



**Guidelines** for  
**Strengthening Cooperation**  
and the Exchanging of Information  
between **Customs and Tax**  
**Authorities** at the National Level



WORLD CUSTOMS ORGANIZATION



# **GUIDELINES FOR STRENGTHENING COOPERATION AND THE EXCHANGE OF INFORMATION BETWEEN CUSTOMS AND TAX AUTHORITIES AT THE NATIONAL LEVEL**



WORLD CUSTOMS ORGANIZATION  
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## I. Introduction

1. With the rapid globalization of the trade and the financial systems, the free movement of goods, capital and labour, shifting manufacturing bases and advances in information and communication technology (ICT), business operating models have undergone significant changes. Whilst these are notably positive developments, they have also increased the potential risk of Customs offences, tax evasion, and tax avoidance, and have put Customs and Tax administrations under greater pressure in their risk assessment, compliance management and trade facilitation efforts. While traditional Customs fraud and evasion of Customs duties continue to pose challenges to Customs administrations, there have been increasing concerns regarding offshore tax evasion, where funds are being deposited and sheltered from the home Tax authorities, having potential connections with illicit financial flows, money laundering and terrorist financing.
2. Financial crimes, including tax crimes, are growing in sophistication and often operate across international borders. Tax evasion, money laundering, illicit flows of money, terrorist financing and other related financial crimes are posing greater challenges to the political, economic and social interests of countries. Also, there are challenges in terms of facilitating growing volumes of trade and reducing administrative burdens on businesses, which would ease the development of international trade. While the globalization and liberalization of economic activity and trade has in effect transformed the business sector into a world without borders, Customs and Tax authorities continue to be constrained by national borders and respective legislations and regulatory approaches, requiring enhanced inter-agency cooperation within and between governments for effective actions. In addition, Coordinated Border Management<sup>1</sup> can also be beneficial in combatting other non-compliance issues, in areas such as security, safety, health, environment, intellectual property rights, illegal export of strategic and dual use goods, and arms proliferation.
3. Given the growing complexities of economic value chains and the limited resources available to governments, Coordinated Border Management is becoming increasingly important among government agencies (e.g. Customs and Tax authorities) as a source of mutual support in meeting shared goals and objectives and tackling common challenges. Often the information, knowledge and skills required to effectively collect revenue, combat financial crimes, and facilitate legitimate trade are spread across several authorities/agencies, requiring mutual cooperation as part of a whole-of-government approach.
4. At the global level, initiatives by the G20 Leaders and the Organisation for Economic Co-operation and Development (OECD) on the subject of tax transparency and exchange of information, including the recently launched 'Global Standard for Automatic Exchange of Financial Account Information in Tax Matters'<sup>2</sup>, have placed greater focus on financial and tax transparency. In order to fully leverage the heightened global focus on fiscal transparency, it is imperative that Customs and Tax authorities engage with each other for mutual support to meet current and emerging challenges.

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<sup>1</sup> [http://www.wcoomd.org/en/topics/wco-implementing-the-wto-atf/atf/~media/WCO/Public/Global/PDF/Topics/WTO%20ATF/dev/CBM%20Compendium\\_1.ashx](http://www.wcoomd.org/en/topics/wco-implementing-the-wto-atf/atf/~media/WCO/Public/Global/PDF/Topics/WTO%20ATF/dev/CBM%20Compendium_1.ashx)

<sup>2</sup> <http://www.oecd.org/ctp/exchange-of-tax-information/standard-for-automatic-exchange-of-financial-information-in-tax-matters.htm>

5. There is a clear need for greater synergy between Customs and Tax authorities. Some Customs and Tax authorities (in particular where they are two separate administrations or within federal states where the central state as well as its member states both have fiscal competences) have already developed formal arrangements for cooperation and information exchange, such as Guidelines/Instructions and/or a Memorandum of Understanding/Agreement (MOU/MOA) on cooperation and data exchange, establishing detailed technical and functional specifications and collaboration protocols.
6. As part of growing engagement between Customs and Tax authorities, it is also imperative to seek ways to reduce conflict and increase harmony between their respective legislative framework, thus reducing/simplifying compliance requirements for transactions in global economic value chains.
7. The WCO Guidelines for Strengthening Cooperation and the Exchange Of Information between Customs and Tax Authorities at the National Level (hereinafter referred to as “the Guidelines”) are intended to supplement the ongoing initiatives in this domain. The aim is to provide general, overarching principles for cooperation which take account of operational considerations, bearing in mind the different organizational structures and national requirements of countries. It is expected that these Guidelines will be useful to Member Customs administrations in developing a sustainable cooperation mechanism (including a MoU where needed) tailored to their unique situation, in close cooperation with their respective Tax authorities.
8. The Guidelines endeavor to provide guidance and ideas to Customs and Tax authorities for formalizing the contacts and strengthening the existing cooperation at the national level. These Guidelines do not seek to impose a specific model on the entities concerned. They rather provide entities with greater freedom in developing a cooperation framework best suited to their national requirement and operating environment including drafting a formal agreement/arrangement e.g. an MOU, where appropriate.

## **II. Strengthening Cooperation between Customs and Tax Authorities**

9. Customs administrations are responsible for the assessment and collection of Customs duties. In many countries they are also responsible for the collection of excise duties on certain goods (for example, alcohol, tobacco, petroleum products, mineral oils, energy and electricity), as well as Value Added Tax (VAT)/Sales Tax and Goods and Services Tax (GST) on imported goods on behalf of their respective Tax authorities. In some cases, the relevant Customs administration is also responsible for the collection of various other duties and taxes, such as excise tax, road tax, environment/green tax, national building tax, social security contributions, veterinary control tax, and special levies/charges. Customs administrations receive and process information concerning cross-border flows of goods, money, people and means of transport, as well as details of individuals and businesses. Some Customs administrations also have wider border enforcement responsibilities in terms of security, safety and protection of the economy and society, e.g., curbing illicit trade, smuggling, drug trafficking, IPR infringing goods, etc. Moreover, Customs administrations normally need to make decisions in real-time, whereas the Tax authorities usually base their work on periodical reporting.
10. Tax authorities are generally responsible for the assessment and collection of taxes on behalf of the government. This involves gathering and processing information on individuals and corporations subject to tax, including personal details and details of

their property, investments, financial transactions and business operations. Tax authorities may have extensive powers to access information. They also play an important role in deterring and detecting tax irregularities and crimes. Once a suspected tax crime has been identified, the extent to which the Tax administration is involved in the investigation and prosecution varies from jurisdiction to jurisdiction.

11. In addition to mobilizing resources for the government, Customs and Tax authorities have an equally important role to play in combating financial crimes, e.g., money laundering and terrorist financing. This role has garnered even greater significance since 2012, when the Financial Action Task Force (FATF) revised the “International Standards on Combating Money Laundering, the Financing of Terrorism and Proliferation” to include ‘tax crimes (related to direct taxes and indirect taxes)’ and ‘smuggling (including in relation to Customs and excise duties and taxes)’ in the list of predicate offences for money laundering. Some countries have already reflected the updated FATF Standards in their national legislations. This change has brought the proceeds of tax crimes within the scope of money laundering investigations. This is expected to contribute to better coordination between Customs administrations, Tax authorities, Financial Intelligence Units, and other law enforcement agencies, and remove potential obstacles to domestic and international cooperation concerning tax crimes. The FATF recommendations no 30 and 31 are noteworthy in this respect. In this context, the 2015 OECD publication on ‘Improving Co-operation between Tax and Anti-Money Laundering Authorities’ is also relevant.

#### **a. Cooperation Benefits and Opportunities**

12. The overarching benefits of enhanced cooperation between Customs and Tax authorities are significant. There are financial and efficiency gains including efficient collection of the duties and taxes legally due from this cooperation, exchange of information and coordinated approach between the two authorities, through leveraging synergies between them. Good working cooperation and the effective exchange of information between the two authorities would make cross-border trade processes more predictable and less burdensome for traders - fostering cross-border and economic development. It would also increase their capabilities to identify a range of financial crimes, as well as being able to access an additional source of information that can be used to ensure tax compliance and identify potential non-compliance by providing the missing link in the information “ecosystem”. Further, mutual cooperation between two authorities would have a strong deterrent effect on potential tax evaders/fraudsters, whilst creating a more effective and facilitative tax-payer environment.
13. Other notable benefits are comprehensive risk management and/or post-clearance audit; improvement of the trade facilitation and business environment; simplification of processes for customers and administrations; and effective enforcement of financial and tax crimes.
14. More specifically, Customs administrations’ import and export data and Tax authorities’ purchase and sales data may be mutually shared and matched, which could potentially result in the detection of irregularities, including undeclared or mis-declared tax bases for both authorities. The sharing by Tax authorities of information on payment transactions [both import (purchase) and export (sales)] may also be useful to Customs from the valuation perspective. Information from Tax authorities about traders’ purchases and sales does not automatically lead Customs to detect the evasion of Customs duties and taxes, but it could serve as a reference point for Customs to narrow down its potential investigative targets. At the same time, it is important to note

that an operator who is non-compliant in tax matters is very likely to pose a risk of non-compliance for Customs, and vice-versa.

15. When verifying the Customs value for related party transactions involving multinational enterprises, Customs administrations can benefit from information derived from the transfer pricing studies which have been developed for profit tax purposes, and which are generally based on the application of the OECD transfer pricing Guidelines. Both the OECD transfer pricing Guidelines and the WTO Customs Valuation methodology are designed to ensure that related party prices are comparable with those between unrelated parties. It is noted, however, that there are opposing risks, i.e., the risk to Customs is generally undervaluation of imported goods to reduce Customs duties, whereas the tax risk is overvaluation of goods and services to reduce the taxable profit. There is also a possibility that fraudsters are manipulating both tax and Customs declarations to their advantage; e.g. where low duty rates and high tax rates apply, Customs values may be deliberately overdeclared in order to reduce taxable profits. Therefore, sharing information and knowledge in this area would be mutually beneficial.
16. The possibility of a joint approach to compliance management and audit could be explored as a means to further enhance cooperation and coordination between Customs and Tax authorities. A comprehensive and harmonized approach by the two authorities would lead to optimal revenue collection for the government. A comprehensive and harmonized approach will also benefit taxpayers and promote investment.
17. There is potentially a great opportunity for Customs (or its investigative entity) and Tax authorities to work together on seeking solutions to cross-border tax evasion, aggressive tax minimization, terrorist financing, and Customs fraud. Continuous dialogue between the two authorities through a mutually agreed mechanism is key to be able to leverage opportunities and address common challenges relating to compliance and trade facilitation more effectively.
18. As import/export activities may materially affect a businesses' tax compliance obligations for both direct and indirect taxes, it is essential that the legislative arms of both Customs and Tax authorities should co-operate to ensure that the objectives of legislation in their respective fields do not conflict.
19. Customs administrations are currently engaged, at different levels, in the exchange of information with their respective Tax authorities. Some are exchanging information on a case-by-case basis, while others have established an institutionalized mechanism for the regular exchange of information, by concluding appropriate legal/administrative arrangements.
20. Cooperation between the two authorities is often influenced by political factors and the government structure in place. Notwithstanding the organizational structure, two authorities should work towards enhanced collaboration on issues of mutual interest, and the seamless exchange of information through a standardized approach, conducted in a timely and technologically sophisticated manner. Such cooperation and information exchange should be based on a mutually agreed, sustainable and robust framework, keeping in view the national specificities, political and government structures and operating environments.

## b. Enablers for Cooperation and Exchange of Information

21. Open communication and continuous dialogue between Customs and Tax authorities are the basic building blocks for understanding each other's respective roles and responsibilities, as well as complementarities. Customs should review and improve their strategies, structures, processes and communication channels for enhancing cooperation with Tax authorities in tackling serious crimes, including tax evasion, organized transnational crimes and money laundering. Underpinning enablers for effective and sustained cooperation and information exchange include -
- (i) Political will and executive commitment: Political will at the top level is the essential enabler for Customs and Tax authorities to act on the internal and external motivations, and translate them into an effective cooperation in practice. Once a policy decision is taken it is the commitment and involvement of heads of both authorities which provides credibility and necessary drive in ensuring that Customs and Tax officers understand the importance of the cooperation and information exchange and actively pursue that agenda through a sustained process.
  - (ii) Legal framework: Legislative enablers and safeguards have to be developed to allow for the exchange of information/data for the prescribed purposes. A legal framework should clearly stipulate and enable the exchange of information/data between Customs and Tax authorities. It should also ensure the confidentiality of exchanged information and limit its use to the agreed purposes. Where appropriate, legislation should also provide that one agency is permitted to make legally valid decisions based on information/data which has been received in the course of a process defined in legislation relating to the other agency, and shared with the former.
  - (iii) Governance processes and resources: An adequately resourced governance process laying down detailed cooperation mechanisms and designated contact points should be put in place.
  - (iv) Cross-sectoral understanding: Each authority should develop and enhance its capability to identify information of use to it which may be held by the other authority. It should equally develop its capability to identify information and potential risk areas that may be relevant to the other authority.
  - (v) Data confidentiality and protection: There should be proper legal safeguards governing data privacy and protection. Shared data should be used only for *bona fide*, agreed upon purposes, and should under no circumstances be disclosed or used for any unauthorized purpose following administrative and legal requirements. The legal framework should not be pedagogic, but should actually be put into practice, with clear responsibility and accountability as well as sanctions and penalties for any violations. Both authorities need to promote an organizational culture of data confidentiality. There should be controls that both enable appropriate access and inhibit inappropriate access, coupled with management actions such as targeted monitoring, response to events, testing, and auditing. The focus should clearly be on a "Rule and Role-based" access principle. There are three main constructs for data protection -
    - legal provisions
    - organizational procedures and practices
    - monitoring compliance and sanctions for violations.

- (vi) Standardization of messaging/communication protocols: For the efficient exchange of information, information flows (including messaging standards) need to be standardized and harmonized to the greatest extent possible.
- (vii) Information technology: Information can be exchanged in several ways, e.g., via paper documents. However, given the increasing volumes of data, one core requirement is that Customs and Tax authorities should develop the ability to electronically send/receive, exchange, process, secure, and store information/data. While implementing or consolidating their respective systems, the two authorities should ensure that the systems are interoperable and explore the possibility of introducing a common/integrated IT system and data warehouse.
- (viii) Data analytics: Given the volume of information (Big Data - Volume, Variance and Velocity), the mere fact that information is made available in bulk, through the exchange, may not necessarily be of direct use to either authority. Any information exchange mechanism should be dovetailed with robust data analytics capability. Analytical techniques including predictive analytics will assist in identifying patterns/trends, compliance and/or non-compliance history, gaps, risks and modus operandi. Additionally, options should be explored to establish Centres of Excellence for Customs and Tax data analytics at the national level. This would assist both authorities by enabling data-driven assessment relating to compliance and avoidance issues.
- (ix) Information and system security management: ISO/IEC 27002:2013 (Information technology - Code of practice for information security management) defines Information Security as the - "...preservation of confidentiality, integrity and availability of information". It provides guidelines for organizational information security standards and information security management practices including the selection, implementation and management of controls taking into consideration the organization's information security risk environment. Both authorities should have a robust information and security management system with a continuous improvement mechanism. Data needs to be protected, whether "at rest" or when being used and exchanged. The effective day-to-day management and monitoring of security processes and controls is an essential and integral part of any overall security system, as is the regular auditing of all security procedures.

### III. Exchange of Information

#### a. Type of Information

22. The scope and remit of cooperation and information exchange between the two authorities could potentially include (but not be limited to) the following, based on the legislation and statutory authorities of each administration:
- Data and documents, for example:
    - Customs import/export data and travellers' currency declarations
    - Tax returns (purchase/sales data), information relating to transfer pricing/ Customs valuation cases
    - Information pertaining to domestic indirect taxes (such as excise and VAT) on imported goods
    - Assessment/investigation/audit reports

- Data on offenders, taxpayer debt and information on shell companies
  - Enforcement-related information/intelligence (e.g., tax evasion/money laundering, smuggling, drug trafficking, foreign currency offences, illicit payments, other criminal activities)
  - Risk profiles/indicators and selectivity criteria - including the sharing of others' enforcement targets, if noticed while examining or investigating their own enforcement targets
  - Information regarding Customs/Tax defaulters and related information to assist respective recoveries
  - Information obtained from foreign Customs or Tax administrations, where legally possible
  - Information on trusted traders/Authorized Economic Operators
  - Information on compliant/non-compliant traders - trends and modus operandi
  - Best practices concerning tax compliance, assessment, audit and investigation
  - General information on enterprises, legal representatives, trade processes, business registration, financial reports and compliance programmes
  - Sharing of technical information on complex issues via awareness-raising/training events (e.g. tax officials impart knowledge on transfer pricing to Customs officials).
23. Once close and sustained cooperation has been established between the two authorities, new information relevant to each other could be identified and exchanged on an ongoing basis, thus further reinforcing the collaboration in order to achieve the common and individual objectives of both administrations.

## **b. Information Exchange Mechanisms**

24. Information can be exchanged on the following bases -
- Exchange of information on request: Information is provided when it is asked for.
  - Automatic exchange of information: Information is provided regularly, on the basis of an agreement, even if the counterpart authority has not asked for it.
  - Spontaneous exchange of information: Information deemed relevant to the work of the other authority is provided voluntarily, without the latter having asked for it.
  - Systematic exchange of information: Exchange of tax database/documents periodically, e.g., daily, weekly or monthly - Push basis or Pull basis.
  - Access to each other's databases.
  - Interconnected/interoperable or integrated databases.

- Specialized Customs and Tax data analytics to feed in intelligent, insightful information to the policy makers and administrators. This has twin objectives of early identification of deviant behavior and encourages voluntary, affirmative compliance behavior.

#### **IV. Other forms of cooperation - Joint Activities**

25. Customs and Tax authorities should explore the possibility of undertaking coordinated/joint activities aimed at detecting and preventing revenue leakages/evasion and strengthening the fight against tax/commercial frauds and transnational crimes. A coordinated and joint approach leverages upon the expertise and domain knowledge of officials from both authorities, leading to the examination of uncharted areas and an enhanced understanding of the different risk factors.
26. Additionally, joint activities/approaches would lead to enhanced trade facilitation, reduced compliance costs, increased transparency and optimal utilization of resources. When planning and coordinating such joint activities/approaches, account must be taken of the differences between the operational processes and skill sets of the two authorities, bearing in mind that Customs controls are normally conducted on a transaction basis, whereas Tax controls are account-based, usually taking place post-facto over a period of time.
27. Joint Customs/Tax activities may potentially include -
  - Joint risk profiling/analysis for the identification of potential risk areas
  - Joint investigations/examinations
  - Joint identification of measures and their application in the fight against duty/tax offences and transnational crime, e.g., money laundering, illicit transfer of money
  - Joint audits
  - Coordination of control/compliance activities within Free Zones
  - Coordination and conduct of joint controls
  - Coordination on transfer pricing/Customs valuation matters
  - Common programmes, e.g., Common Customs/Tax Authorized Economic Operator scheme
  - Joint research and analysis on revenue-related topics
  - Joint training/workshops to enhance the understanding of each other's roles and responsibilities and to educate officers on cross-sectoral risks and challenges
  - Joint approach on legislative/policy matters and taxpayer education
  - Secondment programmes involving officers being interchanged between agencies to enhance cross-sectoral capacity.
28. In the framework of furthering cooperation by implementing joint activities, there should be periodic meetings during which authorized points of contacts from the two authorities will exchange, process and analyze information in order to make operational decisions, identify potentially risky economic operators and plan the necessary joint controls, investigations or audits, as may be necessary, for further verification.
29. Information collected during joint activities should be passed on to the relevant authority, together with a report for the purpose of further evaluation and examination under the relevant law/act. Where appropriate and possible, authorities should share the outcomes of activities with each other; among other things, this would help with the planning and execution of other future joint activities.

30. The Oslo Dialogue<sup>3</sup>, launched by the OECD in March 2011, promotes a whole of government approach to tackling tax crimes and other financial crimes, including Customs fraud. In 2014, the work of the Oslo Dialogue led to the establishment of the OECD International Academy for Tax Crime Investigation, which runs foundation, intermediate and specialised programmes for government officials from any agency engaged in this work. Specialist joint training seminars between Tax and Customs authorities could be developed in cooperation between the OECD and the WCO, to build capacity in this important area.

## **V. Developing a Memorandum of Understanding/Agreement (MOU/MOA)**

31. There may be several approaches to cooperation between two authorities, depending on a country's needs and circumstances. Some Customs administrations have administrative arrangements for cooperation, while others have more formal arrangements, such as: guidelines/instructions for interaction and information exchange; technical and functional specifications; collaboration protocols; and MOUs/MOAs on cooperation and data exchange. A few Customs administrations have developed additional cooperative arrangements, which include: integrated administration; legal act, Ministerial decree or decision; inter-agency working groups/forums; joint committees; special task force; regular meetings; informal administrative arrangements; Customs and Tax border cooperation centres; and secondment of Customs officers to Tax authorities.
32. Cooperation between Customs and Tax authorities could be strengthened by a formal MOU/MOA, although it is recognized that cooperation can also take place in a less formalized way.
33. The drafting of an MOU/MOA will help Customs and Tax authorities to examine and elucidate their respective roles and responsibilities, as well as their commonalities. An MOU/MOA would, therefore, enable these authorities to work together harmoniously, ensuring efficient collection of revenue and curbing transnational crime.
34. Although the exchange of information between Customs and Tax authorities must be based on local conditions, there are some overarching considerations that can be noted. While a legal basis is necessary, it will not ensure that the exchange of information will be successful, unless both parties proactively engage with each other and offer each other mutual support.
35. The MoU can draw upon the principles of having an equitable and mutually exclusive tax base among various tax laws. This may, among other things, aim to rationalize and simplify and harmonize provisions of Customs and Tax laws thus making them simpler to comply with and administer.

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<sup>3</sup> <http://www.oecd.org/ctp/crime/about-tax-and-crime.htm>

## a. Key Principles

36. Customs and Tax authorities may want to consider the following key principles/points when designing MOUs/MOAs for cooperation and information exchange (this list is not exhaustive):
- (a) *Scope* (for instance, the MOU applies to tasks related to the imposition and collection of Customs duties and taxes, and the fight against evasion and other forms of fraud).
  - (b) *Cooperation* (for instance, the parties should cooperate to provide information related to (i) suspicious activity seemingly related to the evasion of national taxes, discovered while the Customs administration is conducting examinations or investigations of foreign exchange transactions and (ii) suspicious activity seemingly related to the evasion of Customs duties, discovered while the Tax administration is conducting examinations or investigations of cross-border tax evasion).
  - (c) *Other cooperation* (in handling tasks that are not specified in the MOU, the parties consult each other, taking into account the purpose and background of the MOU).
  - (d) *Method* (for instance, exchange of information on request; automatic exchange of information; spontaneous exchange of information; systematic exchange of information; access to each other's databases; establishment of interconnected/interoperable or integrated databases. Both parties should consider actively providing each other with information on suspicious activity regarding tax evasion, through relevant competent authorities).
  - (e) *Timeline* (for instance, the requested information/data should be provided at the earliest opportunity within the mutually agreed timeline).
  - (f) *Confidentiality* (for instance, each party must use the information provided by the other party only for the purpose of tax collection and investigation, and must make the utmost effort to maintain the integrity and confidentiality of the information received).
  - (g) *Disclosure* (for instance, if countries have right to information/freedom of information law (s), parties must agree to certain protocols concerning the disclosure of information exchanged)
  - (h) *Reciprocity* (a broad level of reciprocity should be maintained. One authority should not disproportionately overburden the other authority with a large number of requests, when it is not in a position to reciprocate to the same degree).
  - (i) *Governance process and resources* (the governance structure, operational procedures and IT requirements, supported by resource commitments, should be clearly outlined. For example, a joint working body involving middle-ranking experts from both authorities could be set up to foster closer collaboration and the exchange of information, and to examine and plan joint approaches/activities. In addition, a cost-sharing mechanism should also be clearly defined).
  - (j) *Responsible persons* (specific identification in the MOU/MOA of the nodal contact point in each party. For instance, the Customs and Tax authorities should

designate/authorize at least two officers to make/receive requests, process them, and coordinate day-to-day activities).

- (k) *Commencement, duration and amendments* (e.g. date of commencement, validity period if any and process of amendment with mutual consent to respond changed situations, challenges and opportunities).

**b. Working Examples**

i. Côte d'Ivoire

ii. India

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