World Customs Organization

Role of Customs in Combating Cross-Border Tax Evasion and Avoidance

Sergio Mujica, Deputy Secretary General
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70th Session of the Policy Commission
Agenda

1. Background information
2. International response to prevent cross-border tax evasion and avoidance
3. WCO instruments and tools for information exchange
4. Action required of the Policy Commission
1. Background information

✓ Globalization has benefitted our economies, but has also brought new complexities

✓ Multinational enterprises have shifted from a country-specific operating model to global models

✓ Impact on countries’ corporate income tax regime
  o Domestic laws + treaties to avoid double taxation
  o Gaps have allowed double non-taxation
  o Exacerbated by increasingly sophisticated tax planning

✓ Increased awareness among governments and citizens
2. International response to prevent cross-border tax evasion and avoidance

✓ High-level and large-scale response:
  o G8 Summit in Northern Ireland, June 2013
  o G20 Summit in the Russian Federation, Sept. 2013
  o Active participation by the OECD

✓ Main areas:
  o Action Plan on Base Erosion and Profit Shifting (BEPS)
  o Enhancement of mechanisms for Exchange of Information (EOI)
(a) Action Plan on BEPS

✓ Artificial segregation of taxable income from the activities that generate it

✓ Prepared by the OECD at the request of the G20

✓ It identifies:
  o 15 concrete actions
  o Clear deadlines
  o Resources and methodology
(b) Exchange of information: Multilateral Convention on Mutual Administrative Assistance in Tax Matters

✓ Developed by the Council of Europe + the OECD and opened to all countries in 2010 (signed by 62 counties - in force in 48)

✓ Scope: All direct and indirect taxes (except Customs duties)

✓ Content:
  o Mechanism for EOI: On request, spontaneous and automatic (bilateral level)
  o Specific and clear exceptions
  o Confidentiality and data protection

✓ Way forward: Global standard for automatic EOI to be presented to the G20 in February 2014
Implementation: Global Forum on Transparency and EOI for Tax Purposes

- Established in 2009 to implement international standards on EOI: availability, access, exchange
- 121 Members and 12 observers (including the WCO)
- Two-phase peer review mechanism:
  - 124 peer review reports (available to the public)
  - 100 jurisdictions reviewed
3. WCO instruments and tools for information exchange

✓ **Nairobi Convention**
  - In force since May 1980 - 52 Contracting Parties

✓ **Johannesburg Convention (not in force)**
  - Adopted in 2003 - 3 Contracting Parties - not in force

✓ **Revised Kyoto Convention**
  - In force since 2006 - 91 Contracting Parties

✓ **Model Bilateral Agreement on Mutual Administrative Assistance in Customs Matters**
  - Developed in 2004
Globally Networked Customs (GNC)

✓ **Customs information exchange framework**
  
  - Set of Protocols, Guidelines and Standards
  - Two-track approach (Commercial and Enforcement)

✓ **Utility Blocks: “A library of GNC Standards”**

  - Exchange of AEO data between the US, the EU and Switzerland
  - Exchange of export/transit data between South Africa and Swaziland
  - Exchange of import/export declarations within Mercosur and between Mercosur and third countries
Customs Enforcement Network (CEN)

✓ A system to share and disseminate information on Customs offences in a timely, reliable and secure manner

✓ Composed of a Database, Web site and communication network

✓ Managed by the WCO’s 11 Regional Intelligence Liaison Offices (RILOs) in 6 regions

✓ 1,680 users from 139 countries
nCEN: national nominal seizure database

- Pilots (Mauritius, Kenya) completed
- Roll-out started in November with software and training: Namibia, Swaziland
Powerful seizure search function
## Pictures in the CEN Database

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WTO Agreement on Trade Facilitation

✓ **Article 12: Customs Cooperation**

✓ **Scope:**
  - Specific information
  - To verify an import or export declaration
  - In identified cases where there are reasonable grounds to doubt the truth or accuracy of the declaration

✓ **Content:**
  - Mechanism for EOI: On request
  - Broad exceptions
  - Confidentiality and data protection
4. Action required of the Policy Commission

The Policy Commission is invited to:

- consider the current state of play on tax information exchange at the G8 and G20, and in the OECD
- examine the linkage and implications for Customs
- provide orientation and guidance on the future role of the WCO in this regard
### Questions to be discussed in breakout groups

1. What are the **implications for the Customs community** of the OECD Multilateral Convention on Mutual Administrative Assistance in Tax Matters and the OECD’s ongoing work on the automatic exchange of information; and **what should the WCO do in response**?

2. What **types of information do Customs administrations provide to tax authorities**, and vice versa?

3. How can Customs and tax authorities **work together** in order to achieve their common and individual objectives?

4. If you represent a **Revenue Authority**, what substantive interaction takes place between the Customs Department and the Tax Department?
Thank you

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