



Brussels, 28 March 2017.

## **CUSTOMS-TAX COOPERATION**

### **a) Results of further research on cooperation between Customs and Tax administrations (Item IX.a on the Agenda)**

#### **I. Introduction**

1. The July 2016 sessions of the Policy Commission and the Council discussed the 'Guidelines for Strengthening Cooperation and the Exchange of Information between Customs and Tax Authorities at the National Level'<sup>1</sup> and encouraged the Secretariat to continue working with the OECD and IMF with regard to Customs-Tax cooperation, emphasizing Customs' wider role in the global supply chain facilitation and security (non-fiscal) areas, as well as revenue collection.
2. At its 213<sup>th</sup>/214<sup>th</sup> Sessions in October 2016, the Permanent Technical Committee (PTC) explored the business and IT side of Customs-Tax cooperation and the exchange of information between them, and discussed Members' experiences, especially those relating to data exchange mechanisms - interoperable or integrated IT systems. The PTC also suggested that future work could potentially include more specific guidance on cooperation between Customs and Tax within Revenue Authorities, noting their particular challenges and issues through being part of the same organization, as well as enhancement of Customs-Tax cooperation by including other relevant authorities (e.g., anti-money laundering authorities) to strengthen the fight against financial crimes, such as tax evasion and illicit financial flows.
3. Subsequently, the December 2016 Policy Commission session discussed this topic and requested the Secretariat to analyze Members' feedback with regard to issues such as joint databases, joint approaches to risk management, post-clearance audit, etc. and update the related WCO tools accordingly in order to promote better Customs-Tax cooperation at the national level as well as provide for more specific guidance and recommendations on the matter.

<sup>1</sup> Having undergone the subsequent adjustment process, the Guidelines were finalized and made available on the WCO Website at <http://www.wcoomd.org/en/topics/facilitation/instrument-and-tools/tools/guidelines-on-customs-tax-cooperation.aspx>.

## II. Further Research

4. As brought out in the WCO Annual Report 2015-2016, 42.8% of Customs Administrations are embedded within a ministry, 28.3% are Revenue authorities and 26.7% are Customs agencies. Notwithstanding the organizational structure, Customs and Tax authorities should consider working 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.
5. Based on a further research on Members' practices, some enhanced cooperation opportunities through joint approaches are outlined below. In addition to the key findings of the WCO survey and the OECD Report, information on countries (country examples) is primarily based on an open source research (including respective websites) as well as some of the working experiences shared by Members at various meetings of the WCO working bodies. Being a preliminary research and analysis, Members' working examples need to be validated with respective current practices and new initiatives. This also needs to be further enriched with additional practices which may be shared by Members.

### a) **Access to Database/Joint Database**

#### **- WCO Survey (2016)**

6. The WCO survey indicated that 19 Members (of 72 total responses - 26%) exchange tax databases, documents and related information on a periodic basis (including a few cases where Customs periodically submits online import and export reports to the Tax authorities, whereas the Tax authorities furnish data/information upon request only). At the same time, 29 Members<sup>2</sup> (40%) even provide full/limited access to each other's databases.
7. Furthermore, 8 Members (11%) mentioned additional processes/methods for cooperation, for example joint audits, joint risk analysis, and in some cases even the merger of the two authorities' risk divisions and the use of common databases/integrated systems.

#### **- OECD Report (2013)**

8. According to an OECD Report<sup>3</sup>, Tax and Customs authorities often work closely together in the administration and enforcement of their respective laws, and in a number of countries form two parts of a single joint administration. However, structural and technical issues, as well as tax secrecy rules, can operate as an impediment to the free sharing of information, even within a single agency. In all 48 countries covered by the report, legal gateways are in place to allow the Customs administration to share information with the Tax administration for the purposes of administering taxes.

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<sup>2</sup> Argentina, Austria, Bolivia, Bulgaria, Cape Verde, Cyprus, Dominican Republic, Ecuador, France, Germany, Greece, Ireland, Italy, Latvia, Lesotho, Lithuania, Mauritius, Mozambique, Nigeria, Norway, Peru, Poland, Serbia, Slovenia, Timor Leste, Turkey, Ukraine, the US, and Zimbabwe.

<sup>3</sup> <https://www.oecd.org/tax/crime/effective-inter-%20agency-cooperation-report.pdf>

The report contains an in-depth analysis of inter-agency cooperation in fighting financial crimes in 48 countries.

9. In 18 countries, tax officials have direct access to Customs information for these purposes, including six countries where Tax and Customs laws are administered by separate authorities. All countries in the report have gateways to allow the Customs administration to share information with the agency responsible for investigating tax offences, though in six countries this is only possible on request.
10. Based on the 2013 OECD Report, a table and related commentary set out at Annex I to this document summarizes the availability to Customs officials of information held by Tax administrations. The grouping of data, the presentation, the analysis, and the conclusions contained in this Annex are solely based on the information collected and analysed by the OECD in respect of 47 countries (out of a total 48 countries covered in the Report) and may not necessarily reflect the latest situation. However, alongside other available information it provides a general overview of the situation concerning the availability/access of tax information by Customs administrations that could be a good basis for carrying out further work in this area.

Country Examples:

11. **Indian Customs** has developed a robust data access and sharing policy that has been included in the WCO Guidelines. Additionally, they have elaborated essential prerequisites for Customs-Tax data access and exchange, which is set out in Annex II to this document.
12. **Spain Tax Agency** has a common database, which included Customs and Tax information, to which both Customs and Tax officers had access, with Customs and Tax information being filed under the individual number of each taxpayer.
13. **Hungary's** National Tax and Customs Administration (NTCA) has integrated systems of professional fields by developing 'Common use (TAX-CUSTOMS) systems' (e.g. Electronic Trade and Transport Control System (EKAER) and 'Integrated TAX-CUSTOMS systems' (e.g. taxpayer/economic operator-reference data system), 'Criminal Systems' and data warehouse. The uniform taxpayer reference data containing taxpayers/economic operators' data is supporting the processing of Customs declarations, tax returns entailing tax levy and imposition of Customs duty. In addition, integration of current accounting system at NTCA level enables display and retrieval of taxpayers' obligations and payments data.
14. In **Brazil**, Customs officials have direct access to tax information held by the Federal Tax administration, and may obtain information from State Tax authorities on request.
15. **Russia** has developed integrated information systems operated by Customs and Tax Authorities where number of goods and declarations for the sale/purchase and export/import by economic operators are seamlessly exchanged between two authorities
16. In **Sweden**, the Customs administration has a direct access to the Excise Movement and Control System (EMCS)<sup>4</sup>, which is held by the Tax administration and contains information on movements of goods such as tobacco, ethyl alcohol, spirits and energy products.

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<sup>4</sup> [https://ec.europa.eu/taxation\\_customs/business/excise-duties-alcohol-tobacco-energy/excise-movement-control-system\\_en](https://ec.europa.eu/taxation_customs/business/excise-duties-alcohol-tobacco-energy/excise-movement-control-system_en)

17. In **Botswana**, Automated SYstem for CUstoms Data (ASYCUDA) ++ interfaces with the Botswana integrated Value Added Tax System (BIVATS) to capture information about VAT deferred at border entry points.
18. **Serbia** requires its Tax administration to submit to the Customs administration data from the taxpayers registry and VAT registry on a daily and monthly basis, and to enable access to the database 'Unique Taxpayers Registry' as well as access to 'Integrated Information System' for the control of foreign exchange.
19. **Côte d'Ivoire** has established a steering Committee for an IT data interchange platform project between the Directorate General of Customs and the Directorate General of Tax Administration, which is responsible for the technical design of IT platform project; development of specifications; data collection from all departments and data-formatting platform; setting of material, software and human resources needed for the project; and technical development.

**b) Joint Activities/Initiatives**

20. The WCO Guidelines suggest that joint activities/initiatives would lead to enhanced trade facilitation, reduced compliance costs, increased transparency and optimal utilization of resources.
21. The WCO Survey (2016) brought out that 54 Members (of 72 total responses - 75%) conduct some or other kinds of jointly coordinated activities between their Customs and Tax authorities including in particular joint investigation/examination, mentioned by 34 Members (47%), and joint audit which was mentioned by 28 Members (39%).
22. Furthermore, 19 Members (26%) mentioned that they carry out joint risk profiling with their respective Tax authorities, while 8 Members (11%) coordinate with Tax on transfer pricing matters. 15 Members (21%) also collaborate in many other areas to achieve a joint approach, including legislative/policy matters, taxpayer education, staff training, VAT refunds, compliance programme, specific cases of audit and transfer pricing, recovery of dues/claims, tax fraud in e-commerce; reference was also made to secondment programmes involving auditors being interchanged between agencies.

Country Examples:

- **Joint Audit**

23. **Royal Malaysian Customs Department (RMCD)** and Inland Revenue Board (IRB) have signed a memorandum of understanding (MoU) on joint audit, where auditors from both departments work together by identifying entities for a joint audit through a risk based approach.
24. **Korea Customs Service (KCS)** and the National Tax Service (NTS) have signed a memorandum of understanding (MOU)<sup>5</sup> on joint transfer pricing audits by the KCS and the NTS and the exchange of information and cross-training of audit techniques between the two government institutions.

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<sup>5</sup> [https://www.yulchon.com/mail/200902/custums/eng/pdf\\_eng.pdf](https://www.yulchon.com/mail/200902/custums/eng/pdf_eng.pdf)

25. By introducing new types of joint actions focused on audit and investigation **Russian Federal Customs Service** (FCS) and Federal Tax Service (FTS) have been conducting coordinated control activities leading to recovery of significant amounts of revenue. Such actions are taken on both planned and adhoc basis.
26. The **Austrian** Tax and Customs administration<sup>6</sup> expanded its risk management in the area of risk-oriented auditing and control activities and made a major contribution to ensuring equal taxation and in particular the fight against the shadow economy and tax fraud by creating new positions for anti-fraud coordinators in the tax offices. The Tax offices and Customs offices performed a total of 90,217 field audit measures in 2014. These included business audits, special VAT audits, collections, follow-ups, official first visits, joint audits of wage-dependent taxes, foreign company VAT audits, transaction tax and gambling audits and Customs audits. The Tax and Customs administration and social insurance institutions have cooperated for many years on joint audits of all wage-dependent taxes, in which a single audit is used for all wage-dependent taxes. The Tax and Customs administration carry out joint audits by using a completely new auditing software programme. This and other networking projects have shown how cooperation can increase the effectiveness of audit and control measures.
- **Joint Investigation**
27. **Mauritius Revenue Authority** (MRA) has embarked on jointly carrying Customs and fiscal investigations. They carried out 13 such joint investigations in the year 2015<sup>7</sup>.
28. **The Netherlands** has established a special Tax and Customs Administration unit - Fiscal Information and Investigation Service (FIOD)<sup>8</sup> which is responsible for the investigation of tax and fiscal frauds including frauds with particular goods (e.g., strategic goods and sanctions, precursors - raw materials for drugs) and intellectual property.
29. **The European Anti-Fraud Office (OLAF)** and the Hellenic Customs carried out a Joint Customs Operation Orion<sup>9</sup>, focusing on the abuse of Customs procedure 42, related to Customs and VAT fraud. Operation Orion was carried out by the Customs authorities of 23 Member States in close cooperation with the Tax authorities in 2016. This led to uncovering of several instances of undervaluation and misclassification of goods at import, as well as a string of missing traders who "disappeared" in order to evade customs duties and VAT.

### III. Action expected from the PTC

30. The PTC is invited to:
- take note of a preliminary research on joint activities between Customs and Tax authorities;

<sup>6</sup> [https://english.bmf.gv.at/services/publications/BMF-BR-Annual\\_Report\\_Tax\\_Customs\\_2014.pdf?5jcadl](https://english.bmf.gv.at/services/publications/BMF-BR-Annual_Report_Tax_Customs_2014.pdf?5jcadl)

<sup>7</sup> <http://www.mra.mu/download/MRAAnnualReport2015.pdf>

<sup>8</sup> <https://www.government.nl/topics/combating-tax-and-benefit-fraud/contents/joint-approach-to-fraud>

<sup>9</sup> <https://ec.europa.eu/anti-fraud/media-corner/news/22-12-2016/catch-them-while-you-can-joint-customs-operation-orion-led-olaf-and-en>

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- provide guidance on the future work in this domain including a potential detailed study of Members' practices and associated challenges and benefits concerning joint Customs-Tax databases and joint activities; and
- share joint working experiences and initiatives.

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**Findings from OECD Report (2013): Availability to Customs officials of Information held by Tax Administrations**

Direct access to information (4)	Obligation to share information spontaneously (3)	Ability to share information spontaneously (2)	Information shared on request only (1)	No sharing of information permitted (0)
Belgium	Austria	Australia	Azerbaijan	
Brazil	Burkina Faso	Chile	Canada	
Colombia	Costa Rica	Finland	Czech Republic	
El Salvador	Denmark	France	Japan	
Estonia	Greece	India	Korea	
Germany	Norway	Latvia	Malaysia	
Ghana	Serbia	Luxembourg	United States	
Hungary	Slovak Republic	New Zealand		
Iceland	Slovenia	Singapore		
Ireland	Switzerland			
Italy	Turkey			
Lithuania				
Mexico				
Netherlands				
Peru				
Portugal				
Spain				
Sweden				
Uganda				
United Kingdom				
<b>20 countries</b>	<b>11 countries</b>	<b>9 countries</b>	<b>7 countries</b>	<b>0 countries</b>

**Direct access to information**

In all countries covered by this report, the Tax administration is able to share certain information with Customs officials. In 20 countries (**Belgium, Brazil, Colombia, El Salvador, Estonia, Germany, Ghana, Hungary, Iceland, Ireland, Italy, Lithuania, Mexico, the Netherlands, Peru, Portugal, Spain, Sweden, Uganda** and **the United Kingdom**), Customs officials have direct access to Tax administration information.

In 14 of these countries (**Belgium, Brazil, Colombia, Estonia, Ghana, Hungary, Ireland, Mexico, the Netherlands, Peru, Portugal, Spain, Uganda** and **the United Kingdom**) the Tax administration and Customs administration are part of a single combined authority. In **Brazil**, Customs officials have direct access to tax information held by the Federal Tax administration, and may obtain information from State Tax authorities on request.

In the **Netherlands**, Customs officials to have direct access to certain tax files, while other information is available on request. Customs officials do not have access to information held by the Criminal Investigations Service of the NTCA (FIOD), but FIOD may provide information that it believes is relevant for Customs purposes. With the consent of the Public Prosecutor's Office, other information may be requested from FIOD.

In **the United Kingdom**, the Tax and Customs administrations have been part of a single agency since 2005. Customs officials have direct access to information held by the joint agency for civil tax purposes. Where the criminal investigations division holds information that may be

relevant to Customs, it may provide this information spontaneously. However, there is no obligation to do so and Customs officials do not have direct access to this information.

In the remaining six countries (**El Salvador, Germany, Iceland, Italy, Lithuania and Sweden**) the Tax administration and Customs administration are separate agencies.

**German** Tax and Customs administrations share access to common risk analysis data, particularly concerning suspected VAT fraud. There is also a duty to share information concerning illegal employment. Information sharing is subject to tax secrecy rules.

In **Iceland**, the Customs administration has restricted access to information held by Tax authorities. It has access to the Tax administration's Information Database and VAT Database, which are used for Tax collection purposes. However, it does not have direct access to the database of Tax returns.

The **Italian** Tax administration has granted the Italian Customs and Monopolies Agency direct access to a system called SERPICO which holds a number of databases, including the *Anagrafe Tributaria* (tax Register) and the VIES system containing information on intra-Community transactions within the EU. Other information is shared spontaneously or on request.

In **Lithuania**, the Customs administration has direct access to information held by the Tax administration concerning bank accounts in Lithuania, tobacco and alcohol products sold, business licenses granted, permanent establishments of foreign companies and information required for risk assessment purposes. The Tax administration also provides information spontaneously which concerns possible violations under the competency of Customs. The Customs administration may request information concerning possible tax violations and administrative liabilities of taxpayers.

Since 1 January 2013, in **Sweden** the Customs administration has had direct access to the Excise Movement and Control System, which is held by the Tax administration and contains information on movements of goods such as tobacco, ethyl alcohol, spirits and energy products. Other information may be obtained on request though information covered by tax secrecy may only be shared where permitted by the Secrecy Act or other legislation. Criminal investigations units within the Tax administration may spontaneously provide information to equivalent units within Customs.

#### Obligation to share information spontaneously

In 11 countries (**Austria, Burkina Faso, Costa Rica, Denmark, Greece, Norway, Serbia, the Slovak Republic, Slovenia, Switzerland and Turkey**), Tax officials are under an obligation to provide Customs officials with information that is relevant to their activities. In three countries (**Austria, Denmark and the Slovak Republic**), Tax and Customs are parts of a single administration. However, although in **Austria**, attempts were made to allow reciprocal direct access to information between the Tax and Customs arms of the administrations, in practice it proved difficult for officials in one division to conduct effective data searches of the other division's databases and obtain useful information.

In eight countries (**Burkina Faso, Costa Rica, Greece, Norway, Serbia, Slovenia, Switzerland and Turkey**) Tax and Customs are administered by separate agencies.

Ability to share information spontaneously

In nine countries (**Australia, Chile, Finland, France, India, Latvia, Luxembourg, New Zealand and Singapore**), officials within the Tax administration may share information with Customs officials, but are not obliged to do so. In one country (**Latvia**) a single agency administers Tax and Customs. In eight countries (**Australia, Chile, Finland, France, India, Luxembourg, New Zealand and Singapore**), the Tax administration and Customs are separate agencies.

In **Chile**, general information held by the Tax administration and not covered by tax secrecy provisions may be made available to Customs. The Tax administration may also provide information covered by tax secrecy to the Customs administration on request, to the extent it is used in Customs audits. Information on VAT refunds on exports is shared in order to combat refund frauds.

In **Finland**, the Tax administration may send information to the Customs administration while reporting a suspected Custom crime and may also send information on request.

In **Luxembourg**, this ability concerns only information that relates to cash controls or suspected VAT fraud.

In **New Zealand**, information held by the Tax administration with respect to goods and services tax may be shared spontaneously with the Customs administration but other Tax information cannot be shared with Customs.

In **Singapore**, information sharing between the Tax administration and Customs administration is permitted with respect to Goods and Services tax, which is jointly administered by the two authorities.

Information shared on request only

In seven countries (**Azerbaijan, Canada, the Czech Republic, Japan, Korea, Malaysia and the United States**) the Tax administration may only share information with Customs on request. In all of these countries, Tax and Customs are administered by separate agencies.

In **Canada**, the Canada Revenue Agency (CRA) and the Canada Border Services Agency (CBSA) may receive information from each other on request for the effective administration and enforcement of laws that provide for the imposition of a tax or a duty.

In **the United States**, tax return information is confidential by statute and cannot be disclosed except as authorized by the U.S. Internal Revenue Code. The Customs administration, through the Department of Justice can seek a court order for access to specified return information to assist it with investigation of non-tax crimes, provided certain statutory prerequisites are met. The Internal Revenue Service (IRS) can also disclose limited return information to the Customs administration, but only to the extent it must do so in order to obtain information it needs for use in tax investigations or examinations.

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**Central Board of Excise and Customs, India**

**Essential Prerequisites for a Robust Customs-Tax Data Exchange**

The starting point of such an exercise would always be based on a mutual recognition of what data/information is available with Customs and Tax Authorities, what is the extent of its usefulness to each other, what is the extent to which such data can be shared with each other (in this context of National Data Protection and Privacy laws) and the most convenient mode and periodicity of such sharing.

Generally, most Administrations have employed Information Technology for automation of their processes. Import and Export Declarations, Manifest filing, Tax return and Taxpayer Registration and e-payment of taxes have become a vibrant reality within most Administrations. This in turn enables archival and storing of historical data, data analysis, and fast data retrieval for specific purposes, including for data exchange on agreed parameters. Administrations with certain basic level of such automation of their processes and documentation will be in an advantageous position to commence exchange of mutually agreed data. In such a scenario, a logical step by step approach would involve, inter-alia the following basic steps:-

- For day to day transactions, generally a data base is a pre requisite- however, when transactions are numerous, running reports on a transactional source system (or database) would entail the danger of slowing down the system, leading to performance issues.
- It is pragmatic to have a separate database, distinct from the transactional source system-A Data warehouse, where both archived and historical data with certain thresholds of current data are kept. The advantage of this approach would be 2 fold - it would reduce the unnecessary reporting stress on a transactional system and also enable faster querying and retrieval of requisite data.
- Customs and Tax have a lot of data of mutual interest to each other-care should however be taken that when such data is to be exchanged mutually, some common identifier should be there in both data sources - Like a transaction ID, a common registration number etc. which will help to link entity or transaction level data across the 2 data sources.
- Need for evolving a common Taxonomy and data dictionary is paramount. It is important that before any exchange commences both customs and tax Administrations should have clarity on what specific terms mean in their eco system-for example, it is easy to confuse between "Value" as understood by Customs and "Price" or "Cost" as understood by Tax. Defining key Taxonomy would help in a more meaningful exchange.
- Once a database (preferably a distinct data warehouse) is in a place, with common identifiers across tax systems and data definitions and common taxonomy in place, it would help in smooth exchange. However, it is also important to utilize data analytical tools including visual analytical tools to make sense out of a huge amount of data available with both Customs and Tax Administrations.
- To commence exchange of data, it is pragmatic that there should be the least human interface. Data sets to be exchanged, including the frequency and periodicity of such exchange should be defined, and this process automated- A Server to Server exchange, with no exchange of data on external media like USB drives, CD ROM etc is the ideal way to such an exchange happening in a secure manner.

- A Governance structure should be put in place- this will help in coordination, troubleshooting and deliberating on the need to increase/decrease the ambit of such exchanges. Nodal contact points need to be exchanged, to enable continuity of communication between the Customs and Tax Administrations.
-