



Brussels, 28 September 2018

CUSTOMS-TAX COOPERATION

- a) Draft Guidance on Customs' role in the collection of indirect taxes

(Item VII.a on the Agenda)

I. Background

1. In July 2017, the Policy Commission discussed the topic of Customs-Tax Cooperation and examined additional cooperation opportunities between the two authorities in terms of the exchange of information and joint approaches towards revenue collection, risk management, audit, and financial crimes.
2. In addition, the Policy Commission discussed a concept paper on Customs' role in the collection of indirect taxes and tasked the PTC to develop a Guidance.
3. Furthermore, at the July 2017 Sessions of the Council, there was a clear interest among Members regarding the topic of Customs-Tax cooperation. While sharing their national experiences, Members underlined the need for exchanging best practices, as well as outlining benefits of cooperation for both Customs and Tax authorities.
4. Following the above suggestions of the Policy Commission and the Council, the PTC, at its October 2017 sessions, discussed and approved the structure and potential content of the Draft Guidance on Customs' role in the collection of indirect taxes and agreed to develop the Guidance by leveraging existing resource materials and good practices in this domain.

II. Customs' Role in the Collection of Indirect Taxes

5. Customs administrations are primarily responsible for the assessment and collection of Customs duties. However, in many countries Customs also collects indirect taxes on imported goods. This area provides several opportunities for further cooperation between Customs and Tax authorities, not only in ensuring accurate and efficient collection of revenue (duties and taxes) on imported goods, but also in assisting Tax authorities with

the collection of leviable taxes on further sales and processing of those goods through a robust data exchange mechanism.

6. Over the years, with declining share of Customs duties (partly due to reduced tariff rates and proliferation of free trade agreements), the share of indirect taxes in the overall revenue collection by Customs has significantly increased in many countries around the world¹.
7. With growing globalization and inter-connectedness of economic activities as well as the emergence of new channels of trade, it is becoming increasingly important for Customs and Tax authorities to enhance coordination and harmonization so that their policy directions and effects are mutually coherent. Such measures aimed at greater facilitation and effective enforcement could potentially enhance authorities' revenue streams and other national benefits associated with overall economic competitiveness.
8. Modern 'technological and institutional tools' and 'formalized cooperation between Customs and Tax authorities' can make it easier for both authorities to collect revenue in a more efficient manner than before. A coordinated approach to revenue collection along with the exchange of information can assist both authorities in curbing revenue frauds when seeking to prevent or resolve non-compliance issues.
9. In the growing E-Commerce environment, Customs, through its risk-based approach and the use of information and communication technologies (ICT), can improve the efficiency of processing imports of low-value small shipments and collecting VAT/GST/Excise duties on such imports. This too requires closer cooperation between Customs and Tax authorities that may include, inter alia, the examination, and implementation of alternate models of revenue collection (e.g., vendor collection and intermediary collection).
10. The digital and shared economy is presenting a new set of challenges for Customs and Tax authorities. Both authorities need to explore together innovative means to manage the disruptive effect of new and emerging business models and technologies in terms of the collection of duties and taxes as well as the use of modern technologies to transform Customs and Tax processes.
11. The proliferation of 'Special Customs Zones' (e.g., Free Trade Zones, Special Economic Zones) has contributed to foreign direct investment (FDI), employment and trade volumes in many countries. However, there are increasing concerns with regard to the misuse of these special zones for illegal activities including evasion of duties and taxes. This issue can be addressed to a certain extent through robust collaborative arrangements between Customs and Tax authorities.

III. Development of a Guidance on Customs' Role in the Collection of Indirect Taxes

12. As requested by the July 2017 Policy Commission, a preliminary draft Guidance on Customs' Role in the Collection of Indirect Taxes has been developed, based on the broad structure and content that was approved by the October 2017 PTC (appended as Annex I to this document).

¹ For example, Customs duties and indirect taxes accounted for 16.2% and 83.8% respectively of the tax revenue that Korea Customs Service collected on imported goods in 2016. Among Indirect taxes, VAT constituted 72.5%, the highest.

13. The objective of this Guidance is to provide assistance to Customs and Tax authorities in enhancing their understanding of Customs' role in the collection of indirect taxes on imported goods; implementing associated processes; and exploiting potential opportunities for cooperation between both authorities in this area.
14. Going forward, the Secretariat has been collecting good practices from Members. In addition, research is being conducted to examine various working models and associated processes and requirements. Based on the work done thus far, some of the key enablers for efficient collection of indirect taxes on imported goods include inter alia:
- i. Legal basis: Tax laws authorize the Customs administration for the taxation on imported goods. Customs laws provide for the levy and collection of indirect taxes, including the applicability of provisions relating to classification and valuation as well as investigation of frauds.
 - ii. Harmonization of procedures: Harmonization of Customs and Tax procedures including classification and valuation of imported goods, to the extent possible, is desirable for the sake of efficiency of clearance and revenue collection processes.
 - iii. Cooperation Framework: A cooperative framework with clearly defined roles and responsibilities is required to enable Customs to collect indirect taxes (where required) and/or share information with Tax authorities for the collection of such taxes at a later point in time, based on the destination principle by the importing Member State in a Customs Union. This may also include joint approaches / activities (e.g., joint audit). Legislative enablers and safeguards need to be put in place to allow for the exchange of information.
 - iv. Use of technology: Modern technologies should be used toward technology-driven data collection and exchange, thus enabling the use/re-use of data by Customs and Tax authorities for efficient revenue collection, whilst carrying out their respective activities within given mandates.
 - v. Trader Identifier: It is desirable to establish a single identifier² of businesses that helps in efficient data exchange, risk management, and revenue collection.

IV. Information exchange between Customs and Tax

15. As indicated by the Council, further work has also been carried out to ascertain good practices on the types of information that can be exchanged and benefits thereof, in particular for Customs.
16. As an example, Korea's experience in the identification of various types of information from both side (Customs and Tax) and resultant benefits of the exchange of that information is outlined in Annex II to this document.
17. Another example is of Chilean experience that also provides the types of information being exchanged between Customs, Internal Revenue Service and General

² In March 2017, Indonesia launched a programme namely single identity number - Taxpayer Identification Number – as the sole identifier for the fulfillment of all Customs and Tax obligations. The unification of data related to this single identity is used as an initial step for the preparation of single profile and single risk management between Customs and Tax (including through joint data analysis, joint audit and joint operation), thus improving compliance and revenue collection.

Treasury of the Republic, as well as resultant benefits for Customs (appended as Annex III to this document).

V. Action Requested

18. The PTC is invited to :

- examine the draft Guidance on Customs' role in the collection of indirect taxes on imported and provide inputs and suggestions for its further development;
- encourage Members and stakeholders to support the development of the Guidance including by providing sharing related resource materials and practices; and
- take note of the opportunities of the exchange of information between Customs and Tax authorities based on the Korean and Chilean experiences and provide guidance on future work in this domain.

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INFORMATION EXCHANGE BETWEEN KOREA CUSTOMS SERVICE (KCS) AND KOREAN NATIONAL TAX SERVICE (KNTS)

I. Type of Information exchanged:

• National Tax Service → Korea Customs Service (23 Types)

Type of Taxation-related Information		Contents	Usage of Information	Year of Data Collection
1	Information on Taxpayer (e.g. Business Registration-related Information)	Amounts of Sales and Purchase, Information on Suspension / Shut-down of Business, etc.	Investigation on Violations	~2012
2	Information related to Tax Calculation	Scale of Transactions per client/supplier, etc.	Investigation on Violations	
3	Information on National Tax Refund	Amount of Tax Refund per Individual/Business Owner, etc.	Tax/Duty Delinquency	
4	Golf Membership	Scale of Wealth of Individuals / Business Owners, etc.	Tax/Duty Delinquency	
5	Information on One's Stocks	Scale of Wealth of Individuals / Business Owners, etc.	Tax/Duty Delinquency	
6	Income-related Information	Amount of Income of Individuals / Business Owners, etc.	Tax/Duty Delinquency	
7	Information on Tax delinquency	Delinquent Tax Amount of Individuals/Business Owners, etc.	Tax/Duty Delinquency	
8	Report on Arm's Length Price Computation Method of Service	Method for Calculating Arm's Length Price of Outsourcing, etc.	Fees for using Rights, Analysis on Special relationship	~2013
9	Specifications of International Transaction	Specifications of International Transaction regarding Goods, Service, Intangible Assets	Actually Paid Amount, Analysis on Special relationship	
10	Report on Arm's Length Price Computation Method of Intangible Assets	Method for Calculating Arm's Length Price of Intangible Assets, etc.	Fees for using Rights, Actually Paid Amount	
11	Report on the Method for Calculating Arm's Length Price	Method and Reasons for Calculating Arm's Length Price	Analysis on Special relationship	
12	Summarized Income Statement of Those in Special relationship	Account Data such as Gross Profit and Loss, Operating Profit and Loss	Fees for Production Support, Analysis on	

Type of Taxation-related Information	Contents	Usage of Information	Year of Data Collection
		Special relationship	
13	Foreign Investment Statement	Amount of Investment, Investment Rate, Dividend, Type of Industry	Analysis on Special relationship
14	Aggregate Statement of Specific Foreign Corporations' Retained Earnings(A)	Total Amount of Transaction related to Fixed Facility, etc.	Analysis on Special relationship
15	Aggregate Statement of Specific Foreign Corporations' Retained Earnings(C)	Total Amount of Transaction related to Fixed Facility, etc.	Analysis on Special relationship
16	Calculation Statement of Specific Foreign Corporations' Retained Earnings	Amount of Capital, Number of Shares	Analysis on Special relationship
17	Specifications on Transaction between Those in Special Relationship (Sale · Purchase)	Specifications on Transaction of Goods·Service·Intangible Assets	Analysis on Special relationship
18	Balance Sheet(Standard)	Amounts of Capital·Debt per Account, etc.	Actually Paid Amount, Analysis on Special Relationship
19	Balance Sheet(Sum)	Amounts of Capital·Debt per Account, etc.	Actually Paid Amount, Analysis on Special Relationship
20	Income Statement	Amounts of Sales·Gross Margin·Operating Profit and Loss	Actually Paid Amount, Analysis on Special Relationship
21	Statement of Appropriation of Retained Earnings	Name of Corporations, Specifications on Dividends, etc.	Royalty
22	Payment Statement of Non-Residents' Royalty Income	Name, Location of Corporation, Amount of Payment etc.	Royalty

~2013

Type of Taxation-related Information	Contents	Usage of Information	Year of Data Collection
23	Statement of Joint Cost Allocation	Division/Department Where the Cost Incurred, Criteria of Allocation, Amount of Allocated Cost, etc.	Actually Paid Amount, Analysis on Special Relationship

※ Efforts have been made to add 3 types of information since 2015:

- 1) Statement of Royalty Income
- 2) Statement of Income Adjustment
- 3) APA Annual Report

• **Korea Customs Service → National Tax Service (13 Types)**

~2012		Added in 2013	
1	Details on the Acceptance of Import/Export Declarations	9	Data on the Declaration of Dutiable Value
2	Details on the Application for Export-related Duty Drawback	10	Data on Rectification Claims for Duty Amount and Consequent Decision
3	Data on Incurred Duty Drawback		Rectification Notice of Duty Amount
4	Details on the Influx/Outflux of Foreign Currency		Revised Tax Invoice for Import Tax Details on the revision of Tax Payment Declaration
5	Standard Electronic Tax Invoice	11	Data on the Declaration·Rectification of Royalties inter alia.
6	Statement on the Issuance of Tax Invoice	12	Data on Surrendered B/L in Manifest
7	Data on Duty Delinquency	13	Loading Declaration of Tax-Free Oil for Foreign Vessel
8	Details on Foreign Exchange Examination		
8 Types		13 Types (5 Types added)	

II. **Benefits for Customs :**

• **Usage of Data from the National Tax Service**

Year	Duty Investigation	Foreign Exchange Investigation
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	Number of Detected Companies	Amount of Collected Penalties (Won in 100 millions)	Number of Detected Companies	Amount Involved in Detected Cases (Won in 100 millions)
2014	41	140	9	696
2015	42	142	4	71
2016	23	171	14	781

※ Examples of Data Usage

☐ **(Duty Investigation)** Detection of multinational companies which made undervalued declaration of imported goods in transaction with those in special relationship to achieve the operating profit target rate.

⇒ **Collection of penalties of 2.4 billion won**

☐ **(Foreign Exchange Investigation)** illegal charging of commissions worth of 11.2 billion won inter alia through a third party without reporting to the head of the Korean Central Bank

⇒ **Collection of penalties of 180 million won**

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**INFORMATION EXCHANGE BETWEEN CHILEAN CUSTOMS, INTERNAL REVENUE
SERVICE (SII) AND GENERAL TREASURY OF THE REPUBLIC (TGR)**

I. Background

The way in which the Chilean Tax Administration is structured differs greatly from that of other administrations and reflects a traditional approach, according to which the Customs service, the Internal Revenue Service and the collecting body (General Treasury of the Republic) are three separate entities. Therefore, there is no shared database of operations or operators. This implies that the risk profiles and control procedures that are usually taken into account by Customs include risks and operators that are related to foreign trade only, with no consideration being given to the internal risks that might stem from these same operations.

However, over the past few years, the National Customs Service has undergone a complete reworking of its enforcement procedures, placing a strong emphasis on post-clearance audit. Although such activities were performed in the past, they were not the main focus of the compliance and enforcement procedures. Such procedures were applied in specific operations, not over the entire importation process and subsequent sales in the country.

In this connection, Chilean Customs has invested in many areas, such as the hiring of auditors across the many regions of the country and the purchase of appropriate equipment for the performance of these duties.

Nevertheless, in order for audit teams to plan and carry out their work in the best way possible, it is paramount to provide them with the appropriate information regarding the companies to be audited. This necessity has given rise to the joint efforts undertaken in 2017 when the National Customs Service along with the Internal Revenue Service (SII) and the General Treasury of the Republic (TGR) established a framework that currently allows the exchange of key information in a timely manner.

It is worth noting that, over the past few years, Customs has been sending information to the SII regarding entry and exit declarations, and now Customs, for the first time, will have access to information related to taxes and revenue for the past three years of any natural or legal entity in Chile, meaning that Customs will not only work with information regarding foreign trade operations but will also be able to monitor overall operations and operators in the country, securing greater traceability of taxpayers' behaviour.

II. Type of information exchanged

The following information is exchanged between Customs, the SII and the TGR:

- **Information to be sent from the SII to Customs**
 - (a) General information: (name/company name, economic activity, initial/final date of economic activities)
 - (b) Address of parent company and branches
 - (c) Registered economic activities
 - (d) Current status in the SII
 - (e) Current and past partners

- (f) Current representatives to the SII
- (g) Free transit authorization
- (h) Annual income statement (past 3 years)
- (i) Annual tax statement (past 36 months)
- (j) Final stamped documents
- (k) Company size ranking
- (l) Non-compliant taxpayers
- (m) Information regarding amount and number of transfers.

- **Information to be sent from Customs to the SII**

- (a) Information regarding entry of goods
- (b) Information regarding exit of goods and services
- (c) Information regarding the late or non-submission of the Value Variation Report (IVV)
- (d) Decisions regarding the exportation of services
- (e) List of Customs-free zone users
- (f) Information regarding charges and filed suits.

- **Information to be sent from the TGR to Customs**

- (a) List of debts incurred by a natural or legal entity and registered as owing to any state entity
- (b) List of returns by the TGR related to customs matters.

III. Benefits for Customs

This information exchange assists Customs in developing a more thorough information base about economic operations and operators, thus enabling it to generate better risk profiles, carry out more precise post-clearance audits, and analyse past compliance records holistically.
