

BUILDING BRIDGES BETWEEN REVENUE AUTHORITIES WOULD A WORLD TAX ORGANISATION BE A KEY FACILITATOR?*

DALE PINTO** AND ADRIAN SAWYER***

ABSTRACT

The need for, and feasibility of, creating a World Tax Organisation (WTO) in the area of taxation law has been argued elsewhere by the authors of this paper. In this paper we seek to advance prior arguments through demonstrating how a WTO could facilitate and enhance the existing interactions between revenue authorities through the creation of enduring relationship bridges. We build upon earlier work regarding a WTO and present a proposal for how the jurisdiction of a WTO could assist with building enduring relationship bridges between revenue authorities, in developed and developing countries, and countries small and large. This process of building bridges should develop gradually through areas similar to that occurring through existing organisations operating on a regional or specific grouping basis. For instance it could include sharing approaches to tax administration, discussing current and emerging issues in tax practice and administration, expanding information sharing and cooperation with tax haven nations, sharing best tax administration practices, staff exchanges, and developing coordinated approaches to aspects of tax administration to facilitate international business.

I. INTRODUCTION AND BACKGROUND

In the increasingly globalised world that we live in, along with the current crisis in world economies the potential for a World Tax Organisation (WTO) to emerge as a global organisation in the tax arena is significantly increased. Indeed, Pinto and Sawyer argue for the establishment of a WTO, observing that:

... the future of the administration of most “international” tax systems is not sustainable in the current environment of limited cooperation ... it is suggested that a World Tax Organisation is a desirable initiative that could achieve a more coordinated development of international tax policy than existing mechanisms. ...¹

Pinto and Sawyer recommend that in order to establish acceptance the WTO’s jurisdiction should be developed in a gradual manner. They conclude in this regard:

Created in this incremental way, it is submitted that a WTO will not only bridge gaps in international tax policy created by the limited scope of unilateral measures ... but could also serve as an important and effective coordinating mechanism to determine future tax policy in an increasingly globalised world. While current activities undertaken by international institutions such as the OECD are commendable and useful adjuncts to domestic rules in many areas ... they are limited by not being truly international in their scope.²

* The membership data for the organisations reviewed in the article is correct as far as we can ascertain as at 30 June 2011.

** Professor of Taxation Law, Taxation Director of Applied Law and Policy Area of Research Excellence, Curtin University, Perth, Australia, email: Dale.Pinto@cbs.curtin.edu.au.

*** Acting PVC and Dean of Commerce, Professor of Taxation, Department of Accounting and Information Systems, College of Business and Economics, University of Canterbury, Christchurch, New Zealand (corresponding author), email: adrian.sawyer@canterbury.ac.nz.

1 Dale Pinto and Adrian Sawyer, ‘Towards Sustaining the Future of Taxation: Is a World Tax Organisation Necessary and Feasible in Today’s Globalized World?’ (2009) 24(2) *Australian Tax Forum* 179, 203.

Pinto and Sawyer (2009) refer to an International Tax Organisation (ITO) to avoid confusion with the World Trade Organisation (WTO). We will refer to a World Tax Organisation abbreviated to WTO.

2 Ibid 204.

Support for an organisation such as that advocated by Pinto and Sawyer is not universal, which the authors acknowledge. With that important rider, on the assumption that a WTO is both desirable and feasible, a key issue therefore is what areas of taxation should come within its jurisdiction. In this paper we seek to advance the debate concerning a WTO through exploring a valuable contribution that a WTO could make with respect to tax administration, namely fulfilling the role of a global forum for tax administrators to share practices, research, techniques, approaches to policy and so on. To advance our argument we assume a structure of a WTO as suggested by Pinto and Sawyer.³ Furthermore, our approach is similar to that of Sawyer who acknowledges in the introduction to his text that '[t]his proposal in this book for creating an [International Tax Organisation] is acknowledged to be forward looking and normative.'⁴

The importance of tax administration globally is gathering momentum with at least one of the Big Four accounting firms providing comprehensive information for clients on recent trends and developments. Ernst & Young acknowledge that revenue authorities are working more closely together but that they have some way to go to make the outcome of their cooperation more effective and less imposing for taxpayers.⁵ Ernst & Young observe that developing countries have also been involved in the growing number of international revenue authority organisations, and that their results to date suggest some progress has been made. Ernst & Young comment:

This increase in cooperation among taxing authorities has led to a growth in cross-border information exchange – but *not necessarily symmetry in how the information is collected or applied*. While tax authorities have made strides in coordinating their efforts to deal with perceived tax abuses, they *often diverge in terms of approach and outcome, resulting in both increased and inconsistent compliance burdens for multinationals, as well as increased risk of inconsistent and multiple taxation*.⁶

Ernst & Young in their 2009 publication entitled *Tax administration without borders: navigating the changing global tax controversy and risk management landscape* observe:

Tax administrations are increasingly recognizing that the ability to look at international transactions and global businesses through a “multilateral lens” is far more effective than only understanding and seeing their national view. *Increased cooperation has been made possible by many international groups and forums dedicated to helping tax authorities share more information and knowledge* – about processes as well as taxpayers – *to improve compliance and curb abuses*. ...

Collaboration extends far beyond talking and comparing notes. ... this increased level of cooperation will include not just greater dialogue between countries, but *the development and adoption of compliance programs that go beyond correspondence-based requests and responses*.⁷

Most recently, the international law firm Sullivan & Cromwell examined the impact of the various information exchange programs in operation as at mid-2009, concluding from the perspective of taxpayers:

Under the current economic climate, in which there is significant pressure on tax authorities worldwide to generate revenue, most tax authorities are strengthening their efforts to obtain tax information from other tax authorities, including through the expanded use of multilateral information exchange programs like [Joint International Tax Shelter

3 Ibid 196-203.

4 Adrian J Sawyer, *Developing a World Tax Organisation: The Way Forward* (Fiscal Publications, 2009) 5.

5 Ernst & Young LPP, *Tax Administration Goes Global: Corporate Tax Departments Confront Complexity, Risks and Opportunities* (2007).

6 Ibid 3 (emphasis added).

7 Ernst & Young, *Tax Administration without Borders: Navigating the Changing Global Tax Controversy and Risk Management Landscape* (November 2009) 8-9
<[http://www.ey.com/Publication/vwLUAssets/Tax_administration_without_borders_November_2009/\\$FILE/Tax_administration_without_borders.pdf](http://www.ey.com/Publication/vwLUAssets/Tax_administration_without_borders_November_2009/$FILE/Tax_administration_without_borders.pdf)> (emphasis added).

Information Centre], the Leeds Castle Group, the [Forum on Tax Administration], and the Seven Country Working Group on Tax Havens. There is no doubt that this increased coordination and cooperation among tax authorities will have a significant impact on taxpayers with operations in multiple jurisdictions. Consequently, taxpayers must be careful to develop positions that are consistent across multiple jurisdictions and consider how information disclosed to the tax authority in one jurisdiction will be interpreted and used by a tax authority in another jurisdiction in which the taxpayer operates.⁸

The remainder of the paper is structured as follows. In section II we review the existing major organisations of tax administrators worldwide, suggesting that their regional or political/constitutional structures govern their membership and approach to issues. This review in itself is particularly informative with regard to the contributions of major developed countries and that of developing and emerging nations (including a number of traditional tax havens). Section III represents the core of our paper in which we advance our arguments in support of having a WTO become the major forum for tax administrators to meet and discuss issues, thereby building more comprehensive and potentially more globally linked bridges, while reducing some of the inefficiencies and lost opportunities occurring within the existing paradigm. Section IV of the paper outlines how a WTO could become involved in the manner we suggest, with section V providing our concluding observations, limitations and suggestions for further research.

II. A REVIEW OF CURRENT ASSOCIATIONS OF TAX ADMINISTRATIONS

In this section we seek to provide a high level overview of the existing organisations involving groups of tax administrators that meet to share information, educate member country tax administration staff, develop technical materials, databases and guidelines, and hold conferences and forums. We briefly review each of the major organisations, its members and key attributes, and follow this with a tabular depiction of the current environment as we see it.

While it may be seen that our choice of organisation at first glance represents a degree of inherent bias on our part, we believe that it is generally accepted that the Organisation for Economic Cooperation and Development (OECD) provides the most sophisticated forum currently for tax administrators to ‘build bridges’ on a global scale which is supported by a substantial parent organisation with sizeable resources. Revenue officials from OECD member countries (and some observer nations) meet on a regular basis with government ministers. The OECD membership currently stands at 31 countries (with the recent addition of Chile); however, many of the world’s larger economies are not represented at this forum.⁹

Within the OECD, the Forum on Tax Administration (FTA) was set up in 2002 by the Committee on Fiscal Affairs.¹⁰ The FTA’s aim is to promote dialogue between tax administrations and to identify good (or best practice) tax administration practices. The OECD believes that these objectives reflect the high degree of commonality of the systems of taxation in OECD member countries and the potential value of sharing information on countries’ experiences in their efforts to improve taxpayers’ compliance, taxpayer service and administrative efficiency. Specifically through working with the prevailing policy frameworks, the FTA looks to develop effective responses to important administrative issues in a collaborative fashion and engages in exploratory dialogue on a range of administration issues that may emerge in the medium to long term. The FTA prepares comparative analysis on aspects of tax administration to assist members and selected non-member countries (through part of the OECD’s outreach program). The FTA includes the

8 Sullivan & Cromwell, *Impact of Multilateral Tax Information Exchange Programs* (1 July 2009) 6 <<http://www.sullerom.com>> (emphasis added).

9 See OECD, Forum on Tax Administration <http://www.oecd.org/site/0.3407.en_21571361_34663182_1_1_1_1_1.00.html>.

10 Details on the FTA are available from the OECD’s website <<http://www.oecd.org>>.

OECD's 31 member countries plus 12 other countries (from the regions of Africa, Asia, (enlarged) Europe, and South America).

Furthermore, other smaller organisations, such as the Leeds Castle Group (formerly the Pacific Association of Tax Administrators), hold meetings to discuss specific issues relating to tax administration. Other organisations representing geographical areas exist, such as the Caribbean Organisation of Tax Administrators (COTA), the Commonwealth Association of Tax Administrators (CATA), the Inter-American Centre of Tax Administrations (CIAT) and the Intra-European Organisation of Tax Administrations (IOTA). Specific areas of interest are represented through organisations such as the Joint International Tax Shelter Information Centre (JITSIC). There is, however, no organisation that brings countries together in a significant manner, similar to that, for example, for world trade through the World Trade Organisation, in the tax area.

The Caribbean Organisation of Tax Administrators (COTA) was established in 1971 at a meeting of the Heads of Regional Tax Administration convened in Saint Lucia when its Constitution was ratified and then approved in 1972. COTA is part of the Caribbean Community and Common Market (CARICOM) that was formally established in 1973 to supersede the Caribbean Free Trade Association (CARIFTA).¹¹ The 15 member states all come from the Caribbean area, with the focus of this organisation to advance its members interests, including with third party states.

The Leeds Castle Group (LCG) superseded the Pacific Association of Tax Administrators (PATA) in 2006. PATA was set up in the early 1980s and comprised the national tax administrations for Australia, Canada, Japan, and the United States (US). One of its major contributions was to release multilateral transfer pricing guidelines in 2006. Group members of LCG total ten, comprising Australia, Canada, China, France, Germany, India, Japan, South Korea, the United Kingdom (UK), and the US. The commissioners of these tax administrations meet annually to consider issues of global and national tax administration, particularly mutual compliance challenges.¹²

The tax administrations of Australia, Canada, the UK and the US established the Joint International Tax Shelter Information Centre (JITSIC) in Washington in 2004. The aim of establishing this organisation was to supplement the ongoing work of identifying and curbing tax avoidance and shelters and those who promote and invest in them.¹³ Japan joined the group in 2007 (bringing membership to five countries) when a second JITSIC office opened in London.¹⁴ Clearly the scope of JITSIC is much narrower than that of some of the other organisations reviewed in this paper.

The Centre for Tax Administration Meetings and Research in French-speaking countries (CTAMRF) is a non-governmental, not-for-profit tax organisation for Francophone African countries, established in 1982. It is based in Paris, France and originally comprised three members (Côte d'Ivoire, France and Cameroon).¹⁵ It now represents 30 countries primarily located within Africa. This is a narrowly focused organisation and its contributions on a global scale are likely to be minimal.

The Study Group on Asian Tax Administration and Research (SGATAR) was established in 1970, and has 13 members (Australia, China, Hong Kong, Indonesia, Japan,

11 Information concerning COTA is available from the Caribbean Community's website, *Caribbean Organisation of Tax Administrators* <<http://www.caricom.org/jsp/community/cota/cota.jsp?menu=community>>.

12 Details on the LCG are available from the websites of the Australian Taxation Office, *Tax havens and tax administration* <<http://www.ato.gov.au/individuals/content.asp?doc=/content/46908.htm&page=25&H25>> and the Internal Revenue Service, 'Everson Chairs International Tax Forum, Emphasizes Enforcement' (News, 1 August 2006) <<http://www.irs.gov/newsroom/article/0,,id=160653,00.html>>.

13 Information on JITSIC is available from the Internal Revenue Service's website, *Memorandum of Understanding for the Creation of a Joint International Tax Shelter Information Centre* <<http://www.irs.ustreas.gov/pub/irs-utl/jitsic-finalmou.pdf>>.

14 See details on HM Revenue and Customs, *Anti Avoidance Group: JITSIC* <<http://www.hmrc.gov.uk/avoidance/aag-jitsic.htm>>.

15 Information on CREDAF is available from the organisation's website <<http://www.credaf.org>>.

Korea, Malaysia, New Zealand, Philippines, Singapore, Thailand, Vietnam and Chinese Taipei), and two associate members (Macao and Papua New Guinea). SGATAR Working Level Meetings are hosted by the members each year in rotation, with the tax authorities in the member countries working together in order to curb tax evasion involving transfer pricing conducted by multi-national enterprises.¹⁶ SGATAR is a forum for sharing experiences in these areas and to enhance friendships among the international community. As such this is more of an informal organisation incorporating a number of developed and developing countries in the Asia-Pacific area.

The Seven-country Working Group on Tax Havens (SWGTH), comprising Australia, Canada, Germany, France, Japan, the UK and the US, seeks to enhance cooperation between members to improve each country's capacity to deal with the risks tax havens pose to their tax systems.¹⁷ Specially the ATO observes:

Members bilaterally exchange information at a case and promoter level, share research and information on the schemes encountered and strategies adopted, and conduct joint training sessions. Common issues affecting all members of the SWGTH are the use of e-commerce, the internet and credit or debit cards in abusive tax haven arrangements, intangibles, offshore banking and brokerage, promoters of abusive tax haven agreements and the use of international business companies. Members issue international tax alerts to other members with the intention of sharing experiences about tax haven countries and tax-motivated transactions and schemes. Alerts issued to date have covered a wide variety of topics, including offshore re-invoicing, deferred consideration financing and offshore private annuities.¹⁸

This organisation, while global in its perspective, is particularly focussed on issues to deal with tax havens, and only involves a limited number of developed nations.

The Ad Hoc Group of Experts on Tax Treaties between Developed and Developing Countries was established in 1968 after efforts made by the League of Nations, the OECD and the United Nations (UN). In 1980, the Group of Experts finalised the UN Model Double Taxation Convention between Developed and Developing Countries. In 1980 the broad title 'UN Ad Hoc Group of Experts on International Cooperation in Tax Matters' (UNGEICTM) was conferred, with membership increasing from 20 to 25, drawn from tax administrators of 10 developed and 15 developing countries and economies in transition.¹⁹

The UNGEICTM's initial mandate was to explore, in consultation with interested international agencies, ways and means of facilitating the conclusion of tax treaties between developed and developing countries. The mandate was broadened to include the tax treaties between developed and developing countries as well as bearing on international cooperation in tax matters. Therefore, the UNGEICTM examines transfer pricing; mutual assistance in collection of debts and protocol for the mutual assistance procedure; treaty shopping and treaty abuses; interaction of tax, trade and investment; financial taxation and equity market development; tax treatment of cross-border interest income and capital flight; and taxation of electronic commerce.²⁰ The experts, who attend meetings in their personal capacity, are not all serving government officials.

The Commonwealth Association of Tax Administrators (CATA) was established in 1977, with a formal constitution signed in 1978. CATA's activities include annual technical workshops, high quality training programmes for tax officials, in-country training

16 Information on SGATAR is available from the following website, Training Institute, Ministry of Finance Chinese Taipei <http://www.mofti.gov.tw/mofti_public/Eng/frmEngNews1.aspx?ID=30>.

17 Information on SWGTH is available from the Australian Taxation Office's website, *Tax Havens and Tax Administrations* <<http://www.ato.gov.au/individuals/content.asp?doc=/content/46908.htm&page=25&H25>> and Revenue Canada at its website <<http://www.cra-arc.gc.ca/nwsrm/rlss/2010/m01/nr100105-eng.html>>.

18 Ibid.

19 Information on UNGEICTM is available from the UN's website, Financing for Development, *Committee of Experts on International Cooperation in Tax Matters* <<http://www.un.org/esa/ffd/tax/overview.htm>>.

20 Ibid.

programmes tailored to meet the specific needs of members, publication of a quarterly newsletter, provision of consultancy services and research facilities for members upon request, the supply of information to members, and an internet service. Knowledge sharing to develop effective tax administrations that promote sustainable development and good governance over the long-term is a key feature.²¹ CATA has produced a number of publications with a focus on issues affecting tax administrations operating in the global environment.²² CATA, with 48 member countries from the Commonwealth, is presently the largest organisation of tax administrators in the world. Membership spans Asia, North and Central America, Africa, Europe and the Pacific regions.

The Intra-European Organisation of Tax Administrations (IOTA) is a non-profit intergovernmental organisation, which provides a forum to assist Members in the European countries to improve tax administration.²³ IOTA was formally established in 1996 with the support of the European Commission, tax administrations from nine EU Member States, the International Monetary Fund (IMF), OECD, CIAT and the Internal Revenue Service (IRS). IOTA has 46 member tax administrations. The Secretariat of the Organisation is located in Budapest, Hungary.²⁴ The mission of IOTA is to provide a forum for discussion of practical tax administration issues, to promote co-operation between tax administrations in the European region and to support their development according to their individual needs. It produces an annual work program, the results of which can be found in its annual booklet.²⁵ Specifically it seeks to promote and develop strengthened co-operation between IOTA members, identify best practice and encourage its adoption, promote the specific identity of IOTA as a professional regional organisation of tax administrations in co-operation with other international and regional organisations and be a body of consultation for IOTA members.²⁶ Clearly IOTA is European-focused but with a view as an organisation to cooperate with other international and regional organisations.

The Inter-American Centre of Tax Administrations (CIAT),²⁷ formerly known as the Inter-American Centre of Tax Administrators until 1997, is an international public non-profit organisation, created in 1967 with the aim of providing an integral service to the modernization of the tax administrations of its member countries and promoting the evolution, social acceptance and institutional strengthening of these relationships. CIAT has 40 member countries and 3 associate member countries, in four continents: 31 countries from the Americas; six European countries; two African countries and one Asian country. The Czech Republic, South Africa, Kenya and India are associate member countries. The mission of CIAT is to promote and facilitate mutual cooperation between its member countries and provide a tax forum for the exchange of experiences, aimed at improving their tax legislations and administrations.²⁸ To this end, CIAT endeavours to undertake the following:

- stimulate cooperation between the member countries in order to increase the level of tax compliance in these countries and identify mechanisms that may allow for combating tax evasion and avoidance, especially by means of agreements for the exchange of relevant tax information;
- promote and conduct research on tax legislation and administration and their harmonization within the framework of the integration processes, as well as favour the adoption of guidelines and models, their timely dissemination and exchange of ideas and experiences through international events;

21 Information on CATA is available from the organisations' website at <<http://www.catatax.org>>.

22 Details of such publications are available on CATA's website, *CATA Publications* <<http://www.catatax.org/resource-topics/cata-publications>>.

23 Information on IOTA is available from the organisation's website at <<http://www.iota-tax.org>>.

24 See IOTA, *About IOTA* <<http://www.iota-tax.org/about-iota/what-is-iota.html>>.

25 For the latest annual booklet (2010-11) see <<http://www.iota-tax.org/publications/iota-booklet.html>>.

26 See IOTA's website, *About IOTA* <<http://www.iota-tax.org/about-iota/what-is-iota.html>>.

27 Information on CIAT is available from the organisation's website at <<http://www.ciat.org>>.

28 See CIAT's website at <<http://www.ciat.org/index.php/en/about-ciat.html>>.

- provide technical assistance on taxation to respond to the needs and interest expressed by the member countries, through activities involving the diagnosis, follow-up and evaluation of projects, aimed at strengthening their tax administrations and promoting and coordinating the temporary exchange of technical staff among them; and
- promote ethics and integrity within the tax administrations of its member countries.²⁹

CIAT has produced a number of publications including its own model tax information exchange agreement in 1999.³⁰ Clearly CIAT is predominantly American-focused but has a number of members in Europe and is expanding into Asia and Africa.

The closest organisation to that which we propose in this paper is the Committee of International Organizations on Tax Administration (CIOTA).³¹ CIOTA is a recently formed umbrella group composed of a number of regional and international tax organisations (including CIAT, CATA, IOTA, CREDAF and the OECD). CIOTA apparently covers more than 140 countries, its primary function being to promote greater coherence in the work programs of the participating tax organisations.³² Little information is readily available on the operations of CIOTA making an appraisal of its contributions and level of success difficult to ascertain. It appears to operate as a coordinating group of other more regionally-focused organisations of tax administrations but without any formal organisational structure.

One process of analysis that can be undertaken is to provide an overview of the number of tax administration organisations that countries are members of to gauge the concentration of memberships including the relativities between developed and developing nations. In the table below we provide details of memberships for countries that have two or more memberships of tax administration organisations based on information available from the websites of the organisations noted above. We exclude the UN as this has close to universal membership of countries and has limited direct involvement in facilitating tax administrations globally.

We have included ten organisations (CIOTA is in effect an umbrella group for the various organisations) which range from numbers as low as 30 countries to the highest at 48 countries. The analysis reveals a concentration in multiple memberships in six organisations with four or more memberships (Australia (6), Canada (7), France (6), Germany (4), Japan (5), UK (5), and US (5)). A further 18 countries have three memberships, with 32 countries having two memberships. A further 69 countries are represented through one of these ten organisations. Thus in total we can ascertain 155 countries are represented by at least one of these organisations, leaving around 30 countries with no representation via such memberships (other than through the UN). A number of these countries are located in Africa. Table 1 contains the data on country memberships by international organisation alphabetically

29 These areas are drawn from CIAT's mission and vision, and reflected in its strategic plan; see <<http://www.ciat.org/index.php/en/about-ciat/strategic-guidelines/strategic-plan.html>>.

30 CIAT, *Model Agreement on the Exchange of Tax Information* (1999); available from CIAT's online library at <<http://www.ciat.org/index.php/en/products-and-services/library/on-line-library.html>>.

31 Publicly available information on CIOTA is very limited; see for example the website for International Tax Dialogue, *Developing the International Dialogue on Taxation* (13 March 2002) <<http://www.itdweb.com/Pages/Info.aspx?lang=3&titleID=10095&bodyID=10096>>. CIOTA is currently inoperative as an international organisation.

32 Ibid.

Table 1: Country memberships of International Organisations of Tax Administrations

| Country International Organisation | | | | | | | | | | |
|---|------|------|------|--------|-----|------|--------|-----|-------|--------|
| No. | CATA | CIAT | COTA | CREDAF | FTA | IOTA | JITSIC | LCG | SWGTH | SGATAR |
| Canada (7) | 1 | 1 | | 1 | 1 | | 1 | 1 | 1 | |
| Australia (6) | 1 | | | | 1 | | 1 | 1 | 1 | 1 |
| France (6) | | 1 | | 1 | 1 | 1 | | 1 | 1 | |
| UK (6) | 1 | | | | 1 | 1 | 1 | 1 | 1 | |
| Japan (5) | | | | | 1 | | 1 | 1 | 1 | 1 |
| US (5) | | 1 | | | 1 | | 1 | 1 | 1 | |
| Germany (4) | | | | | 1 | 1 | | 1 | 1 | |
| Barbados (3) | 1 | 1 | 1 | | | | | | | |
| Belgium (3) | | | | 1 | 1 | 1 | | | | |
| China (3) | | | | | 1 | | | 1 | | 1 |
| Cyprus (3) | 1 | | | | 1 | 1 | | | | |
| Czech Rep (3) | | 1 | | | 1 | 1 | | | | |
| India (3) | 1 | 1 | | | | | | 1 | | |
| Italy (3) | | 1 | | | 1 | 1 | | | | |
| Jamaica (3) | 1 | 1 | 1 | | | | | | | |
| Malaysia (3) | 1 | | | | 1 | | | | | 1 |
| Malta (3) | 1 | | | | 1 | 1 | | | | |
| Netherlands (3) | | 1 | | | 1 | 1 | | | | |
| New Zealand (3) | 1 | | | | 1 | | | | | 1 |
| Portugal (3) | | 1 | | | 1 | 1 | | | | |
| Singapore (3) | 1 | | | | 1 | | | | | 1 |
| Spain (3) | | 1 | | | 1 | 1 | | | | |
| South Africa (3) | 1 | 1 | | | 1 | | | | | |
| South Korea (3) | | | | | 1 | | | 1 | | 1 |
| Trinidad & Tobago (3) | 1 | 1 | 1 | | | | | | | |
| Argentina (2) | | 1 | | | 1 | | | | | |
| Austria (2) | | | | | 1 | 1 | | | | |
| Bahamas (2) | 1 | | 1 | | | | | | | |
| Belize (2) | 1 | | 1 | | | | | | | |

| Country International Organisation | | | | | | | | | | |
|---|------|------|------|--------|-----|------|--------|-----|-------|--------|
| No. | CATA | CIAT | COTA | CREDAF | FTA | IOTA | JITSIC | LCG | SWGTH | SGATAR |
| Bulgaria (2) | | | | | 1 | 1 | | | | |
| Chile (2) | | 1 | | | 1 | | | | | |
| Denmark (2) | | | | | 1 | 1 | | | | |
| Dominica Rep (2) | | 1 | 1 | | | | | | | |
| Estonia (2) | | | | | 1 | 1 | | | | |
| Finland (2) | | | | | 1 | 1 | | | | |
| Greece (2) | | | | | 1 | 1 | | | | |
| Grenada (2) | 1 | | 1 | | | | | | | |
| Guyana (2) | 1 | | 1 | | | | | | | |
| Haiti (2) | | 1 | 1 | | | | | | | |
| Hungary (2) | | | | | 1 | 1 | | | | |
| Iceland (2) | | | | | 1 | 1 | | | | |
| Ireland (2) | | | | | 1 | 1 | | | | |
| Kenya (2) | 1 | 1 | | | | | | | | |
| Latvia (2) | | | | | 1 | 1 | | | | |
| Luxembourg (2) | | | | | 1 | 1 | | | | |
| Mexico (2) | | 1 | | | 1 | | | | | |
| Norway (2) | | | | | 1 | 1 | | | | |
| Poland (2) | | | | | 1 | 1 | | | | |
| Romania (2) | | | | | 1 | 1 | | | | |
| Slovak Rep (2) | | | | | 1 | 1 | | | | |
| Slovenia (2) | | | | | 1 | 1 | | | | |
| St Kitts (2) | 1 | | 1 | | | | | | | |
| St Lucia (2) | 1 | | 1 | | | | | | | |
| Suriname (2) | | 1 | 1 | | | | | | | |
| Sweden (2) | | | | | 1 | 1 | | | | |
| Switzerland (2) | | | | | 1 | 1 | | | | |
| 97 countries (1) = 151 | (28) | (20) | (3) | (26) | (1) | (15) | (0) | (0) | (0) | (6) |
| Totals | 48 | 40 | 15 | 30 | 43 | 46 | 5 | 10 | 7 | 13 |

Thus in sum the membership of international associations of tax administrations is highly concentrated in a few countries in terms of breadth of memberships, with around 130 countries with one or no memberships (and therefore limited or no representation and opportunity to be involved in discussions). We are unable to ascertain the estimate given by CIOTA that it represents around 140 countries, and it is currently inoperative. We are confident that currently the World Trade Organization, in addition to the UN, have similar or slightly greater membership representation.³³ Furthermore, for those countries with one or two memberships this is usually on the basis of geographical location unless one of the memberships is through CATA and/or FTA where the membership is less geographically concentrated.

III. OUR PROPOSAL FOR ENHANCING THE CURRENT ENVIRONMENT – INVOLVEMENT OF A WORLD TAX ORGANISATION

In prior research, Pinto and Sawyer argue for the creation of a WTO on an incremental basis whereby the organisation's powers could initially be restricted to facilitating multilateral cooperation in the development of international tax policy through the distribution of information and the creation of a global forum for discussion in areas of current and emerging international significance.³⁴ While not specifically noted, one aspect of developing strategies concerning international tax policy is associated with cross-border tax administration. International observations such as those by Ernst & Young³⁵ and Sullivan & Cromwell³⁶ provide fertile areas for potential involvement of a WTO rather than the various narrowly-focussed organisations reviewed in the previous section of this paper. Key areas include compliance burdens and costs, abuses, exchange of information, sharing of best practices in administrations, conferences and training sessions, staff exchanges, providing a repository for relevant information (literature, statistics, policy manuals, etc).

Pinto and Sawyer also suggest that a WTO could assume a monitoring role and keep abreast of new developments.³⁷ Such information gathered could then be shared with other member countries' revenue authorities. Pinto and Sawyer caution that when originally established, a WTO should not aim to assume responsibilities in the areas of either tax collection or imposition.³⁸ However, Pinto and Sawyer comment that over time a WTO may ultimately assume these roles to some degree.³⁹ For the purposes of this paper we assume the structure proposed by Pinto and Sawyer,⁴⁰ which is based upon that developed originally by Sawyer.⁴¹ Thus, while there may be regular meetings of officials and ministers from the member countries, it is envisaged that there may be a standing committee set up to oversee the activities of the tax administrators from the member countries.

What we set out is a number of key areas, which are currently been undertaken to varying degrees with the existing tax administration organisations, that could be more efficiently and effectively undertaken by a WTO within its wider base of membership. Key to this will be the content of the WTO's constitutional documents including its scope of

33 Currently, according to the WTO's website, it has 153 members, see World Trade Organization, *Understanding the WTO* <http://www.wto.org/english/thewto_e/whatis_e/tif_e/org6_e.htm> and the UN comprises 193 members, see United Nations, *UN at a Glance* <<http://www.un.org/en/aboutun/index.shtml>>.

34 Pinto and Sawyer, above n 1, 204.

35 Above n 5 and n 7.

36 Above n 8.

37 Pinto and Sawyer, above n 1, 204.

38 Ibid.

39 Ibid.

40 Ibid 203.

41 Sawyer, above n 4, 89-99.

operations and the powers delegated to the secretariat to organise various activities. For example, CATA has as its mission to undertake the following:

- holding meetings of technical and administrative personnel in tax administration for the exchange of ideas and experiences;
- organising seminars, workshops and training courses on aspects of tax administration;
- collecting, analysing and disseminating information on tax administration;
- providing directly, or collaborating with, and generally facilitating, the work of bilateral and multilateral agencies providing technical assistance and research facilities in the field of tax administration;
- generally carrying out functions related to the overall improvement of the capabilities of tax administrations through functional co-operation between and among Commonwealth countries.⁴²

CIAT seeks to improve its members' tax organisations through promoting their evolution, social acceptance and consolidation.⁴³ Major steps in working towards achieving this aim include CIAT's technical meetings, training, technical assistance, tax studies, newsletters, and the specialised online library that it operates. Publications of papers presented at conferences and technical sessions are available, along with guidelines on subjects as diverse as a Model Code of Conduct, Ethics Promotion, Tax Code, Tax Information Exchange Agreement, as well as a number of manuals and course materials.⁴⁴

The OECD's FTA has the backing of the OECD's resources, including its extensive library and publications.⁴⁵

Rather less information is readily available on the operations of COTA; although it too provides a newsletter for members, holds a biennial assembly conference, and has produced a few publications for its members.⁴⁶

IOTA prepares a strategic focus document, with the 2010/11 document providing useful information on its objectives, structure, executive personnel, secretariat, key events and activities.⁴⁷ IOTA also provides on developments occurring within its various area groups (eg with respect to VAT fraud; and Large taxpayer audits), case study workshop sand training forums, publications.⁴⁸ Importantly, in a demonstration of the inter-linkages between organisations, IOTA has signed Memoranda of Understandings for International Cooperation with the European Commission (EC), OECD, CIAT and International Fiscal Association IFA).⁴⁹ The linkage with CIAT is most interesting in the context of this paper as it demonstrates the desirability for the various tax administration organisations to be wider than their current membership.

Our proposal is not the only one for enhancing international cooperation between tax administrations. A Global Tax Network (GTN) was proposed in 2001 as an alternative to a World Tax Organisation.⁵⁰ Proponents of the Global Tax Network stress that it is consistent with the revised draft outcome of the 2002 UN Conference on Financing for Development, which articulates the importance of strengthening the revenue-raising capacity of developing countries, and the central role of international organisations in

42 See CATA's summary of its activities on its website at <<http://www.catatax.org>>.

43 See CIAT's website at <<http://www.ciat.org/index.php/en/about-ciat.html>>.

44 Ibid.

45 See the OECD's website at <<http://www.oecd.org>> under the Forum for Tax Administration.

46 See COTA's website at <<http://www.caricom.org/jsp/community/cota/cota.jsp?menu=community>>.

47 See IOTA's website, *Welcome to IOTA*, 'IOTA Booklet 2010/2011' <<http://www.iota-tax.org/publications/iota-booklet.html>>.

48 See generally IOTA, Events and Activities <<http://www.iota-tax.org>>.

49 See IOATA's website, *About IOTA: International Cooperation* <<http://www.iota-tax.org/about-iota/international-cooperation.html>>.

50 World Commission on the Social Dimension of Globalization, *Ideas Bank: Global Tax Network* (2001) <http://www.ilo.org/dyn/idea/ideasheet.display?p_idea_id=10>.

supporting these efforts.⁵¹ This GTN is suggested to include the IMF and World Bank, the Committee of Fiscal Affairs of the OECD, the UNGEICTM, and CIOTA.⁵² All countries, together with regional tax organisations and regional development banks, would be welcome to participate with no preconditions.

Proponents of the GTN argue that the advantage of enhancing dialogue, rather than creating a new organisation, is that there would be greater flexibility.⁵³ While the structure and function of the GTN would take shape over time, a number of objectives have been identified:

- fostering dialogue among governments and international organisations;
- sharing good practices and the pursuit of common objectives in improving the functioning of national tax systems; and
- giving all countries input into the discussion of tax administration and policy issues at an international level.⁵⁴

Furthermore, proponents of the GTN claim that this network would facilitate the coordination of technical assistance and avoid duplication of effort in respect of existing activities.⁵⁵ A proposed Steering Group would include representatives of the IMF, OECD, the World Bank, and the UN (but interestingly not CIOTA which represents members from the existing international groupings of tax administration). GTN proponents also suggest that one regional tax administration organisation and one regional development bank would be invited to serve, on a rotating basis, as observers to the Steering Group. The Steering Group would arrange periodic meetings of tax policy and administration experts, to discuss issues and activities of common interest.⁵⁶ The GTN's activities may alter over time as participating countries and organisations address new concerns. Importantly countries would at all times retain fiscal sovereignty.⁵⁷

We would argue that a WTO is a preferable approach to the GTN suggestion outlined above for the reasons promoted in early work, including that of Tanzi,⁵⁸ Pinto,⁵⁹ Sawyer,⁶⁰ and Pinto and Sawyer.⁶¹ Furthermore, we would suggest that the rather 'patchy' coverage within existing international organisations of tax administrations, and concentration within seven countries would be overcome through a truly global organisation such as a WTO.

IV. PROCESS FOR INVOLVING A WORLD TAX ORGANISATION

In terms of assisting with explaining where we would see the WTO be involved with coordinating activities of tax administrations on a global basis it is useful to start with the organisational structure as set out in Pinto and Sawyer,⁶² which is reproduced as Figure 1.

51 Ibid.

52 Ibid.

53 Ibid.

54 Ibid.

55 Ibid.

56 Ibid.

57 Ibid.

58 Vito Tanzi, 'Is there a Need for a World Tax Organisation?', in Assaf Razin and Efraim Saka (eds), *The Economics of Globalisation: Policy Perspectives from Public Economics* (Cambridge University Press, 1999), 173-186.

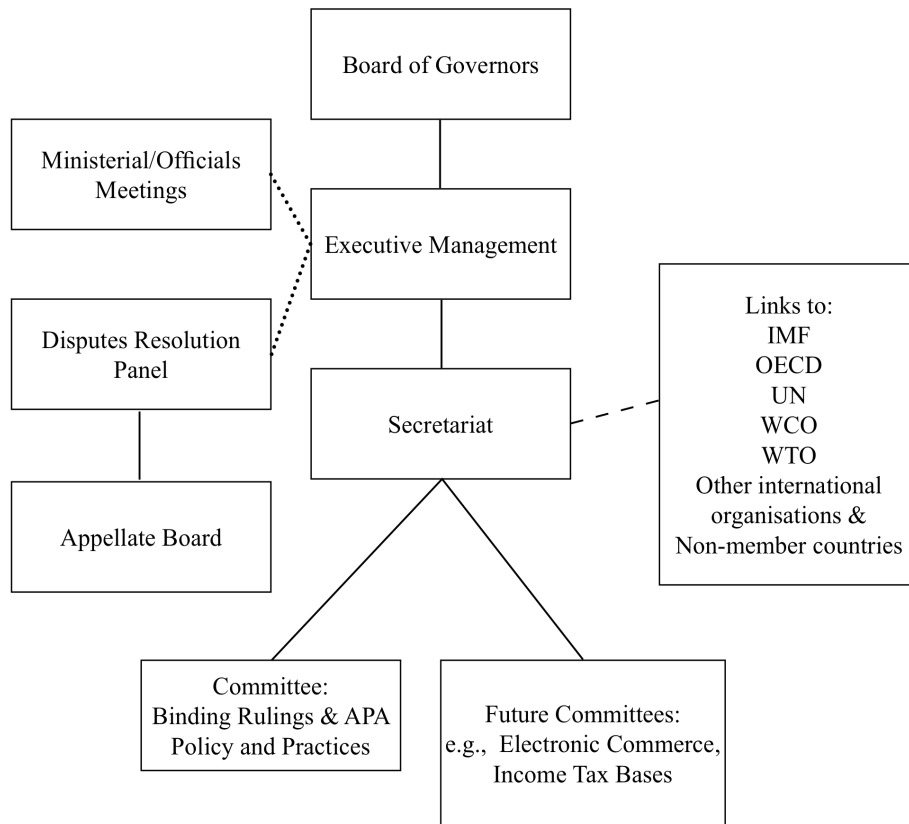
59 Dale Pinto, 'A Proposal to Create a World Tax Organisation' (2003) 9(2) *New Zealand Journal of Taxation Law and Policy* 145-160.

60 Above n 4.

61 Above n 1.

62 Ibid.

Figure 1: Proposed World Tax Organisation Structure



Key: — Clear relationship. Less formal relationship; independent
 - - - - External relationship

The WTO, as described above, could undertake all of the tasks suggested by the proponents of the GTN (discussed in section III of this paper). Furthermore, linkages to the various regionally-focused organisations of tax administrations primarily through CIOTA (if continues to separately exist with a fully operational WTO), could be included through the WTO and CIOTA negotiating a Memorandum of Understanding and thereby including CIOTA the right-hand box after World Trading Organisation. This would require CIOTA to develop a more formal organisational structure.

If this approach proves to be unachievable when explored further with CIOTA, then as a second option linkages with the various associations of tax administrations analyzed in section II of the paper could be developed and formally included as memoranda of association are negotiated between an organisation and the WTO. This would enable a more gradual and potentially feasible process of expanding the WTO’s involvement with organisations involving tax administrations.

As a third alternative, should developing linkages with existing organisations prove not to be feasible, then our recommendation would be to set up a separate committee structure within the WTO. We believe that that this approach is the most likely to succeed if a WTO is established and would develop a broader platform to that currently operating within CATA, CIAT, COTA, CREDAF, FTA, IOTA, JITSIC, LCG, SCWGTH, and SGATAR.

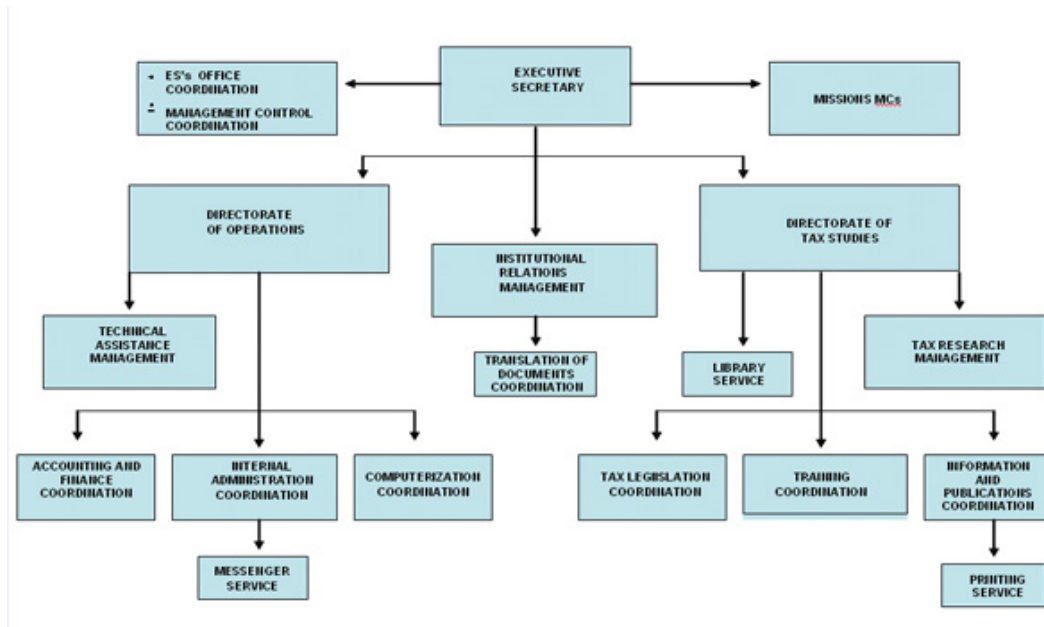
Of these ten organisations, the most relevant ones to the operations of a WTO, as we would see the WTO operate, would be CATA, CIAT, COTA, FTA and IOTA. These five organisations have broad membership, ranging from 15 to 48 members, cover a wide variety of pertinent issues for tax administrations with cross-border issues, and provide services akin to what the WTO could offer on a much broader scale. The remaining five organisations, CREDAF, JITSIC, LCG, SCWGTH and SGATAR, are either limited in their membership or in their areas of focus. For the remainder of our discussion we assume our third alternative approach is adopted.

Utilising a WTO to coordinate the activities currently provided by many of the existing international organisations of tax administrations is likely in the medium term to provide the benefits of economies of scale, reduce the combined operating costs of these organisations and duplication of resources, and provide wider coverage and access to countries with no or limited membership of the existing organisations, but whom have taken out membership of the WTO. Furthermore, we would envisage that as part of reducing travel and related costs, virtual meetings and training sessions could be facilitated under the mantle of the WTO through the use of technology and having geographical cluster points for members to gather.

In terms of an organisational structure within the WTO, this additional area of coordination and oversight for the WTO could be incorporated within the existing structure shown in Figure 1 above, or alternatively a separate structure could be developed within the Committee set up within the WTO. A starting point for developing this structure could be that which CIAT operates with, which is depicted in figure 2 below.

Figure 2: Possible Structure for WTO Tax Administrations Function: CIAT Structure⁶³

Executive Secretariat Organisation Chart



V. CONCLUSIONS, LIMITATIONS AND FUTURE RESEARCH

In this paper we have reviewed the existing organisations whereby tax administrations are able to send representatives to meet to discuss developments, share best practices and to utilise resources from various libraries and databases. In reviewing the ten organisations it is clear that membership is concentrated in seven countries that have membership of four or more such organisations, many of which are geographically focussed or set up to address a narrow range of issues. Around 155 countries are represented by at least one organisation, leaving over 30 countries with no representation. We advance the argument that a World Tax Organisation such as that presented by Pinto and Sawyer would be an excellent vehicle to facilitate a much more global and inclusive forum for gatherings, interactions and sharing of information between tax administrations globally. We suggest alternative approaches by which this could occur, whether with the direct involvement of CIOTA as the organisation representing existing organisations of tax administrations, or through a separate committee set up within the WTO.

Our suggestion is premised upon a number of fundamental assumptions or limitations. Core to our argument is that a WTO is established with as wide membership as possible. Previous authors,⁶⁴ have discussed how this may occur and further discussion is not warranted within this paper. A further potential limitation (and assumption in our paper) is that tax administrations would see the benefits in our suggestion and would support this approach as an improvement over the existing array of organisations and their disparate memberships. Assuming that these two assumptions (and potential limitations) are met

63 This figure is taken from CIAT's website:

<http://www.ciat.org/index.php?option=com_content&task=view&id=985&Itemid=110>.

64 Such as Pinto, above n 59; Sawyer, above n 4; and Pinto and Sawyer, above n 1.

then this would require discussion as to how this proposal could become a reality in terms of the details and process of establishing this forum within the WTO.

Future research should examine further the structure and terms of reference for this global forum within a WTO, including how it could interact with other organs within the WTO, and with external organisations, such as the existing organisations of tax administrations that would continue to exist in this new environment. Researchers could also undertake some qualitative analysis of the successes and impact that the existing organisations of tax administrations have had through reviewing their contributions since they were instigated, including conducting interviews of key personnel within the secretariats and member tax administrations.