening Transfer Pricing in Colombia – The OECD’s Tax and Development Programme***

Starting in 2012, the OECD’s Tax and Development Programme provides capacity development support on transfer pricing to the Colombian tax administration (DIAN) in partnership with the World Bank and the European Union. Transfer pricing experts from the OECD and its partners spend a week with DIAN every 3-4 months and for part of that week provide skills building to DIAN transfer pricing auditors including advice on anonymised DIAN transfer pricing audits. These regular visits are supplemented by telephone and e-mail correspondence between OECD and DIAN officials. External experts are also brought in to cover specific issues (e.g., a mining industry expert to explain mining supply and value chains).

The OECD’s Tax and Development Programme is also currently involved in similar medium-term Transfer Pricing projects in Ghana, Kenya, Rwanda and Vietnam. Support will also be provided to Peru, Jamaica and Zambia from mid-2013.

***Capacity building in Papua New Guinea: Australian Tax Office – AusAID Cooperation***

Through its International Engagement Strategy, the Australian Taxation Office (ATO) aims to:

- Influence administrative policy at a global level to better identify and mitigate global risks
- Champion international transparency and equitable tax administration
- Enhance Australia’s commitment to supporting regional development
- Develop strong partnerships with key emerging countries.

The ATO sees capacity assistance as a key component of the strategy. In parallel, AusAID recognises the important role that support for tax systems plays as part of governance assistance. The two organisations work together to provide capacity building assistance to the Papua New Guinea (PNG) Internal Revenue Commission (IRC). AusAID funds the placement of ATO tax experts to consult, mentor and train counterparts in the IRC through two closely aligned programmes: the Strongim Gavman Program (SGP) and the PNG Australian Taxation office Twinning Scheme (PATOTS).

*Strongim Gavman Program (SGP)*

- SGP is a whole-of-government engagement programme involving Australian Government agencies that provides capacity development assistance and advice to counterpart PNG Government agencies. It is funded by the Australian aid program, as part of a suite of governance assistance.
- The IRC has advice and capacity assistance provided by ‘tax advisory’ positions from the ATO filled on a ‘transfer at level’ basis for a fixed two year period to the PNG IRC.
- Australian official’s logistics are coordinated by AusAID as part of the broader aid program.
- The ATO has been involved in providing capacity assistance to the IRC since 2004.

## Current SGP focus

- ATO SGP officials provide advice and capacity building assistance across a range of tax administration and technical areas, including audit planning and monitoring, identification assessment and treatment of risk, law interpretation, and tax awareness marketing and education. SGP officials undertake an advisory role on current audit cases, providing assistance and support to the IRC audit teams.

*PNG-ATO Twinning Scheme (PATOTS)*

- The twinning scheme is reviewed annually and structured around the key focus areas outlined in the IRC Corporate Plan, matched with the areas where the ATO can provide specific expertise.
- The nature of the commitment evolves in line with IRC’s needs and the ATO’s capacity to support delivery of the program. It currently involves short term placements of ATO officials for up to 4 weeks to PNG.
- The ATO experts review a specific business area and develop a plan outlining recommendations for a way forward which are endorsed by the IRC. IRC business areas work on implementing these recommendations with support and assistance from the SGP team. Three to six months following an initial visit the ATO, official returns to check on progress, further train staff and set the next stages of capacity assistance. Additional assistance is available by email/phone between visits.
- Sending ATO experts to the IRC supports exposure of wider groups of IRC staff to capacity development and allows for greater sustainability of knowledge and skills transfer. ATO officers can also better understand the IRC context and tailor their approaches to sharing expertise.
- The PATOTS twinning scheme has been active since 2007.

## Current Twinning focus

- The key areas of focus for 2012-13 include risk management and case selection, and transfer pricing. Past areas of focus include audit, compliance projects on particular industries and key client management. ATO Twinning officials undertake an advisory role on current audit cases, providing assistance and support to the IRC audit teams.

### *Netherlands – Curaçao*

The Netherlands Tax Administration provides specific audit assistance to the Curaçao tax authorities on the basis of an agreement between the two parties. Under this agreement the Netherlands has sent two tax officials to Curaçao to assist with carrying out audits with regard to financial institutions established in Curaçao (3 x two week period). The goal of the cooperation agreement is to share expertise and experience. The costs for transport and accommodation of the experts are funded by the tax authorities in Curaçao; the Netherlands Tax Administration bears the costs for the experts themselves.

### *Proposals to provide practical assistance in the tax and broader financial services sectors.*

In addition to the TIWB project, two recent proposals have been made in recognition of the need to provide practical assistance for audit skill development in developing country tax administrations.

### *Database of Transfer Pricing Experts*

The Forum on Tax Administration (FTA) recognised in their 2012 report on *Dealing Effectively with the Challenges of Transfer Pricing* that “there is a limit to what any country, whether developed or developing, can achieve acting alone”. Noting that co-operation between tax administrations, particularly in cross-border tax issues such as transfer pricing, was crucial, the report recommended that the FTA “establish and maintain a register of countries prepared to provide assistance to tax administrations in developing countries that are looking to build up their transfer pricing skills”. At this stage, the recommendation has not been taken further pending development of the TIWB concept.

### *Transfer Pricing Expert Panel*

In 2012, the Transfer Pricing Working Group of the African Tax Administration Forum (ATAF) agreed to take steps towards developing a panel of transfer pricing experts. The panel would be available to provide advice to tax officials from ATAF member countries, in response to focused questions related to transfer pricing. It is proposed that the panel be staffed by experts from both African and non-African tax administrations. The proposal is expected to undergo piloting in 2013.

**ANNEX 3:  
ADDITIONAL CASE STUDIES ON THE IMPACT OF  
TAX-FOCUSED CAPACITY BUILDING ASSISTANCE**

Compelling evidence shows that the return on donor investment in tax systems development can be significant:

- In Ethiopia, DFID, alongside other donors, supports the Public Sector Capacity Building Programme which includes capacity building support to the tax system. An objective is to increase tax revenue by 87% from 43.3 billion birr in 2010 to 81.1 billion birr in 2013. Every £1 of DFID support to tax system reform is estimated to produce additional revenue of about £20 per annum.
- USAID support worth USD 5.3 million in 2004-10 to improve tax collection in El Salvador led to increased revenue of USD 350 million per year.
- In Burundi, DFID support helped to establish an independent Revenue Authority in July 2010, at a time when the country's tax and customs services (then under the Ministry of Finance) topped the list of East Africa's most corrupt organisations in Transparency International's East African Bribery Index. The programme set out to transform the culture of tax collection. From January to June 2011, revenue collection was 37.4% above the level for the same period the previous year. From July to September 2011, the outturn revenue exceeded the forecast by 14% (or £7million).
- DFID support to the Rwanda Revenue Authority helped to develop the laws and regulations under which the authority was established, the office building and the management systems. The 10 year period of support saw a six-fold increase in the taxes collected and in 2010, the management procedures of the authority were awarded ISO 9001 2008 accreditation – the first Rwandan institution to attain this standard. The Authority reached a point where it was collecting the full £24 million value of DFID's support programme every three weeks. Its effectiveness has been a major factor in Rwanda's impressive development performance in recent years.

The examples given above relate to tax-focused capacity building assistance, but not necessarily assistance providing practical-audit assistance. Examples of impact of deployments which is focused on practical audit assistance can be found in Box 7 in Section III(g) of this report.

#### **ANNEX 4: CONSULTATION WITH STAKEHOLDERS**

The consultation process of the TIWB feasibility study included in-depth discussions to explore the proposal with a diverse range of stakeholders at bilateral and multilateral meetings touching on international tax and development issues, as well as regionally organised, tax-focused events. This process has engaged a spectrum of perspectives from the ministerial level to tax officials with day-to-day responsibility for carrying out audits.

The process has included discussions with:

- Members of the African Tax Administration Forum (ATAF) at their General Assembly Meeting in September 2012;
- Members of the Commonwealth Association of Tax Administrations in October 2012 at their annual Technical Conference;
- The Secretariats of the Inter-American Centre of Tax Administrations (CIAT) and ATAF on a number of occasions, including at the October 2012 Technical Conference hosted by CIAT;
- Participants in the Core Group of the International Tax Compact at their meeting in October 2012;
- International organisations working in the tax and development fields, including the IMF, UN, World Bank, CREDAF, and the WCO;
- Business interests through the Business and Industry Advisory Committee to the OECD, as well as through individual discussions with companies interested in the project;
- East African Revenue Authorities Technical Committee (EARATC) at their meeting in March 2013;
- Civil society, such as the Tax Justice Network and CCFD-Terre Solidaire, through their engagement with the Task Force on Tax and Development; and
- Individual officials from government development agencies and tax administrations from both OECD members and non-OECD economies, across Asia, the Pacific, Africa, Europe, and the Americas.

In addition, the Secretariat has engaged with the members of the Forum on Tax Administration, and in particular the members of the FTA bureau. In October 2012, involvement in the TIWB feasibility was discussed and endorsed by the FTA bureau members. In turn, information on the feasibility study was provided to the full FTA membership with an invitation to participate more comprehensively in the study. This has since been followed by more detailed discussions on the TIWB project with interested individual FTA members.