



International Academy for Tax Crime
Investigation

The International Cooperation

Roma – Lido di Ostia, 15 March 2023

2023 Conducting Financial investigations (foundation) Programme



Who'speaking?

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LET'S CLARIFY THE MISUSE OF THIS ITALIAN GESTURE

In Italy, this gesture is used when someone says something that doesn't make much sense to you or to ask someone:



*What are you doing?!?
What are you saying?!?
What's happening?!?
Why?!?*

Please, once you came back home, spread the truth!



Just a short overview on who we are

THE GUARDIA DI FINANZA'S MISSION

Military police force
subordinate to the Minister of Economy and Finance



POWERS

- Tax Police
- Economic and Financial Police
- Currency Police
- Judicial Police
- Administrative Police

- 63.789 Agents
- 389 Naval units
- 10.862 Cars and Motorbikes
- 54 Aircrafts and Helicopters
- 69 Drones

TASKS

- ✓ Combating tax fraud, tax evasion and "black economy"
- ✓ Surveillance of public expenditures
- ✓ Anti-smuggling in customs and energy products

- ✓ economic investigation on organised crime groups' assets and anti-money laundering
- ✓ Protection of property and consumer rights
- ✓ Combating all illicit trafficking
- ✓ Economic control of the territory and public utility service 117

Security and public order

Sea police

FINANCIAL
POLICE

ECONOMICAL
POLICE

CONCORSUAL

EXCLUSIVELY

OPERATIONAL ACTIVITY

COMBATING TAX EVASION AND TAX FRAUD – GENERAL STRATEGY

ENHANCEMENT OF THE JUDICIAL POLICE ACTIVITIES

THE GUARDIA DI FINANZA IS
THE ONLY POLICE FORCE
VESTED WITH GENERAL
COMPETENCE IN BOTH
JUDICIAL POLICE AND TAX
POLICE MATTERS

“LINK” BETWEEN
CRIMINAL INVESTIGATIONS AND
INCOME TAX AND VAT
ASSESSMENTS

Art. 33 of Presidential Decree 600/1973 and art. 63 of Presidential Decree 633/1972
USE FOR TAX PURPOSES, ON AUTHORIZATION FROM THE JUDICIAL AUTHORITY, OF
THE RESULTS OF JUDICIAL POLICE INVESTIGATIONS



OUR MISSION

Main differences between Guardia di Finanza and Revenue Agency

The Guardia di Finanza has a **specific operational and investigative approach** that is complementary to the Revenue Agency's action.

This particularly emphasizes the Corps' connotation as a **Police Force**, which **enhances the fight against tax evasion and avoidance, tax fraud and criminality's infiltration of the legal economy**, by **integrating the functions of economic-financial police and judicial police**.

OUR MISSION

Main differences between Guardia di Finanza and Revenue Agency

Guardia di Finanza conducts tax audits and, in case of fiscal violations, informs the Revenue Agency, by compiling a specific report.



Revenue Agency, on the basis of the findings of the **Guardia di Finanza**, makes a tax assessment and, consequently issues the related penalties.



And now, Let's talk about International cooperation

What is your personal experience in this field?

AM I AWARE OF WHAT INTERNATIONAL COOPERATIONS CHANNELS CAN BRING TO MY INVESTIGATIONS?



INADEQUATE LEGAL AND REGULATORY FRAMEWORK
NON-COMPLIANCE WITH INTERNATIONAL STANDARDS AND TERMS OF REFERENCE

**BIG
ISSUE**

IGNORANCE OF THE EXISTENCE/FUNCTIONING OF COOPERATION INSTRUMENTS - LACK OF AWARENESS OF THEIR POTENTIAL

HOW CAN WE BOOST OUR INVESTIGATIVE EFFECTIVENESS THROUGH THE INTERNATIONAL COOPERATION?



What to check since the **early stage** of your investigation

- Is there is any cross-border illegal activity going on?
- Do the natural or legal persons under investigation have economic interests in foreign countries (financial account, property, asset to be seized/confiscated as proceeds of crime?)
- Do I need information from abroad to prove some domestic administrative or criminal violation or to strengthen my existing evidentiary framework?

The arrows in our quiver



What is the main difference between formal and informal cooperation?



EXISTENCE OF
LEGAL BASIS
COMPETENT AUTHORITIES
DETERMINED TRANSMISSION
CHANNELS

- ADMINISTRATIVE
- POLICE
- JUDICIAL
COOPERATION

*We can use it as evidence in crime
and administrative proceedings*

**ALSO WITHOUT LEGAL BASIS
(DIFFERENT WAY OF
COLLECTION AND USABILITY)**

**INTELLIGENCE
COOPERATION**

*Fast, useful, fundamental to address the
next investigative steps!*



From a Whole-of-Government Approach to an integrated investigation approach

“WGA” refers to the joint activities performed by diverse ministries, public administrations and public agencies in order to provide a common solution to particular problems or issues. The approach and content of the initiatives can be formal or informal.

Even if we have not direct access to some set of information we MUST consider the possibility of requesting and obtaining them through the competent agency/authority to speed up our investigation and to consolidate our report of findings/crime report.

THE MORE WE KNOW, THE BETTER



The Intelligence Cooperation

What is the Intelligence activity?



Yes, that's so cool, but...

...Intelligence as we should be intending it

Thesaurus

Legend: ■ Synonyms ↔ Related Words ≠ Antonyms

Switch to [new thesaurus](#)

Noun 1. **intelligence activity** the operation of gathering information about an enemy

■ intelligence operation, intelligence

↔ **undercover work, spying** - the act of keeping a secret watch for intelligence purposes

↔ **information gathering** - the act of collecting information

↔ **current intelligence** - intelligence of all types and forms of immediate interest; usually disseminated with delays for evaluation or interpretation

↔ **combat intelligence, tactical intelligence** - intelligence that is required for the planning and conduct of tactical operations

↔ **strategic intelligence** - intelligence that is required for forming policy and military plans at national and international levels

↔ **SIGINT, signals intelligence** - intelligence information gathered from communications intelligence, radio intercept, electronics intelligence or telemetry intelligence

↔ **clandestine operation** - an intelligence operation

↔ **overt operation** - the collection of intelligence

↔ **reconnaissance, reconnaissance mission** - the act of gathering intelligence about an enemy or potential enemy); "an exchange of intelligence"

↔ **counterintelligence** - intelligence activities designed to counteract or neutralize intelligence operations proposed by hostile intelligence organizations or terrorism

"CITE" Based on WordNet 3.0, Farlex clipart collection



Converting Intelligence into Evidence

It is crucial to be able to convert intelligence into evidence also in international cooperation. The conversion process is neither simple, straightforward nor clear-cut at the domestic level but, at an international level, we should consider the intelligence information as a way to address our investigation and requests through the formal/official channels.

Intelligence information gathering speeds-up investigations and shows you if you are following the right path!



Network of Guardia di Finanza experts

CURRENT FOREIGN NETWORK



23 Experts at Italian Diplomatic Missions

1 Support Staff: Bruxelles (EU Representation)

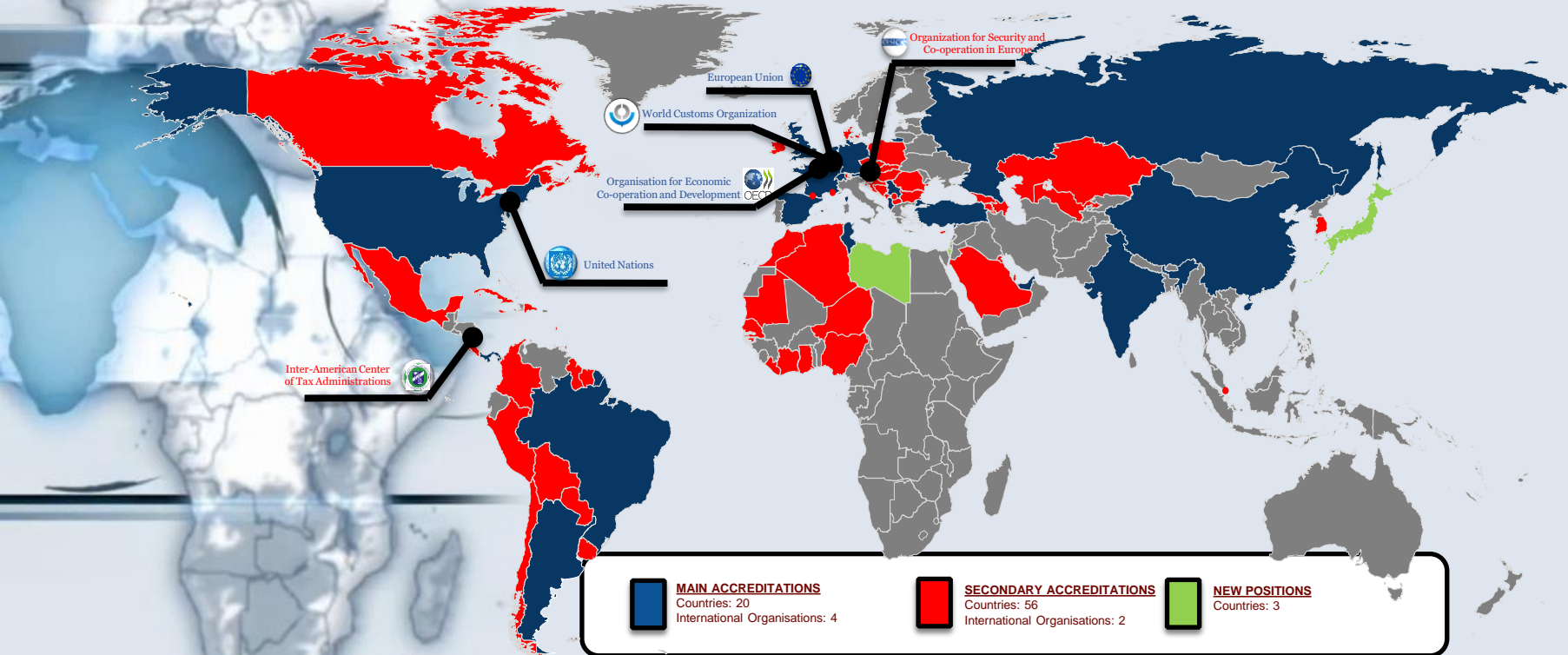
2 liaison officers: Bruxelles (WCO), Cologne (ZKA-RILO WE)

3 New positions: Tokyo, Tripoli, Tel Aviv

- Experts
- Support Staff
- liaison officers

Network of Guardia di Finanza experts

WORLDWIDE OUTREACH



WHAT INFORMATION DO I NEED?



Beneficial Ownership Information
Tax return
Bank Account
Company Information
Tax Database
Criminal records
Balance sheet
Address
Telephone Number
Commercial Transaction
Invoices
Movable/Immovable property
Cadastre
Cars/Boat/Planes
Police Border check (PNR)
TIN/VRN
STRs



How can I gather this information from foreign jurisdiction?



Am I entitled to do that (directly or indirectly)?

LET'S CHECK YOUR AWARENESS ABOUT INTERNATIONAL COOPERATION



Name how many ways as you can
to obtain **Intelligence** Information
from a foreign jurisdiction

Group 1 & 2



Name how many ways as you can to
obtain **Evidence** Information from a
foreign jurisdiction

Group 3 & 4



INTERNATIONAL COOPERATION CHANNELS



1. Interpol
2. Europol
3. Sirene
4. ARO
5. CARIN



1. Bilateral Agreement and Multilateral Conventions
2. EC Reg. 515/97 (Customs and agriculture)
3. EU Reg. 389/2012 (excise)
4. European Convention "Naples II"



1. Bilateral Agreement and Convention art. 26 model OECD
2. TIEA
3. Convention Multilateral OECD-CoE (MAAC)
4. Dir. EU 2011/16 -
5. Reg. EU 904/10



1. Bilateral Agreement and Multilateral Conventions
2. International Letter of Rogatory (ILOR)
3. EPPO
4. Eurojust



1. Memoranda of Understanding
2. Agreements in institutional sectors
3. Informal contact
4. FIUs (SAFE) Eggmont Group



National Legal and Regulatory Framework Powers Attribution

- Can I act directly to request the information?
- Do I need to request the information through another Agency/Authority?
- Is the coordination among the different bodies in place/ functioning?



The Mutual Administrative Assistance Tax

INTERNATIONAL COOPERATION ACTIVITIES IN FISCAL MATTERS

FORMS OF INTERNATIONAL COOPERATION IN FISCAL MATTERS (IT MEANS ALSO TAX CRIME)

*Information exchange
«upon request»
EOI*

*The most widely used
form of cooperation*

*«Spontaneous»
Information exchange
SEOI*

does not imply reply

*«Automatic»
(mandatory) Exchange
of Information
AEOI*

*Constantly evolving
(CRS-CbCR- APA etc.)*

INTERNATIONAL COOPERATION ACTIVITIES IN FISCAL MATTERS

Information exchange

ACTIVE COOPERATION



NEED FOR
COOPERATION ARISING
FROM THE **CORPS' UNIT**

PASSIVE COOPERATION



NEED FOR
COOPERATION ARISING
FROM THE **FOREIGN
COUNTERPART BODY**

Convention on Mutual Administrative Assistance in Tax Matters MAAC

This treaty allows the Parties to develop, on common foundations and respecting the basic rights of tax-payers, extensive administrative co-operation covering all compulsory taxes, with the exception of customs duty. The types of assistance are varied, covering the exchange of information between Parties, simultaneous tax examinations and participation in tax examinations carried out in other countries, the recovery of taxes due in other Parties and notification of documents issued in other Parties

Total number of ratifications/accessions **123 Countries**

<https://www.coe.int/en/web/conventions/full-list?module=treaty-detail&treatynum=127>

COUNCIL OF EUROPE



CONSEIL DE L'EUROPE



INTERNATIONAL COOPERATION ACTIVITIES IN FISCAL MATTERS

C.L.O. (*Central Liaison Office*)



In Italy is within the **Ministry of Economy and Finance - Department of Finance**

Its tasks:

- **Contact point** with the other foreign C.L.O.'s;
- **Link between national liaison services;**
- **Transmission of the information** arriving from/directed abroad

Foreseeable Relevance

An explanation of the applicable law and of the facts based on which there is reason to believe that the taxpayer has not complied with the applicable law, and of how the requested information would assist in determining compliance by the taxpayer

List of information to be provided

- 1 The identity of the person under examination or investigation;
- 2 A statement of the information sought including its nature and the form in which the requesting authority wishes to receive the information from the requested authority;
- 3 The tax purpose for which the information is sought;
- 4 Grounds for believing that the information requested is held in the requested jurisdiction or is in the possession or control of a person within the jurisdiction of the requested authority;
- 5 To the extent known, the name and address of any person believed to be in possession of the requested information;
- 6 A statement that the request is in conformity with the law and administrative practices of the requesting authority, that if the requested information was within its jurisdiction it would be able to obtain it;
- 7 A statement that the requesting authority has pursued all means available in its own territory to obtain the information, except those that would give rise to disproportionate difficulties.

These requirements are intended to ensure that fishing expeditions do not occur, they nevertheless need to be interpreted liberally in order not to frustrate effective EOI.

THE IMPORTANCE OF THE AEOI

Did you know that your National Tax Administration already has (available for you) information on your taxpayers' «foreign interests» sent from abroad?

No request;

Systematic mandatory exchange;

Predetermined periods;

Data and information on one or more categories of income (e.g., earned income, pensions, life insurance products), originating in one Jurisdiction and received by residents of the other Jurisdiction.



Mutual Administrative Assistance Automatic Exchange of Information

Directive on Administrative Cooperation – DAC

DAC1	DAC1	DAC2	DAC3	DAC4	DAC5	DAC6
2011/16/EU NON AEOI	2011/16/EU AEOI ITEMS	2014/107/EU AEOI ITEMS	2015/2376/EU AEOI ITEMS	2016/881/EU: AEOI ITEMS	2016/2258/EU NON AEOI	2018/822/EU AEOI ITEMS
Applies:1/2013 All exchanges of info except Art. 8	Applies:1/2015 1 st exchanges on 2014 by: 30.6.2015 Art. 8	Applies:1/2016 1st exchanges on 2016 by: 30.9.2017 Art. 8, para 3a	Applies:1/2017 1st exchanges by 30.9.2017 Art. 8a	Applies:6/2017 1st exchanges on 2016 by: 30.6.2018 Art. 8aa	Applies:1/2018 Art. 22, para 1a	Applies:7/2020 1st exchanges by: 31.8.2020 Art. 8aaa and Annex 4
*Exchanges on request *Spontaneous exchanges *Presence in adm. offices *Simultaneous controls *Request for notification *Sharing best practices *Use of standard forms	*Automatic exchange of information on 5 non-financial categories: *Income from employment *Directors fees *Pensions *Life insurance products *Immovable property (income and ownership)	Automatic exchange on financial account information: *Interests, dividends or other income generated by financial account *Gross proceeds from sale or redemption *account	Automatic exchange of information (using a central directory as from 1.2018) of: *Advance cross- border rulings *Advance pricing arrangements	*Automatic exchange of information on country-by- country reports on certain financial information: *Revenues *Profits *Taxes paid and accrued *Accumulated earnings *Number of	Access by tax authorities to beneficial ownership information as collected under AML rules	*Mandatory disclosure rules for intermediaries and *Automatic exchange of information on tax planning cross-border arrangements

DAC 7 2021/514/EU AEOI

Obligation for Both EU and non-EU platform operators to provide information on income derived by sellers through platforms

Identification of the sellers (TIN/VRN); residence of the sellers

An overview of amounts paid/payable to sellers from the reportable activities, platform fees, commissions or taxes withheld; Location of the rented immovable property when relevant.

e.g. involved parties
livestreaming apps
peer-to-peer sale of



Mutual Administrative Assistance **Eurofisc network**

Eurofisc

according to article 33 of Council Regulation (EU) 904/2010, is a network for the swift exchange of targeted information between Member States.

is composed of the national liaison officials appointed by the Member States (ENLOs) and the Commission representative(s)

- is mandated to work on the:
- joint processing and analysis of data;
 - coordination of follow-up actions;
 - access to customs data on VAT exempt importations

- EF Group
- Working Field 1 - MTIC fraud
- Working Field 2 - Fraud with means of transport Cars-Boat-Planes
- Working Field 5 - E-commerce fraud



Mutual Administrative Assistance

TNA - TRANSACTION NETWORK ANALYSIS

Detect VAT fraud at an early stage

Score PMT: risk of being Missing trader.

All entities are scored if not qualified as fraudsters

Score PCC: risk of dangerousness behaviour of a Conduit.

All entities are scored if not qualified or qualified as CC

Risk proximity: transversal score; measure the proximity with fraudsters (MT, Defaulter, Margin fraud, Remote trader, Cross invoicer, etc.)

All entities are scored;

- TNA is an **automated data mining tool** that interconnects Member States' tax IT platforms (VIES VAT Information Exchange System);
- **Cross-border transaction information** can be quickly and easily accessed, and suspicious VAT fraud can be reported nearly in real time.



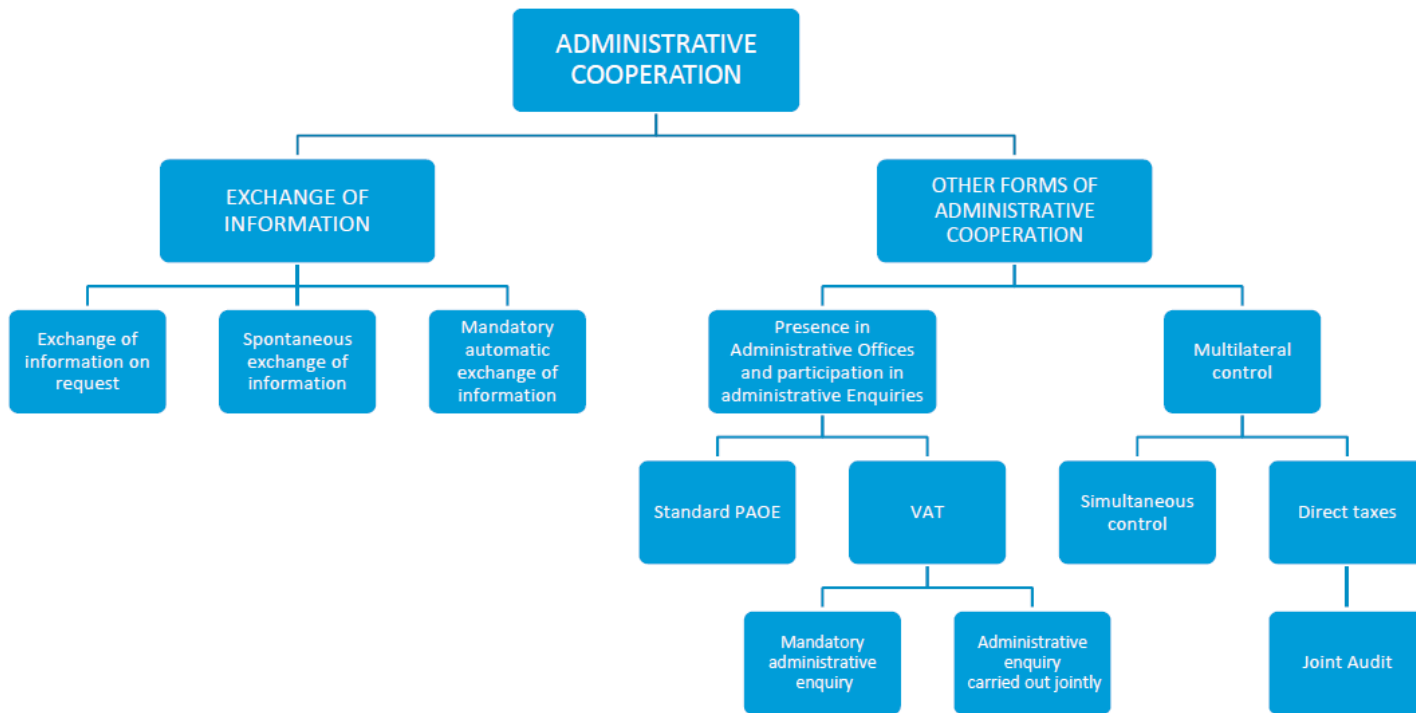
Mutual Administrative Assistance

CESOP (2024)

Payment service providers offering payment services in the EU will have to monitor the payees of cross-border payments and transmit information on those who receive **more than 25 cross-border payments per quarter** to the administrations of the Member States.

This information will then be centralised in a European database, **the Central Electronic System of Payment information (CESOP)** where it will be stored, aggregated and cross-checked with other European databases. All information in CESOP will then be made available to anti-fraud experts of Member States via Eurofisc.

Detect possible e-commerce VAT fraud carried out by sellers established in another Member State or in a non-EU country.



Regulations on administrative cooperation

DTT / OCDE

- Art. 26 Model Tax Convention on Income and on Capital
- Convention on Mutual Administrative Assistance in Tax Matters was developed jointly by the OECD and the Council of Europe in 1988 and amended by Protocol in 2010

EU

- COUNCIL REGULATION (EU) No 904/2010 of 7 October 2010 on administrative cooperation and combating fraud in the field of VAT
- COUNCIL REGULATION (EU) No 389/2012 of 2 May 2012 on administrative cooperation in the field of excise duties and repealing Regulation (EC) No 2073/2004
- COUNCIL DIRECTIVE 2011/16/EU of 15 February 2011 on administrative cooperation in the field of taxation and repealing Directive 77/799/EEC
- COUNCIL DIRECTIVE 2010/24/EU of 16 March 2010 concerning mutual assistance for the recovery of claims relating to taxes, duties and other measures



Simultaneous control

12 DAC, 13 R Excises, 29-30 R VAT, 8 MAAC

Prerequisite: two or more Member States **agree** to conduct **in their own territory**

Objective: Exchange of information of one or more persons of **common or complementary interest** to them

Proposal: shall identify **the persons** targeted for a simultaneous control and the **reasons** for the selection. It also specify the period of time the controls are to be conducted.

Free participation: each Member State concerned shall decide whether it wishes to take part in simultaneous controls. It shall confirm its agreement or communicate its reasoned refusal (60days DAC, 1 month VAT & Excises)

Representative responsible for supervising and coordinating the control



PAOE (Presence in administrative offices and participation in administrative enquiries)

- 11 DAC, 12 R IIEE, 28.1 R IVA, 9 MAAC
- With a view to **exchange information**
- Procedure: Requesting authority request the requested authority that officials authorised by the former and in accordance with the procedural arrangements laid down by the latter (2023):
 - (a) be **present in the offices** where the administrative authorities of the requested Member State carry out their duties;
 - (b) be **present during administrative enquiries** carried out in the territory of the requested Member State;
 - (c) **participate** in the administrative enquiries carried out by the requested Member State through the use of electronic means of communication.
- Included interview individuals and examine records under requested MS procedure (2023 DAC). By agreement VAT excises.