

TWINNING PROJECT FICHE

Ministry of Taxes of the Republic of Azerbaijan

1. Basic information

- 1.1 **Programme:** ENPI-Annual Action Programme 2013 for the Republic of Azerbaijan
- 1.2 **Twinning number:** AZ/13/ENPI/FI/01/17 (AZ/50)
- 1.3 **Title:** Support to the Ministry of Taxes of the Republic of Azerbaijan in Transfer Pricing and developing Anti-Tax Avoidance measures
- 1.4 **Sector:** Finance
- 1.5 **Beneficiary country:** Republic of Azerbaijan

2. Objectives

2.1 Overall objective:

To introduce and implement an efficient Transfer Pricing Legislation and Transfer Pricing Auditing by the Ministry of Taxes of the Republic of Azerbaijan

2.2 Project purpose:

To support the Ministry of Taxes of the Republic of Azerbaijan in aligning Transfer Pricing legislation with European standards and establish resources for best practice auditing processes.

2.3 Contribution to National Development Plan/Cooperation agreement/Association agreement/Action plan

EU-Azerbaijan agenda

After its enlargement in May 2004, the EU faced a new geopolitical situation and adopted the **European Neighbourhood Policy (ENP)**¹, which is a new framework for the relations with its neighbours. The ENP aims to go beyond the existing Partnership and Co-operation Agreements to offer neighbouring countries the prospect of an increasingly closer relationship with the EU with the overall goal of fostering the political and economic reform processes, promoting closer economic integration as well as legal and technical approximation and sustainable development.

The central element of the ENP is a bilateral **Action Plan (AP)**² which clearly sets out policy targets and benchmarks through which progress with an individual neighbouring country can be assessed over several years. The AP defines a considerable number of priority areas.

With regard to Taxation, the EU-Azerbaijan ENP Action Plan sets out a list of priorities to be pursued (Priority N°4 of the AP):

- Continue the modernization, simplification and the use of information and communication technologies by the tax administration.

¹ http://eeas.europa.eu/enp/index_en.htm

² <http://pao.az/en/newsfeeds/list-all-news-feed-categories/digital-library/other-related-eu-documents/74-euazerbaijan-action-plan/file>

- Ensure the smooth and transparent enforcement of the Tax Code also by defining all necessary administrative structures, procedures and policies, including the cooperation with the taxpayers and tax compliance, ethics policy, a fiscal control strategy, audit and investigation methods.

In particular, **section 4.5.5** of the AP contains specific reference on cooperation between Azerbaijan and the EU in the field of Taxation, as follows:

- Continue efforts to complete the network of bilateral agreements between Azerbaijan and EU;
- Member States on avoidance of double taxation including the improvement of transparency and the exchange of information in accordance with international standards;
- Initiate a dialogue on the principles of the EU Code of Conduct for Business Taxation with a view to ensuring fair conditions for Azerbaijan in its future process of integration into the EU internal market;
- Develop and implement a detailed strategy plan for tax management and broaden opportunities for the use of information and communication technologies;
- Develop the tax system of the Republic of Azerbaijan in compliance with general EU and international principles.

Moreover a need in harmonisation of the tax system of the Republic of Azerbaijan to general EU and international principles is underlined as the main objective of the reform in the taxes sphere in the Institutional Reform Plan 3 (in **Section 3.7. “Taxes”**) within the EU Comprehensive Institution Building (CIB) mutually agreed framework document.

The ENP-AP also includes co-operation tools, like Twinning, the Technical Assistance Information Exchange Office instrument (TAIEX) and the Support for Improvement in Governance and Management initiative (SIGMA) , which play an essential role in the achievement of the Action Plan priorities. In particular, the Twinning instrument, which provides for direct co-operation between EU and Azerbaijani public bodies to support institution building activities, has proved to be particularly efficient in policy areas where the expertise required by the beneficiary country exists mainly in the public sector.

Governmental policy and strategy

Legislation related to the project

The main legislative document adopted to regulate the sector is:

- 11th July, 2000 - Tax Code of Azerbaijan Republic approved by the Law No.905-IG of the Azerbaijan Republic (with number of amendments)

Tax Code establish the tax system of the Republic of Azerbaijan, general principles of taxation in the Azerbaijan Republic, rules for determining, payment and collection of taxes, the rights and responsibilities of taxpayers and State tax authorities, as well as other parties to taxation procedures, tax control forms and methods, liability for tax law violations and the procedures for lodging complaints against unlawful actions (failure to take actions) committed by tax agencies and officials thereof.

Under the Article 14 (where market price and transfer pricing provisions are mentioned) of Tax Code, in following cases the assessment of taxes may be carried out according to market price:

- ✓ Barter (Exchange of goods), during the trade operations
- ✓ When business transactions made between interdependant persons

- ✓ When prices for similar or homogeneous goods, applied by taxpayers, has changed (up or down) more than 30% over the 30 days
- ✓ When business property is insured for price exceeding its residual value
- ✓ In event of necessity of determination of real estate`s (except housing stock) monthly rental fee for the purpose of taxation.

Market price is determined according to prices emerging during most recent operations for homogeneous (similar) good (work, service) from 30 days (after or before) supply of good (service, work) till the moment of sale of good (work, service). However, in the cases of absence of any operation with homogeneous or similar goods (works, services) in relevant commodity market, and lack of information about these goods (works, services) in official and open sources, following methods can be used:

- ✓ On the basis of next sale price
- ✓ Cost valuation method
- ✓ Via expert – if determination of prices for goods (works, services) is not possible with beforementioned methods, market prices are set by an expert appointed via contract

Nevertheless, according to the Article 18 for the purpose of taxation interdependant persons are legal persons that can directly effect results of their economic activities or activities of persons they represent. Interdependant persons are:

- ✓ If one person directly or indirectly holds 20% of share of property rights
- ✓ If one person is dependant from other person through his/her official status or directly or indirectly under control of the other
- ✓ Persons are under control of third person

Third person directly or indirectly is under joint control of other persons

According to the Tax Code (Article 13.2.65) of the Republic of Azerbaijan arithmetical average of prices in comparable uncontrolled transactions are determined by dividing the total sum of prices to the numbers of transactions. The transfer pricing concept is introduced to the Tax Code (Article 14-1) since January 2017.

Taxes may be computed based on the transfer price for transactions concluded between the following persons:

- 1) a resident and a non-resident in a related party relationship;
- 2) a permanent establishment of a nonresident and such non-resident or any representative office, branch office or other unit of such non-resident in other countries;
- 3) a resident and (or) a permanent establishment of a non-resident and persons established (registered) in a country with a favourable tax regime.

In such cases, corporate income (personal income) tax is computed based on the transfer price regardless of the actual value of the transaction. The transfer price is determined based on the following methods:

- 1) Resale price method;
- 2) Cost plus method;
- 3) Comparable profit method;

4) Profit split method.

The methods are used only if it is established that no comparable information exists or it is not possible to obtain information on the price of the goods in transactions between other persons. The taxpayer must notify the tax authority of transactions subject to transfer pricing where the total amount exceeds AZN 500,000 per annum.

- 4th August, 2016 - Decree of the President of the Republic of Azerbaijan N 2257 on “Directions of tax reforms to be implemented in 2016 and improvement of tax administration”.

Strategic documents:

“**Azerbaijan 2020: Look into the future**” Concept approved by the Decree of the President of the Republic of Azerbaijan dated 29 December, 2012 highlights the transition to active tax system as one of the main priorities for the country development in its Article 4.1. “Developing an economic model based on effective state governance and mature market relations”. Thus, the “...In order to increase the competitiveness of the economic system even further, while the measures to be carried out to improve tax rates will help create a favourable environment for business activity”.

The Ministry of Taxes (MoT) has elaborated a **new strategic plan for the development of the tax system for 2013-2020** approved by the order of the Minister of Taxes of the Republic of Azerbaijan No 1317040100175800 dated March 19, 2013.

The Strategy consists of 22 objectives and 86 measures including improvement of efficiency of tax administration, compliance with the tax legislation to the European Union laws and the requirements of the World Trade Organization, creation of institutions of tax ombudsman and private tax consultants, expansion of co-operation with public organizations of employers, etc.

According to the paragraph 9 of the Strategic Plan the legislative and administrative control mechanism for the regulation of the transfer pricing is identified as the main goal of the Ministry.

International Conventions and Agreements

Council Directive (EU) 2016/881 of 25 May 2016 amending **Directive 2011/16/EU** as regards mandatory automatic exchange of information in the field of taxation:

<http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32016L0881>

This Directive and its predecessors regulate the exchange of information and enhanced cooperation of EU tax administrations. For the purposes of Transfer Pricing the automatic exchange of Country by Country (CbC) reporting and the exchange of tax rulings must be mentioned.

Council Directive (EU) 2016/1164 of 12 July 2016 laying down rules against tax avoidance practices that directly affect the functioning of the internal market. <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32016L1164>

This Directive provides for EU minimum standards of anti-tax avoidance in terms of: interest limitation rule, exit taxation, general anti-abuse rule and controlled foreign company rule.

The **Multilateral Convention on Mutual Administrative Assistance in Tax Matters** amended by the 2010 Protocol: http://www.oecd-ilibrary.org/taxation/the-multilateral-convention-on-mutual-administrative-assistance-in-tax-matters_9789264115606-en

This Convention regulates the exchange of information and enhanced cooperation of all accessing tax administrations.

OECD Transfer Pricing Guidelines for Multinational Enterprises and Tax Administrations 2010:

<http://www.oecd.org/tax/transfer-pricing/oecd-transfer-pricing-guidelines-for-multinational-enterprises-and-tax-administrations-20769717.htm>

Transfer Pricing Documentation and Country-by-Country Reporting, Action 13 - 2015 Final Report:

<http://www.oecd.org/tax/transfer-pricing/transfer-pricing-documentation-and-country-by-country-reporting-action-13-2015-final-report-9789264241480-en.htm>

Aligning Transfer Pricing Outcomes with Value Creation, Actions 8-10 - 2015 Final Reports:

<http://www.oecd.org/tax/aligning-transfer-pricing-outcomes-with-value-creation-actions-8-10-2015-final-reports-9789264241244-en.htm>

These 3 documents regulate the transfer price determination and the OECD minimum standards for documentation requirements and exchange of information in terms of transfer pricing.

Transfer pricing and developing countries

The Communication of the European Commission („EC“) on „Tax and Development – Cooperating with Developing Countries in Promoting Good Governance in Tax Matters“ highlighted the need to support developing countries“ capacity in mobilising domestic resources for development in line with the principles of good governance in taxation. It is in this context that PwC has been asked to conduct a study on transfer pricing („TP“) and developing countries.

https://ec.europa.eu/taxation_customs/sites/taxation/files/docs/body/transfer_pricing_dev_countries.pdf

Practical manual on transfer pricing for developing countries

This second edition of the United Nations Practical Manual on Transfer Pricing for Developing Countries (the Manual) is intended to draw upon the experience of the first edition (2013) including feedback on that version, but it is also intended to reflect developments in the area of transfer pricing analysis and administration since that time.

http://www.un.org/esa/ffd/wp-content/uploads/2016/12/13STM_TPM_Foreword_SecondEdition_20161120_v3_clean.pdf

Joint Transfer Pricing Forum

The EU Joint Transfer Pricing Forum (JTPF) assists and advises the European Commission on transfer pricing tax matters.

http://ec.europa.eu/taxation_customs/business/company-tax/transfer-pricing-eu-context/joint-transfer-pricing-forum_en

The Platform for Collaboration on Tax: DISCUSSION DRAFT: A Toolkit for Addressing Difficulties in Accessing Comparable Data for Transfer Pricing Analyses

This discussion draft has been prepared in the framework of the Platform for Collaboration on Tax by the OECD and the World Bank Group, under the responsibility of the Secretariats and Staff of the four mandated organisations. The draft reflects a broad consensus among these staff, but should not be regarded as the officially endorsed views of those organisations or of their member countries.

<http://www.imf.org/en/News/Articles/2017/01/24/PR1715-The-Platform-for-Collaboration-on-Tax-Invites-Comments-on-a-Toolkit>

Transfer Pricing and Developing Economies: A Handbook for Policy Makers and Practitioners

This handbook is part of the wider WBG engagement in supporting countries with Domestic Resource Mobilization (DRM) by protecting their tax base and aims to cover all relevant aspects that have to be considered when introducing or strengthening transfer pricing regimes.

<https://openknowledge.worldbank.org/handle/10986/25095>

Transfer pricing legislation – a suggested approach June 2011

This paper, which has been prepared by the OECD Secretariat, contains a suggested approach to the drafting of transfer pricing legislation.

<http://www.oecd.org/tax/transfer-pricing/45765682.pdf>

3. Description of the project

3.1 Background and justification

Current situation in the Finance sector

Transfer pricing is characterized as a price applied in intra-branch operations presented by persons to related enterprise for tangible and intangible property and services. This price differs from market prices formulated after negotiations of independent parties. However, unlike market prices, transfer pricing is not set up between existing independent parties, but associated enterprises and adjusted to market prices with the application of arm's length principle. Nonetheless, this adjustment is quite sophisticated for implementation. At the time being key issues facing tax administrations are an investigation and verification of transfer prices used by transnational corporations. Analysis of issues related to transfer prices and appliance of transfer prices in intra-branch operations is highly prioritised in recent years, both in developed and in developing countries. To determinate these operations the relevant departments dealing with transfer prices are established by tax administrations. As it is known, a lot of international enterprises, corporations and transnational companies consisting of subordinate legal persons have been conducting business in Azerbaijan. Increase in number of enterprises, in one hand empowers an economic effectiveness of country, improves an investment climate and creates more job places increasing living standards and taking the well-being and lifestyle of population to the new level, on the other hand, forces tax administrations to conduct more detailed investigation of correct determination of income and expenses and issues related to taxation. Implementation of proposed Twinning project is aimed to assist the Ministry of Taxes of the Republic Azerbaijan in modification of tax legislation to fight with the tax avoidance schemes and increase tax revenue by minimizing tax avoidance.

Problems (direct and indirect) to be addressed

Problems in Legislation

The definition for related parties is included in the standard tax code. It does not cover requirements for transfer pricing.

Documentation requirements: There is no statutory requirement in Azeri law that requires transfer pricing documentation to be prepared, apart from a general requirement for taxpayers to maintain and retain accounting and tax records and documents. CbC reporting does not exist. Though there is exchange of information there is no exchange of tax rulings between foreign jurisdictions and Azerbaijan yet.

Transfer Pricing legislation: Currently, besides linked provisions stipulated in the tax code, there are no other specific regulations in Azerbaijan relating to transfer pricing. Problems are arising with the concept of Production Sharing Agreements in the oil industry. Basic Controlled Foreign Company (CFC) legislation does exist but needs to be refined to international standards. Anti-Hybrid Instruments legislation does not exist, there may be open tax gaps between Azerbaijan and foreign jurisdictions.

Advance pricing agreements (APAs): Currently, there are no procedures in Azerbaijan for obtaining an APA. However, it is possible to obtain a written opinion from the tax authorities on transfer pricing issues. Such opinions are not binding.

Deduction of interest: there don't exist thin capitalisation rules or interest barriers or specific anti-abuse rules. But the Azeri law allows only a maximum amount of 125% on the inter-banking rate as interest deductible limiting the excessive use of interest deductions for actual amount of interest on debts obtained from abroad, and also paid to each other by interconnected persons.

Problems in Practice

Risk management and analysis in Transfer Pricing: there is already a risk analysis system established, but there are no indicators (e.g. permanent losses of distribution companies) for the purposes of the specific

transfer pricing issues yet. There are no specific programmes to identify specific risks (e.g. whether there are low tax jurisdictions involved in procurement...).

Transfer Pricing audits: there is little experience in applying the transfer pricing as per OECD Guidelines (Functions and risk analysis, selection of Transfer Pricing methodology and establishing a price, intangible assets, group synergies etc.) in practice.

Business sectors expertise: since there is no specific Transfer Pricing Auditing there is little experience and industry knowledge.

E-Commerce: there are no experiences in dealing with the specific problems of information gathering and implementing appropriate taxation.

Exchange of information: there is no spontaneous or automatic exchange of information with foreign jurisdictions in the field of transfer pricing, there are no experiences in running Multilateral Controls (MLCs). Azerbaijan is not represented in the OECD JITSIC network.

Abusive tax haven schemes: there is little experience by which existing legal means (Transfer Pricing, Place of effective management, permanent establishment, withholding taxes, beneficial ownership, substance over form, abuse of law, non-deductibility of costs) these schemes shall be tackled. Neither exist local tax schemes catalogues in order to spread this knowledge between auditors.

Liaison with customs authorities: The tax and customs authorities communicate with each other on various transfer pricing issues and have access to each other's respective databases. Different approaches of a high import price for customs and a low import price for Transfer Pricing must be noted. It is unclear how the import pricing accepted for customs purposes is also relevant for Transfer Pricing.

Secondary adjustments: The impact of primary adjustments on withholding taxes in tax treaties (e.g. on services, royalties) needs to be clarified. For equity shifted due to wrong transfer pricing needs to be adjusted for in the accounts in order to avoid constructive dividends and capital contributions.

Impact of VAT in Transfer Pricing: Since there are no practical case experiences it is not clear which mutual impacts exist. In the absence of practical case experiences the impact of transfer pricing on VAT calculation is unclear.

Access to international data bases: even though there is a useful compilation of domestic tax data, there is no use of international data bases e.g., commercial registers, Van Dijk Orbis, Bloomberg etc. for Transfer Pricing purposes.

Human resources: currently there are local auditing competences in Transfer Pricing. There is not always sufficient English knowledge in order to go forward efficiently in eventual audits. Qualification of staff is a critical factor in implementing a reasonable audit.

Horizontal monitoring: tax compliance activities of the authority are still based on traditional ex post audit activities. Specifically transfer pricing may provide for a broad scope of uncertainty about the taxes to be due. Investment decisions can therefore not be supported by a clear expectation of the investor in terms of the tax framework.

3.2 Linked activities

Other related EU activities

Twinning projects:

- As regards developing efficiency of tax audit techniques and reducing tax evasions risks, assistance was provided by the Dutch Tax and Customs Administration under the two-year **EU Twinning project “Support to the Ministry of Taxes of the Republic of Azerbaijan in the field of Computer Assisted Audit system”**. The project was successfully completed in May 2013 resulting in the development of a legal basis for e-audit, in building an e-audit system, which meets the EU best practice standards, with the establishment of an e-audit database, the elaboration of an e-audit methodology and a methodological documentation with training of auditors on the application of the e-audit methodology, etc.
- Starting from September 2014, the **EU Twinning project “Support to the Ministry of Taxes of the Republic of Azerbaijan in Human Resources Development”** is being implemented by the Spanish Institute for Fiscal Studies/IEF in consortium with the French Public Finance General Directorate. In the period of 2 years (extended till 1st December 2016) the Project will draft the Human Resources Development Strategy and Development Plan along with the set of normative guidelines and procedures manuals which will play a regulatory role to ensure development and effective management of human resources at the Ministry of Taxes. In addition, a sustainable education and multi-stage training system will be designed in accordance with the EU experience and latest information technologies in order to increase the level of professionalism of the staff.
- The Overall Objective of the **EU Twinning project “Support to reforms in the field of standards of taxpayers service, optimal management model and the evaluation”** (in pipeline) is to increase efficiency of taxpayers-focused and in general citizen-focused service delivery by the Ministry of Taxes of the Republic of Azerbaijan.
The project will have four main components:
 - I. Continuous Improvement Programme in Taxpayer Service Processes
 - II. Identification and Management of Service Demand
 - III. Identification of KPI’s of Taxpayer Service and improvement of existing
 - IV. Setting up the Data Analytics Support Tools for Enhanced Service Provision across all Channels based on the best methodologies.

TAIEX projects:

- Expert Mission “Improvement of Performance Evaluation System” (11-14 March, 2014). During four days mission European experts dealt with analysing current situation in the field of performance assessment and made proposals for advancement.
- Expert Mission “Taxation of e-commerce” (13-15 April, 2015). The aim of this assistance was to discuss tax prospective of e-commerce in four major market segments: business to business, business to consumer, consumer to consumer and consumer to business. The mission covered the legal framework of taxation of e-commerce as well as the administrative framework of taxation of e-commerce.
- Workshop on “Stimulation of cashless transactions” attended by Mr. Adam Janisewski Tomasz, representative of Polish Financial Supervision Authority took place on 5-7 May 2015, in the framework of TAIEX Expert Mission. The aim of the expert mission was to discuss possible measures in diminishing cash payments and stimulating cashless transactions in Azerbaijan. This included legislative as well as administrative measures.
- Another workshop on “Application of e-invoice in tax system” in the framework of TAIEX Expert Mission was held on 1-3 September 2015, with the involvement of Mr. Lucien Gimenez, representative of the Ministry of Economy and Finance of the Republic of France. The aim of this assistance was to provide the beneficiary with knowledge and support on e-invoices, including the legislative and administrative sides of the e-invoice system, the management of technical processes and the exchange of best practices.
- TAIEX Study Visit to the Tax and Customs Directorate General of Hungary on Taxation of E-Commerce and on Non-Cash Payments (1-3 December 2015). The aim of the study visit was to provide the beneficiary with knowledge on e-commerce operations with a view of improving the efficiency of audit operations and

combating tax evasion by regulating e-commerce. During the study visit “Technical background of online cash register, the audit of cash register”, “Transfer pricing”, “One-Stop-Shop-Scheme (MOSS) system” and “Internet payment systems like PayPal, SMS payment system and Bitcoin” were presented to participants.

- TAIEX Study Visit to Spain on Voluntary Compliance of Taxpayers (14-16 December 2015). The aim of the study visit was to transfer knowledge on data mining (ZUJAR tool) and voluntary compliance.
- TAIEX Expert Mission on the Establishment of an Independent Institute for Taxpayers’ Rights Protection took place on 13-15 June 2016 with the involvement of Ms. Elsa Henriques Dias, representative of the Ombudsman Office of the Portuguese Republic. The aim of the mission was to provide the beneficiary with detailed information on the establishment and functioning of an independent institution conceived to promote and protect taxpayers’ rights.
- TAIEX Expert Mission on the Taxation of Household Workers on 14-15 September 2016. The aim of the mission was to discuss legislative as well as administrative aspects of Tax Control of Household Workers. At the end of the mission a draft input to the legislation as well as tax guidance for governing household employees was mutually prepared.
- TAIEX Study Visit to Estonia on Combating Tax Crime in the Digital Economy (19-21 September 2016). The aim was to explore best practices in the prevention and control of tax evasion and fraud in the digital environment, by combining the experience of four different host institutions.

Related international initiatives

- From 2003 to 2008 the Ministry of Taxes hosted a resident technical assistance mission from the US Treasury which provided support in the field of internal audit, strategy planning and management, HR training and audit methodology improvement.
- The Ministry of Taxes was also the beneficiary of short term missions from IMF experts. In 2005 the IMF missions provided assistance in strengthening the system of VAT administration. In 2008 an expert of the IMF on tax compliance carried out two short-term missions, preparing recommendations for the Tax Administration Reform Strategy for 2009-2012 as well as proposals for the introduction of a computerised audit system.

3.3 Results

Result 1: *Effective transfer pricing legal framework is developed in line with best EU standards.*

Key output indicator(s)

- Drafts of specific transfer pricing provisions into the Tax Code and the relevant legislative acts. This may refer to some possible simplified legislations or guidance (e.g. on safe harbours, low adding value services, management fees and on specific TP penalties and guidance for its application).
- Recommendation on implementation of administrative guidance and monitoring processes

Result 2: *“Advance Pricing Agreements” system in the field of transfer pricing is developed.*

Key output indicator(s)

- New administrative approach to dispute prevention and conflict resolution in transfer pricing. This may be the introduction and implementation of horizontal monitoring procedures.
- Recommendation for development of bilaterally correspondent Advance Pricing Agreements and such practice.
- Concept of Advance Pricing Agreements system in terms of EU standards.

Result 3: *Setting up the administrative supervisory mechanisms in the field of transfer pricing regulation in compliance with the EU standards and increase an institutional capacity of MoT in this area.*

Key output indicator(s)

- Creation and structuring of special transfer pricing team/unit of 20-30
- Sources of information that should constitute basis for database necessary for transfer prices' control
- Transfer Pricing methodology
- Setting up of a Transfer Pricing Risk management strategy, implementing it (incl. governance aspects)
- Design of a Transfer pricing program and roadmap
- Definition of taxpayers' rights and obligations
- Training sessions for relevant MoT staff on Transfer Pricing methodology and its applications
- Adapted appropriate risk management system including transfer pricing risks' rules and procedures

3.4 Activities

In order to meet the specific mandatory results of this project, the partners may agree on alternative or complementary activities and outputs to those identified in this section.

Project kick-off event

A meeting aiming at presenting the Twinning project to the main involved stakeholders shall take place at the beginning of the project implementation.

Project closing event

A conference shall present the main results achieved during the project implementation and shall be organised before the conclusion of the project.

Activities related to Result 1:

Activity 1.1 *Present two or more EU-countries' approaches defining the “control” of related parties for transfer pricing purposes.*

This shall include issues such as: minimum (percentage) requirements of common control, mediation of control by individual persons as beneficiaries of legal entities, transparent or non-transparent funds, trusts, foundations, family relationship and all other type of direct or indirect control.

Activity 1.2 *Present the EU TPD and two or more EU-countries' legal documentation requirements.*

This shall cover the legal obligation for filing transfer pricing information in tax returns in advance and all legal stipulation for the entitlement of tax authorities to receive information in tax audit procedures. Special focus shall be put on information requirements and contents of the so called Masterfile and Country file. Special provisions in terms of taxpayers' obligations to provide information related to activities in low tax jurisdictions abroad and other related tax haven stipulations, legal assumptions for information gathering purposes shall be presented. This refers to the provision of evidence (such as presenting witnesses, accounting details, identification of involved trade partners, extended liability of the taxpayer to cooperate) in terms of transactions effected abroad.

Activity 1.3 *Present the legal stipulations of the OECD and EU-implementation of the Country by Country reporting including IT implementation aspects, in the context of BEPS Action 13 report/DAC 4.*

This includes all the domestic and bilateral regulations which put these provisions into practice. Introduction to high level risk analysis of CbCR on centralised and case level and shall be given. Administrative processes for the appropriate and effective use of CbCR shall be established. Further introduction shall be given to the mandatory exchange of tax ruling information in the EU.

Activity 1.4 *Present two or more EU-countries' Transfer Pricing provisions.*

The advantages and disadvantages of rather general transfer pricing law (general arm's length principle) and a comprehensive set of sophisticated provisions shall be shown. A clarification of the relationship of domestic and international transfer pricing law shall be provided. This should cover presentations about stipulations such as:

- Safe harbour legislation
- Particularities of low value adding services, financial sector, commodities
- Penalty provisions
- Specific provisions about small and medium size enterprises
- Definition of permanent establishments and profit allocation thereto (AOA)
- Specific provisions and guidance on profit split, Cost Contribution arrangements

Activity 1.5 *Review the relevant Azerbaijani legislation to assess their compatibility with EU and international legal norms.*

The legal relationship of the Azeri stipulations in the oil industry the so called "Production Sharing Agreements" with transfer pricing law to be implemented in Azerbaijan needs to be clarified. There is also scope for the application of transfer pricing law on transactions between Azerbaijani companies inside of tax exempted industrial zones with other Azerbaijani companies. In addition other related legal provisions such as "Foreign tax law" or tax haven legislation in force shall be explained. Legal approaches to aligning Transfer Prices with value creation and combating Hybrid Instruments/situations, Controlled Foreign Corporations (CFC) shall be added. CFC legislation is in force but shall be scrutinised upon further needs. Permanent Establishment stipulations in national and international tax law (BEPS Action 7) shall be illuminated. The scope of the term Permanent Establishment in Azerbaijani law in force shall be clarified and evaluated under international standards.

Activity 1.6 *Provide a report with table of concordance and list of recommended primary and secondary legislative acts and amendments, including amendments to Tax code.*

This refers to: safe harbours, low adding value services, management fees and on specific TP penalties and guidance.

Activity 1.7 *Provide the assistance of legal experts to the MoT on the drafting of new laws, amendments and secondary instruments.*

Introduction plans for new law and improvement plans for the legislation in force shall be established which allow corresponding taxation between Azerbaijan and foreign jurisdictions and arm' length pricing between taxable and tax exempted Azeri entities. This refers inter alia to safe harbours, low adding value services, management fees, permanent establishments (service PE), specific TP penalties and guidance.

Activity 1.8 *Conduct a legal review of the interest deduction system and provide adjustment plans for the legislation.*

There is a broad scope of international treatment/limitation of interest expenses. Presentations shall be provided how the excessive or artificial deduction of interest is encountered by legislators in two or more EU-Countries. This refers to traditional models of thin capitalisation rules (debt/equity ratios), specific tax haven, general anti-abuse rules and hybrid instrument rules. The Azerbaijani law allows a maximum amount of 125% on the inter-banking rate as interest deductible. This creates a safe harbour for taxpayers but is quite restrictive. This must be scrutinised with its impact on the corresponding treatment in other jurisdictions and terms of the relation to other internationally recommended methodologies limiting interest deductions. Adjustment plans for the legislation in force shall be established.

Activity 1.9 *Draft recommendations on implementation of administrative guidance and monitoring processes*

Activities related to Result 2:

Activity 2.1 *Present at least two examples of EU Member States Advance Pricing Agreements procedure.*

This should cover presenting and enhancing the differences between unilateral and bilateral APAs and the link to the exchange of information. This includes a detailed description of the law and all administrative regulations in force and how it is put into practice. Procedures in connection with taxpayer guidance and service as well as EU standard transparency matters shall be considered.

Activity 2.2 *Present at least two examples of EU Member States horizontal monitoring procedures.*

Procedures in connection with taxpayer guidance and service as well as EU standard transparency matters shall be considered.

Activity 2.3 *Determine an administrative approach to dispute prevention and conflict resolution in transfer pricing.*

Good practices illustrating also issues dealing with administration capacity, governance, relationships with taxpayers should be presented. The UN and JTPF works (incl. on monitoring the EU AC) are very useful, see also work of the FTA MAP Forum (peer-to-peer review and questionnaire).

Activity 2.4 *Identify and develop an appropriate “Advance Pricing Agreements” system in the field of transfer pricing.*

Focus shall be given on the EU work on APAs, transparency and exchange of information (DAC 3). Procedures of integration of Tax ruling information received from third states into risk analysis systems shall be presented.

Activities related to Result 3

Activity 3.1 *Develop a Transfer Pricing methodology based on the OECD Transfer Pricing Guidelines, recommendations on the relevant issues included to Base Erosion and Profit Shifting (BEPS) and the best practices on the implementation of transfer prices in the EU member states.*

This also refers to the EU JTPF Reports (incl. transfer pricing risk management, secondary and corresponding adjustments, CCAs) the draft report on comparables by the JTPF and Draft OECD toolkit for developing countries on the same subject.

Activity 3.2 *Conduct the comprehensive training sessions in the following fields:*

- General Transfer Pricing Training: Performing Functional and Risk analysis, determination of the tested party and of appropriate transfer pricing methods to align transfer prices with value creation. Focuses on some particular aspects, e.g.: Delineation of the transaction and risk analytical framework, actual conducts and re-characterisation, comparable searches. Specific cases of restructuring and intangibles (incl. hard to value intangibles) – economic valuation and transfer pricing. Specific cases of commodities, low adding value services, safe harbours.
- Industry tailored Transfer Pricing training: a special training shall follow concerning the business sectors:

Crude oil and oil products, natural gas

Agricultural and food processing

Food and non-food retail

Banking and insurance

Hotel/Tourist services

Construction

Telecommunication and mobile communications

Chemical products

Beverage production

Wholesalers/importers e.g. cars machinery, pharmaceutical products

Activity 3.3 *Improve relevant e-commerce and digital economy procedures.*

Different approaches against artificial shifting of profits to tax havens related to E-commerce shall be explained. Best practice guidance on tackling related problems shall be established in order to allocate the tax

base to countries where economically it belongs to. Examples of international cooperation in order to establish the relevant facts for appropriate taxation shall be presented.

Activity 3.4 *Improve the procedures to tackle an abusive tax haven schemes and tax fraud.*

Descriptions of examples how Multi National Enterprises (MNE) may organise international planning, tax avoidance (transfer pricing, base companies, stepping stone strategies, treaty shopping, thin capitalisation, financial service centres, hybrid schemes) and evasion (kickbacks, other types of omission) shall be provided. A best practice guidance shall be established listing possible existing legal means (e.g. Transfer Pricing, Place of effective management, permanent establishment, withholding taxes, beneficial ownership, substance over form, abuse of law, non-deductibility of costs) in order to tackle these schemes. There shall be presented ways of enhancing voluntary compliance through communication, disclosure of guidance, transparency, etc.

Activity 3.5 *Draft Secondary adjustments*

The impact of primary adjustments on withholding taxes in tax treaties (e.g. on services, royalties) shall be shown. Accounting measures in order to balance/neutralise constructive dividends or capital contributions shall be presented. The issue of levying penalties due to transfer pricing adjustments shall be dealt with. The impact of VAT, other related taxes in transfer pricing shall be explained and clarified.

Activity 3.6 *Improve liaison with customs authorities.*

Best practices in cooperation between transfer pricing people and custom officers shall be presented. A clarification of the different approaches establishing import prices for customs and transfer pricing purposes shall be established. Show how these approaches may be harmonised.

Activity 3.7 *Improve Exchange of information (EOI) with EU MS countries.*

Examples of collaboration of EU-member states in transfer pricing shall be presented. This refers to both the proper use of legal instruments (such as model tax treaty art. 26 EOI, EU-Directive on EOI, OECD Multilateral Convention EOI) in general and to the procedures conducting Multilateral Controls (MLCs) and joint audits. The activities of the Forum of Tax Administrations (FTA) and good practices on exchanging information at global level shall be introduced and further, the OECD JITSIC network shall be presented as a platform for enhancing the exchange of information. For the purposes of EOI the use of CCN (Common Communication Network) shall be presented, the establishment of secure international communication lines for EOI purposes considered.

Activity 3.8 *Improve the usage of domestic and international databases, knowledge management platform for transfer pricing purposes.*

The possible use of international data bases such as Van Dijk Orbis, Bloomberg etc shall be explained and shown in practice. Methods of collection of public data by tax authorities for Transfer Pricing e.g. internet, commercial registers etc shall be presented. institutional knowledge platforms for transfer pricing shall be presented and guidance shall be given on the establishment of an internal (transfer pricing) knowledge platform. See also JTPF report on comparables, recent study commissioned by the commission on comparables and the OECD toolkit for developing countries on comparables.

Activity 3.9 *Capacity building to implement transfer pricing mechanism at the MoT.*

Tax audit force of 20-30 people shall be established, 3-5 legislative experts are provided as interface for legislative amendments and immediate “plug the hole” force.

Activity 3.10 *Improve risk management and analysis procedures.*

Different approaches and good practices of risk analysis and management shall be presented (incl. as regards governance dimension). Risk indicators and rules on the areas of activity for transfer pricing purposes shall be established for the use in the existing data base. Topic and project related to risk analysis approaches shall be presented as well as monitoring approaches. The [TP audit work plan](#) in the 2013 JTPF report on Transfer Pricing Risk Management shall be presented as well as good practices in the same report, with practical illustrations and cases in EU MSs.

Activity 3.11 *Develop a Transfer Pricing Risk management strategy and draft recommendation on its implementation (incl. governance aspects)*

Activity 3.12 *Design a Transfer pricing program and roadmap*

Activity 3.13 *Define the taxpayers' rights and obligations*

It should be noted that the various activities, benchmarks, schedules and means of verification may be subject to revision during the preparation of the contract between the Twinning Institutions.

3.5 Means/ Input from the MS Partner Administration

The MS partner administration is expected to provide the Project Leader (MS PL) and Resident Twinning Advisor (RTA) as well as a team of short term experts to support them in implementation of the project activities.

The MS PL should be a high-ranking civil servant or equivalent staff commensurate with the requirement for an operational dialogue and backing at political level.

The MS PL is the key link between the partners, acting at an overall operational and strategic level. The MS PL is complemented by the RTA. The RTA is seconded and resides in the BC. He/she co-operates day-to-day with the BC partners and coordinates the input of the STEs. STEs will work in Azerbaijan on the basis of specific Terms of Reference (ToR) which will be designed by the RTA for each mission together with the Beneficiary.

It has proved to be an advantage for the project implementation in previous Twinning projects when the MS has designated a senior STE to be responsible for each mandatory result/component of the project (i.e. a component leader) and to liaise with the respective component leader to be nominated by the Beneficiary Administration (BA). The BA will nominate counterparts to these key roles (see section 6.2).

The required MS experts must either be civil/public servants of the relevant MS administration or be permanent staff of authorised mandated bodies. All experts must comply with the requirements set in the Twinning Manual.

The nature of work for technical assistance abroad requests strong initiative, good analytical, interpersonal and language skills. All experts shall possess these qualities.

The RTA will be supported by a permanent RTA Assistant. In collaboration with the BA, the RTA assistant will handle administrative arrangements for conferences, training, seminars, etc. including provision of interpreters and the ensuring the translations. One assistant will be selected during the Twinning contract preparation period.

A full-time interpreter/translator may also be recruited in Azerbaijan and funded by the project. (S)he will perform most of the required interpretation/translation services. Whenever required and needed on a clear

justified request, e.g. for simultaneous interpretation during seminars and workshops, additional interpretation may be procured and funded by the project. (S)he will provide day-to-day interpretation/translation to the RTA and project experts during meetings.

The RTA is supported in his or her MS administration for logistics, accounting and administrative tasks.

3.5.1. Profile and tasks of the Project Leader (PL)

The Project Leader (PL) from the MS should be a high-ranking civil servant or an equivalent senior manager in a MS national body with sufficient work experience in the field relevant to the project. The PL will supervise and coordinate the overall thrust of the project.

The PL will supervise and coordinate the overall thrust of the project. (S)he will direct the project and will ensure that all the required strategic support and operational input from management and staff of the MS side are available. Together with the Beneficiary PL, (s)he will organize the Project Steering Committee (PSC) meetings. **The MS PL would continue to work in her/his MS administration but should devote a minimum of three working days per month to the project in Azerbaijan with an on-site visit to Azerbaijan at least every three months to participate in the project SC meetings.**

Profile:

Qualification and skills

- An university degree in **economics/law** or another relevant discipline and experience in the national implementation of international instruments
- Good command of written and spoken English

General professional experience

- Preferably at least 7 years of professional experience at a senior management level in her/his MS public service in the **tax** sector
- Experience in project management

Specific professional experience

- Broad knowledge of current EU-policies, existing structures and methods in the sector
- Experience in project organisation
- Experience in **income taxation** would be an asset
- Specific experience in the management of the implementation of international instruments would be an asset
- Experience in EU funded projects would be an asset

Tasks:

- Liaising with the BC Administration at the political level
- Overall co-ordination, guidance and monitoring
- Ensuring the direction of the project work
- Ensuring the achievement on time of the mandatory project results
- Ensuring the availability on time of MS-Short Term Experts and other MS resources
- Executing other administrative tasks

3.5.2. Profile and tasks of the Resident Twinning Advisor (RTA)

The Resident Twinning Advisor (RTA) seconded from the EU MS should have at **least five years' work experience as a staff member in a MS tax administration**, working directly in the field of **income taxation**. A network of functional contacts with related EU and Member State institutions will also be an asset. The RTA will be in charge of the day-to-day implementation of the Twinning project in Azerbaijan. (S)he should

co-ordinate the project, including the implementation of activities according to a predetermined work plan and liaise with the RTA counterpart in Azerbaijan. **(S)he will reside for the entire implementation period of 24 consecutive months in Azerbaijan and work full-time for the project.** The RTA is expected to be actively involved in the implementation of all activities.

Profile:

Qualification and skills

- A University degree in **economics/law** or another relevant discipline
- Good command of written and spoken English

General Professional Experience

- At least 5 years' experience in the **income/corporate tax** sector
- Working experience in Transfer Pricing
- Experience in managing teams of experts
- Experience in developing, co-coordinating and conducting training programmes

Specific Professional experience:

- Familiarity with current EU-policies, existing structures and methods in the **tax** sector
- Good knowledge of the institutional environment relating to the implementation and enforcement of relevant EU legislation
- Experience in conducting legal reviews would be an asset
- Experience in working in a different cultural environment would be an asset

Tasks:

- Day-to-day coordination and implementation of the project activities in Azerbaijan
- Preparation of Terms of Reference (ToR) for STEs' missions
- Managing inputs of short-term experts
- Substantial provision of own expertise
- Ensuring the coherence and the continuity of the inputs and the on-going progress
- Assessing continuously the Twinning-project at all stages and comparing actual progress with the specified benchmarks and time-frame
- Guaranteeing smooth implementation of the different activities;
- Liaising with the BC Project Leader and RTA Counterpart on regular basis
- Liaising with the EU Delegation and the PAO of Azerbaijan
- Preparing interim, quarterly and final reports
- Reporting to the MS-Project Leader

3.5.3. Profile and tasks of the short term experts (STEs)

All required EU institutional and technical expertise will be covered by the short-term experts. The short-term experts should have good experience in the relevant subject matter. They should have worked in the required fields for not less than 3 years and have appropriate qualifications and necessary skills to implement the above mentioned activities.

There should be a pool of short-term experts to ensure smooth implementation of the project. The STEs should be identified by the Project Leader/RTA and will be agreed with the Beneficiary Administration during the negotiation phase of the Twinning contract.

Indicative profile of the short-term experts:

Qualification and skills

- Relevant university degree

- Good command of written and spoken English

General Professional Experience

- At least 3 years' proven experience in the relevant field
- Working experience in foreign countries would be an asset

Specific professional experience

- Up-to-date knowledge and current experience in the respective field of project activity
- Project and training experience would be an asset

Indicative fields of experience for the short-term experts:

- **Income/corporate tax** laws and regulations in transfer pricing and schemes of international tax avoidance and evasion.
- Experience in development and use of relevant data bases
- **Taxation** policies and strategies
- **Corporate Tax and transfer pricing auditing in Large Business Audit departments**
- **Profiling of horizontal monitoring processes**
- **Development and implementation of risk analysis systems**
- Others (to be defined in the proposal and/or during the contracting phase)

STEs' main tasks:

- Provision of their specific expertise
- Know-how transfer according to the ToR prepared by the RTA and BA
- Reporting on their missions

In addition to their missions in Azerbaijan, the STEs are expected to contribute actively in developing programmes for the study visits proposed in the project.

3.6 Reporting and monitoring

The MS Project Leader must draw up Interim Quarterly Reports and a Final Report. (S)he will be responsible for submitting them to the relevant authority.

For templates and requirements to reporting and monitoring, see the Twinning Manual.

Project Steering Committee (PSC)

The PSC will be convened at least every three months. The PSC will be chaired jointly by the MS PL and the BC PL. The PSC composition will be defined in the Working Plan according to requirements set in the Common Twinning Manual. Representatives from the PAO of the Republic of Azerbaijan and the EU Delegation, the RTA counterpart and BC PL as well as the RTA, MS PL and BC component leaders will participate in the PSC meetings. Observers from other institutions may be involved from time to time in cross-cutting issues. Representatives from other administrations or short term experts, may also be invited if necessary. The PSC will follow the achievement of the project results and the timely implementation of the project activities in order to identify and rectify any problems that may arise in the course of the implementation of the project.

The secretarial support of the PSC will be provided by the RTA and RTA Assistant, who will prepare the agenda of the meetings, the documents to be discussed as well as the minutes of the meetings.

The working language of the Project implementation will be English. Translation and interpretation will be provided where permitted in the provisions of the Twinning Manual.

4. Institutional framework

Ministry of Taxes of the Republic of Azerbaijan

The Ministry of Taxes of the Republic Azerbaijan was set up by the Decree of the President of the Republic of Azerbaijan No 281 on 11 February 2000.

The activity of the Ministry is based on the Constitution of the Republic of Azerbaijan, the Tax Code of the Republic of Azerbaijan and other laws, decrees and orders of the President of the Republic of Azerbaijan, the decisions and the orders of the Cabinet of Ministers of the Republic of Azerbaijan, and also on these regulations.

The Ministry of Taxes is the authority of central power which realizes the state tax policy within the limits of the united financial and budgetary policy, providing timely and full receipt in the state budget of taxes and other deductions and carrying out the state control in this sphere.

To carry out its functions, the Ministry of Taxes is currently structured in a Central Administration, 3 Main Departments under the Ministry of Taxes, territorial tax departments and rayon tax sectors, a Training Centre and includes the Ministry of Nakhchivan Autonomous Republic.

See the organisational structure of the Ministry of Taxes and the Central Administration of the Ministry of Taxes in Annex 2.

The staff working within the Ministry of Taxes is composed by 3015 staff members of whom approx. 400 are managers of senior and middle levels.

Main Focal Points of the beneficiary institution for the project implementation are:

- International Relations and Tax Monitoring in Financial Institutions Main Department
- Tax Policy and Strategic Research Main Department
- Tax Risks Analysis and Control Main Department
- Tax Audit and Operative Control Department
- Taxes Department №1 under the MoT

5. Budget

The maximum budget allocated to this Twinning project is € 1,200,000

The Azerbaijani beneficiary administration will provide the RTA and other MS experts with office space in its main building in Baku, equipment (computers, printer, telephone and internet access) and other provisions as stated in the Common Twinning Manual.

6. Implementing arrangements

6.1 Implementing Agency responsible for tendering, contracting and accounting

The Implementing Agency responsible for tendering, contracting and accounting is the European Commission represented by **the Delegation of the European Union to the Republic of Azerbaijan.**

The persons in charge of this project at the Delegation of the European Union to the Republic of Azerbaijan are:

Mr Jeroen WILLEMS

Head of Cooperation

Delegation of the European Union to the Republic of Azerbaijan

Landmark III, 11th Floor, 90A, Nizami str.,

AZ 1010 Baku, Republic of Azerbaijan

Tel. +994 12 497 20 63 (ext. 853)

Fax +994 12 497 20 69

E-mail: Jeroen.Willems@eeas.europa.eu

Website: <http://eeas.europa.eu/delegations/azerbaijan>

Mr Rza Zulfuqarzade

Programme Manager

Delegation of the European Union to the Republic of Azerbaijan

Landmark III, 11th Floor, 90A, Nizami str.,

AZ1010 Baku, Republic of Azerbaijan

Tel. +994 12 497 20 63 (ext. 812)

Fax +994 12 497 20 69

E-mail: Rza.Zulfuqarzade@eeas.europa.eu

Website: <http://eeas.europa.eu/delegations/azerbaijan>

6.2 Main counterparts in the Beneficiary country

Programme Administration Office in Azerbaijan (PAO)

The person in charge of this project at the PAO is:

Mr. Ruslan RUSTAMLI, Director of PAO

Head of the Department on Cooperation with International organizations

Ministry of Economy of the Republic of Azerbaijan

6th floor, Government House,

84 Uzeyir Hajibayli str.

Baku, AZ 1000

Republic of Azerbaijan

Tel.: (+994 12) 493 88 67 (ext. 2115)

Fax: (+994 12) 598 07 86

E-mail: ruslan.rustamli@economy.gov.az

Website: <http://pao.az>

Ms. Gunel QULIYEVA, PAO Manager

Department on Cooperation with International organizations

Ministry of Economy of the Republic of Azerbaijan

6th floor, Government House,

84 Uzeyir Hajibayli str.
Baku, AZ 1000
Republic of Azerbaijan
Tel.: (+994 12) 493 88 67 (ext. 2367)
Fax: (+994 12) 598 07 86
E-mail: gunel.quliyeva@economy.gov.az
Website: <http://pao.az>

Beneficiary Administration – Ministry of Taxes of the Republic of Azerbaijan

The Beneficiary Administration has nominated its main counterparts to the MS PL and RTA:

Project Leader – Mr. Zaur FATIZADE
Director of International Cooperation
and Tax Monitoring at Financial Institutions Main Department
Ministry of Taxes of the Republic of Azerbaijan
L.Landau st. 16, Baku, AZ 1073, Azerbaijan
Tel.: (+994 12) 4038090
Fax: (+994 12) 4936425
E-mail: z.fati-zadeh@taxes.gov.az

RTA counterpart –Mr. Ulvi YUSIFOV
Director of International Cooperation Department
Ministry of Taxes of the Republic of Azerbaijan
L.Landau st. 16, Baku, AZ 1073, Azerbaijan
Tel.: (+994 12) 4038754
Fax: (+994 12) 4936425
E-mail: ulvi.yusifov@taxes.gov.az

During the contracting phase of the project, the beneficiary administration will nominate leaders for each of the three components.

6.3 Contracts

Only one Twinning contract is foreseen for this project.

7. Implementation schedule (indicative)

- | | |
|---|---------------|
| 7.1 Launching of the call for proposals: | April 2017 |
| 7.2 Start of project activities: | December 2017 |
| 7.3 Workplan duration: | [24] months |

8. Sustainability

The Twinning project will have to seek sustainable solutions and approaches based on the adoption of best practices and thus prepare the grounds for Azerbaijani enhanced compliance with the selected EU Acquis and specifically best European practices in the field of accreditation of conformity assessment bodies.

Sustainability is highly dependent of the commitment of the Beneficiary Administration. Therefore the nomination of a responsible person within the Beneficiary Administration, for each component of the Twinning

project, is highly recommended. This person will coordinate and promote the activities during the implementation of the project. The “**component leader**” will then ensure, for her/his component that the actions and work of the COA are in line with the results of the projects after its completion.

Besides, in the final report, twinning partners will include specific recommendations and strategies for consolidating and safeguarding the achievement of mandatory results in the beneficiary administration.

To ensure sustainability, Beneficiary Administrations should be provided with the training materials (all handovers) in both languages, English and Azerbaijani. That means that a budget for the translation of Guidelines, Handbooks, Glossaries, Methodology Manuals, etc. developed within the project should be foreseen.

9. Cross-cutting issues

9.1 Equal opportunity

The proposed project will comply with EU equal opportunity policies. Equal treatment of women and men in project implementation at all levels will be one of the most important principles in the project management and implementation. The beneficiaries are already equal opportunity employers. In particular, great attention will be given to the equality principle in the training of personnel and the recruitment of the STEs. Of course, appropriate professional qualifications and experience will be the main decisive factors in personnel recruitment and evaluation but, subject to that, both women and men will have identical prospects.

9.2 Environment

The principle of implementation of this Twinning project is based on a paperless work environment. This means, in particular, minimising paper use during project implementation by the maximum feasible use of e-mails and, if available, project web-site and/or project electronic data base for co-operation between partners. Documents are automatically saved in electronic format.

10. Conditionality and sequencing

ANNEXES

1. Logical framework matrix in standard format
2. Structure of the Ministry of Taxes of the Republic of Azerbaijan

ANNEX 1: Logical Framework Matrix*

<p>Support to the Ministry of Taxes of the Republic of Azerbaijan in Transfer Pricing and developing Anti-Tax Avoidance measures</p>		<p>Programme name and number: AZ/13/ENPI/FI/01/17 (AZ/50)</p>	<p>ENPI AAP 2013</p>
<p>Ministry of Taxes of the Republic of Azerbaijan</p>		<p>Contracting period expires:</p>	<p>Disbursement period expires:</p>
<p>Total budget: 1.2 million EUR</p>			
	Objectively Verifiable Indicators	Sources of Verification	Assumptions
<p>Overall objective:</p>			
<ul style="list-style-type: none"> To introduce and implement an efficient Transfer Pricing Legislation and Transfer Pricing Auditing by the Ministry of Taxes of the Republic of Azerbaijan 	<ul style="list-style-type: none"> A new Transfer Pricing system is in place and ready for use 	<ul style="list-style-type: none"> Annual Reports of the Ministry of Taxes ENP AP Progress report Azerbaijan 	
<p>Project purpose:</p>			
<ul style="list-style-type: none"> To support the Ministry of Taxes of the Republic of Azerbaijan in aligning Transfer Pricing law with European standards and establish resources for best practice auditing processes 	<ul style="list-style-type: none"> The MoT applies state-of-the-art methods for Transfer Pricing and auditing processes Tax audit force of 10-15 people established to implement transfer pricing mechanism at the MoT 	<ul style="list-style-type: none"> Orders of the Minister of Taxes Regular reports of international organisations Project Interim Reports Project Final report 	<ul style="list-style-type: none"> The Government of Azerbaijan maintains its commitments regarding adoption of methodologies, tools, techniques and governance structures for transfer pricing in accordance with best European practices and models There is political will at the top management of the MoT to promote introduction of the Transfer Pricing system Possible institutional changes do not affect the existing roles and responsibilities of related institutions and departments The MoT retains its key staff who

			possess relevant knowledge, competences and skills to continue implementing the transfer pricing mechanism
Mandatory Results:			
1. Effective transfer pricing legal framework is developed in line with best EU standards	<ul style="list-style-type: none"> • At least 2 examples of EU Member States Transfer Pricing provisions presented • Recommendations on amendments of relative legislation for the implementation of Transfer Pricing in Azerbaijan prepared and accepted by beneficiary • Recommendations on amendments of relative legislation for the interest deduction system prepared and accepted by beneficiary • Recommendations on implementation of administrative guidance and monitoring processes 	<ul style="list-style-type: none"> • List of needed revisions of the legal and normative framework • Recommended texts of revised laws, decrees and bylaws • STEs' mission reports • Project Interim Reports 	<ul style="list-style-type: none"> • The MoT has a good knowledge of best practises of EU countries and different type of Transfer Pricing provisions • Collaboration and cooperation among the stakeholders are good • Strong involvement and commitment of MoT staff at all levels • Coordination between departments and institutions connected with the Project is ensured • Access to indispensable information and documents is ensured • Required data are available
2. "Advance Pricing Agreements" system in the field of transfer pricing is developed.	<ul style="list-style-type: none"> • At least 2 examples of EU Member States Advance Pricing Agreements and horizontal monitoring procedures • Study visits to EU Member States with a view of understanding and considering transfer pricing mechanisms that can be applied in the Ministry of Taxes implemented • New administrative approach to dispute prevention and conflict resolution in transfer pricing developed • Recommendation for development of an 	<ul style="list-style-type: none"> • Concept of "Advance Pricing Agreements" system • Texts of developed Advance Pricing Agreements and horizontal monitoring procedures • Reports on the study visit(s) with involvement of relevant 	<ul style="list-style-type: none"> • Capacity of beneficiary is sufficient to absorb the projects results • Collaboration and cooperation among the stakeholders are good • Strong involvement and commitment of MoT staff at all levels • Sufficient staff at MoT in terms of qualification, quantity and availability • Coordination between departments

	<p>appropriate Advance Pricing Agreements and horizontal monitoring procedures for Azerbaijan prepared</p> <ul style="list-style-type: none"> • “Advance Pricing Agreements” system in the field of transfer pricing is in place and ready for use 	<p>MoT staff</p> <ul style="list-style-type: none"> • STEs’ mission reports • Project Interim Reports 	<p>and institutions connected with the Project is ensured</p> <ul style="list-style-type: none"> • Access to indispensable information and documents is ensured • Required data are available
<p>3. Setting up the administrative supervisory mechanisms in the field of transfer pricing regulation in compliance with the EU standards and increase an institutional capacity of MoT in this area</p>	<ul style="list-style-type: none"> • Relevant procedures introduced to tackle harmful e-commerce schemes and is ready for implementation • Procedures to tackle an abusive tax haven schemes and tax fraud improved and are ready for implementation • Liaison with customs authorities improved • Exchange of information with EU MS countries in Transfer Pricing enhanced • Usage of domestic and international databases, knowledge management platform for transfer pricing purposes improved • Transfer pricing audit methodology developed and implemented • Risk management and analysis procedures developed and implemented • Transfer Pricing Risk management strategy developed and implemented • Transfer pricing program and roadmap designed • Taxpayers' rights and obligations defined • At least 5 staff members of the MoT completed the Training of Trainers (ToT) 	<ul style="list-style-type: none"> • Transfer pricing audit methodology • Texts of risk management and analysis procedures • Texts of procedures to tackle relevant e-commerce schemes • Texts of procedures to tackle an abusive tax haven schemes and tax fraud • Training needs assessment report • Training programme/strategy • Reports on delivered trainings with involvement of relevant MoT staff and other institutions • Reports on the internship with involvement of relevant MoT staff 	<ul style="list-style-type: none"> • MoT establishes appropriate cooperation and information exchange links with other relevant EU MS institutions • MoT establishes appropriate information exchange links with State Customs Committee on transfer pricing issues • Capacity of beneficiary is sufficient to absorb the projects results • Collaboration and cooperation among the stakeholders are good • Strong involvement and commitment of MoT staff at all levels • Sufficient staff at MoT in terms of qualification, quantity and availability • Coordination between departments and institutions connected with the Project is ensured • Access to indispensable information and documents is ensured • Required data are available

	<p>courses on General and Industry tailored Transfer Pricing Training courses</p> <ul style="list-style-type: none"> • MoT trainees perform pilot transfer pricing audits under supervision by STE to ensure their capacity • Internship to EU Member State for up to 5 MoT audit trainees to work alongside transfer pricing auditors in EU country and encompass the study of methods and electronic means that MS use in audits implemented 	<ul style="list-style-type: none"> • Scoping documents for the pilot project • STEs' mission reports • Project Interim Reports 	
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	Means	Costs	
Visibility actions			
0.1. Kick-off meeting			
0.2. Quarterly meetings of the Steering Committee			
0.3. Final conference			
Activities to achieve result 1:			
1.1. Present two or more EU-countries' approaches defining the "control" of related parties for transfer pricing purposes	RTA, STEs		
1.2. Present the EU TPD and two or more EU-countries' legal documentation requirements	RTA, STEs		
1.3. Present the legal stipulations of the OECD and EU-implementation of the Country by Country reporting including IT implementation aspects, in the context of BEPS Action 13 report/DAC 4.	RTA, STEs		
1.4. Present two or more EU-countries' Transfer Pricing provisions	RTA, STEs		
1.5. Review the relevant Azerbaijani legislation	RTA, STEs		

to assess their compatibility with EU and international legal norms			
1.6. Provide a report with table of concordance and list of recommended primary and secondary legislative acts and amendments, including amendments to Tax code.	RTA, STEs		
1.7. Provide the assistance of legal experts to the MoT on the drafting of new laws, amendments and secondary instruments	RTA, STEs		
1.8. Conduct a legal review of the interest deduction system and provide adjustment plans for the legislation	RTA, STEs		
1.9 Draft recommendations on implementation of administrative guidance and monitoring processes	RTA, STEs		
Activities to achieve result 2:			
2.1. Present at least two examples of EU Member States Advance Pricing Agreements procedure	RTA, STEs		
2.2. Present at least two examples of EU Member States horizontal monitoring procedures	RTA, STEs		
2.3. Determine an administrative approach to dispute prevention and conflict resolution in transfer pricing.	RTA, STEs		
2.4. Identify and develop an appropriate "Advance Pricing Agreements" system in the field of transfer pricing	RTA, STEs		
Activities to achieve result 3:			
3.1. Develop a Transfer Pricing methodology based on the OECD Transfer Pricing Guidelines, recommendations on the relevant issues included to Base Erosion and Profit Shifting (BEPS) and the best practices on the implementation of transfer prices in the EU member states	RTA, STEs		
3.2. Conduct the comprehensive training sessions	RTA, STEs		

3.3. Improve relevant e-commerce and digital economy procedures	RTA, STEs		
3.4. Improve the procedures to tackle an abusive tax haven schemes and tax fraud	RTA, STEs		
3.5. Draft Secondary adjustments	RTA, STEs		
3.6. Improve liaison with customs authorities	RTA, STEs		
3.7. Improve Exchange of information with EU MS countries	RTA, STEs		
3.8. Improve the usage of domestic and international databases, knowledge management platform for transfer pricing purposes	RTA, STEs		
3.9. Capacity building to implement transfer pricing mechanism at the MoT	RTA, STEs		
3.10. Improve risk management and analysis procedures	RTA, STEs		
3.11. Develop a Transfer Pricing Risk management strategy and draft recommendation on its implementation (incl. governance aspects)	RTA, STEs		
3.12. Design a Transfer pricing program and roadmap	RTA, STEs		
3.13. Define the taxpayers' rights and obligations	RTA, STEs		

* - This Logical Framework Matrix is tentative. The Twinning partners shall revise the content of the Logical Framework Matrix, mainly measurable indicators / benchmarks basis of commonly agreed activities and outputs during the drafting of the work plan for this project

ANNEX 2: Structure of the Ministry of Taxes of the Republic of Azerbaijan

