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ON CUSTOMS VALUATION

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Brussels, 4 October 2016.

CUSTOMS – TAX COOPERATION

(Item VII(a) on the Agenda)

Reference documents :

PC0447E1a
SP0564E1a
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I. BACKGROUND

1. At the 42nd Session of the Technical Committee, the Secretariat provided an update on the work being carried on the topic of Customs - Tax cooperation.
2. The outcome of the survey conducted by the Secretariat on WCO Members working arrangements related to cooperation and exchange of information with their respective tax authorities was shared with the Technical Committee.
3. The draft “Guidelines for Strengthening Cooperation and the Exchange of Information between Customs and Tax Authorities at the National Level” (Guidelines) prepared by the Secretariat and shared with the Technical Committee at the 42nd Session were updated taking into account the input and suggestions provided by the Permanent Technical Committee/Enforcement Committee, the Technical Committee, the OECD and the International Chamber of Commerce (ICC), as well as the working experiences and best practices of WCO Members.

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II. SECRETARIAT'S COMMENTS

4. The updated draft Guidelines presented to the Policy Commission and the Council in July 2016 are reproduced in Annex I to this document.
5. The Council, at its 127th /128th Sessions held in July 2016,
 - (i) endorsed the Guidelines, noting that this was a living document which would be further enriched by the inclusion of more examples of experiences and best practices.
 - (ii) took note of potential opportunities for cooperation between Customs and Tax authorities at both national and regional level, and encouraged Members to share their related working experiences and best practices; and
 - (iii) 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.

III. CONCLUSION

6. The Technical Committee is invited to take note of the above information.

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WORLD CUSTOMS ORGANIZATION
ORGANISATION MONDIALE DES DOUANES

Established in 1952 as the Customs Co-operation Council
Créée en 1952 sous le nom de Conseil de coopération douanière

POLICY COMMISSION

SP0564E1a

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75th Session
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Brussels, 13 June 2016.

CUSTOMS-TAX COOPERATION

(Item XVI on the Agenda)

SUMMARY

Purpose of document

The purpose of this document is to report on developments and progress concerning the ongoing work in the area of cooperation between Customs and Tax authorities, including the development of Guidelines for strengthening cooperation and the exchange of information between Customs and Tax authorities at the national level, for the consideration of the Policy Commission. It also informs the Policy Commission about the ongoing cooperation with partner international organizations and seeks its further guidance.

Action required of the Policy Commission

The Policy Commission is invited to :

- examine and, if appropriate, endorse the draft Guidelines for strengthening cooperation and the exchange of information between Customs and Tax authorities at the national level (set out in the Annex hereto);
- encourage Members to share their working experiences and best practices in respect of Customs-Tax cooperation for further enriching the Guidelines as a “living document”; and
- discuss the potential opportunities for cooperation between Customs and Tax authorities at both international and national level, with a view to providing additional guidance on the ongoing cooperation with the OECD and IMF.

I. Background

1. At its December 2015 session, the Policy Commission discussed the topic of Customs-Tax cooperation, where many delegates described their national experiences in respect of mutual cooperation and information exchange between the two authorities. Particular reference was made to the opportunities and challenges presented by the different types of organizational models in the countries concerned. The Policy Commission took note of the outcomes of the Secretariat's survey on Customs-Tax cooperation and the key thoughts shared therein, and encouraged Member administrations to continue to strengthen cooperation with Tax authorities at the national level.
2. The Policy Commission welcomed the new initiative on the development of Guidelines for strengthening cooperation and the exchange of information between Customs administrations and Tax authorities at the national level. It also encouraged the Secretariat to continue working with the OECD and the IMF with regard to Customs-Tax cooperation.

II. Draft Guidelines for strengthening cooperation and the exchange of information between Customs and Tax authorities at the national level

3. Following the discussions at the December 2015 Policy Commission, the draft Guidelines for strengthening cooperation and the exchange of information between Customs and Tax authorities at the national level have been developed and are appended to this document.
4. The Guidelines are expected to serve as reference guidance for Customs administrations in developing a cooperation framework and/or strengthening the existing cooperation based on their national requirements, operating environment and operational resources, which may include a formal agreement/arrangement (e.g. Memorandum of Understanding - MoU), where appropriate.
 - **Discussions at the Joint Session of the Permanent Technical Committee (PTC) and Enforcement Committee (EC)**
5. The Joint Session of the PTC/EC examined the draft Guidelines and the key elements contained therein, providing suggestions and input for their further development. A number of Members described their respective national experiences with regard to their organizational frameworks and existing working arrangements for cooperation between Customs and Tax authorities.
6. At the invitation of the WCO, Mr. Pascal Saint-Amans, OECD Director of the Centre for Tax Policy and Administration, participated in the Joint PTC/EC Session and highlighted the work being done by the OECD in the area of financial and tax transparency, in particular, the Base Erosion and Profit Shifting (BEPS) Project¹ and the

¹ <http://www.oecd.org/ctp/beps.htm>

Standard for Automatic Exchange of Financial Account Information². He outlined the future work on implementation of these initiatives through a more inclusive approach, where he also saw more opportunities for engagement and cooperation with the WCO, including potential involvement in the Oslo Dialogue³ and the G20's recently approved model action plan in the fight against financial and tax crimes as a "whole of government" approach. Noting the ongoing cooperation between the OECD and the WCO in several areas of mutual interest including transfer pricing, he called for leveraging of new opportunities to enhance such cooperation, and further stated that the OECD would provide comments/suggestions on the draft WCO Guidelines, including any input from the OECD Forum on Tax Administration (FTA).

7. The WCO Secretary General extended the WCO's support as regards implementation of OECD initiatives/projects to fight illicit financial flows, money laundering, tax evasion and other financial crimes through enhanced collaboration between the two Organizations and their respective membership.
 - **Discussions at the Technical Committee on Customs Valuation (TCCV)**
8. The TCCV considered and supported the draft Guidelines as a useful tool, and suggested expanding/enhancing the valuation-related text. All delegates were invited to share their input, including case studies, examples of MoUs, etc. which could be included in the document.
 - **Updated draft Guidelines for the consideration of the Policy Commission**
9. The draft Guidelines have been updated and finalized, based on the input and suggestions provided by the joint session of the PTC/EC, the TCCV, the OECD and the International Chamber of Commerce (ICC), as well as the working experiences and best practices of WCO Members, including MoUs received from Côte d'Ivoire, India, Malaysia, the Russian Federation and Serbia. The final draft is appended as an Annex to this document for further consideration by the Policy Commission.

III. Cooperation with other international organizations

- **Bilateral meeting with the OECD**
10. A bilateral meeting between the WCO and the OECD was held on 4 March 2016, at which the following main areas were identified for further cooperation :
Customs-Tax cooperation; Base Erosion and Profit Shifting (BEPS); Transfer Pricing and Customs Valuation; Trade Mispricing and Illicit Financial Flows;
and Capacity Building.
 - **Bilateral meeting with the IMF**

² <https://www.oecd.org/ctp/exchange-of-tax-information/automatic-exchange-financial-account-information-common-reporting-standard.pdf>

³ <http://www.oecd.org/tax/crime/forumontaxandcrime.htm>

11. On 10 February 2016, the Secretary General met with the IMF Director of Fiscal Affairs and his team to discuss the role of Customs within a Revenue Authority structure. Both sides agreed on the necessity for an optimally functioning and adequately resourced Customs within any amalgamated structure. It was also recognized that the role of Customs extends beyond that of revenue collection to encompass trade facilitation and the protection of society, and that these additional aspects must be taken into account in any structure within which Customs operates.
12. The WCO will continue to engage with the IMF to ensure that the role and responsibilities of Customs are maintained and adequately resourced, as well as to enhance cooperation between Customs and Tax authorities, irrespective of organizational structure. In this context, the WCO is currently working with the IMF to provide Customs' perspective on the IMF's Revenue Administration Fiscal Information Tool (RA-FIT)⁴ and related report "Understanding Revenue Administration".

IV. Conclusion

13. The Policy Commission is invited to :
 - examine and, if appropriate, endorse the draft Guidelines for strengthening cooperation and the exchange of information between Customs and Tax authorities at the national level (set out in the Annex hereto);
 - encourage Members to share their working experiences and best practices in respect of Customs-Tax cooperation for further enriching the Guidelines as a "living document"; and
 - discuss the potential opportunities for cooperation between Customs and Tax authorities at both international and national level, with a view to providing additional guidance on the ongoing cooperation with the OECD and IMF.

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⁴ <https://www.imf.org/external/pubs/ft/dp/2015/fad1501.pdf>

(Draft)

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



WORLD CUSTOMS ORGANIZATION
ORGANISATION MONDIALE DES DOUANES

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I. Introduction

1. With the rapid globalization of trade and the financial system, 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 Management⁵ 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 duals 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, demanding mutual cooperation as part of a whole-of-government approach.
4. At the global level, initiatives by the G20 Leaders and the OECD on the subject of tax transparency and exchange of information, including the recently launched ‘Global

⁵ 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

Standard for Automatic Exchange of Financial Account Information in Tax Matters⁶, 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.

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 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. These WCO 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. a Memorandum of Understanding (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, Customs is also responsible for the collection of various other duties and taxes, such as road tax, environment/green tax, national building tax, social security contributions, veterinary control tax, and special levies/charges. Customs

⁶ <http://www.oecd.org/ctp/exchange-of-tax-information/standard-for-automatic-exchange-of-financial-information-in-tax-matters.htm>

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. Customs also has 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 normally needs to take 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. Sharing information and knowledge in this area would therefore 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 and Tax authorities to work together on seeking solutions to cross-border tax evasion, aggressive tax minimization, 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 with each other.
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 is the basic building block 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 co-operation 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 must 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. 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 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:
- 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 other's 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 role 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 Dialogue⁷, 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.

⁷ <http://www.oecd.org/ctp/crime/about-tax-and-crime.htm>

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 mentioned. 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 and administer.

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 will 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) *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).
 - (h) *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).

- (i) *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).
- (j) *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**
 - iii. Malaysia**
 - iv. Russian Federation**
 - v. Serbia**
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