

Draft Possible Approaches for Revenue Collection

(draft ~~May~~~~June~~~~August~~~~February~~~~September~~ 2019)

Both businesses and Governments are responding to the rapid evolution of E-Commerce. Purchasers and vendors can now buy and sell to and from global markets literally overnight. New private sector actors, e.g., e-payment providers, e-platforms/marketplaces, have been created and joined this 21st Century method of doing business. Traditional actors (e.g., postal operators, express carriers and logistics providers) have adapted and dramatically altered their business models. Governments have recognized that traditional revenue collection methods must also evolve and change to meet new and emerging challenges. Several Governments have focused initially on collection of [value-added tax (VAT), also known as goods and services tax (GST)]¹. Now the collection of Customs duties and other taxes ~~and fees~~² (US) has been added to those discussions³. [Many administrations are studying how or whether to maintain special procedures for low-value shipments - given their exponential growth - and shipments by small businesses for [VAT ~~and~~ (US) duty]⁴ ~~and fee~~ (US) collection, while also ensuring that control processes are adequate.⁵ [No single solution or one approach has emerged as the panacea for Governments addressing the millions of small packages moving around the world and the associated revenue collection implications.⁶

The E-Commerce boom and consumer expectations have applied pressure on traditional models of revenue collection in some countries. [Traditional views of low-value shipments have changed due to the goods volume, nature and structure of trade that require improved mechanisms for duty and tax collection.⁷ This has led to ~~C~~customs ~~and tax~~ (US) authorities considering ~~the application of~~ (US) alternative approaches to the collection of duties and taxes. Various approaches which have the effect of moving the point of revenue assessment/collection away from the physical border are attractive, because they do not unnecessarily impede the flow of E-Commerce goods through borders.

Based on established financial, ~~c~~Customs, tax and economic policy principles, a good revenue collection approach should:

¹ US: Are these always synonymous? We are not sure that this is always the case. In many cases it is, but in others, we believe they are two types of taxes.

² Australia: What is the intention behind the removal of "and fees"? Are fees not considered revenue? In practice, the collection of other fees and/or charges are a common feature of regulatory frameworks amongst WCO members. In order to support the deletion of this text, noting that duties, taxes and fees are not defined elsewhere, we suggest a footnote clarifying that this annex does not preclude the collection of fees/charges. This will ensure the annex is appropriate for all WCO members. Alternatively, we suggest retaining the reference to "and fees" and adding this to all other references in this annex to duties and taxes (GST / VAT) for clarity and completeness.

³ Australia: It suggest adding a footnote here – "While other fees and charges are not expressly covered by this annex, it does not preclude authorities from collecting fees and charges."

⁴ Australia: For consistency, we suggest stating duties first and taxes second throughout the annex.

⁵ US: This sentence is confusing in its current form. Are there two subjects of the sentence? It would appear that "Collection" is out of place in the sentence.

⁶ US: This sentence says the small packages have to be addressed, there is a word missing. Is the problem being addressed challenges of collecting duties and taxes for small shipments? If yes, suggest rewriting the sentence

⁷ US: We have a question as to what views are being challenged by the growth. Suggest that this be clarified to reduce any possible confusion.

- induce strong rates of compliance and revenue collection;
- limit business compliance errors and government administration accounts;
- minimize burdens and disruption for consumers;
- avoid adverse trade policy effects.

be periodically evaluated on effectiveness and efficiency for both business and Customs. (Netherlands)

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In considering ~~feasible-~~ (US) alternatives for revenue collection, to ~~either-~~ (US) replace or supplement current models, there are both (US) opportunities and challenges for Governments and stakeholders which would need to be taken into account. Alternative approaches to revenue collection may impact consumers, retailers, e-platforms/marketplaces, logistic providers, postal operators, express carriers, Governments and foreign suppliers in countries differently.

The following approaches of revenue collection are provided as examples only, to assist Customs authorities and other relevant government agencies ~~in their considerations~~ (US). Variations within each of these approaches, and hybrid approaches using parts or elements of different approaches, are also possible depending on country-specific circumstances and needs. These approaches are generally distinguished by where, when (at what stage) and on whom in the supply chain the legal obligation to assess, collect and remit duties and taxes is placed. This has implications on the efficiency of administration, compliance costs and other factors, like consumer experience.

[Customs traditional method]⁸ involves the importer paying duties and taxes with each transaction. (US)- This document summarizes current ~~ideas-types of collection (US)~~ for Customs authorities to consider and evaluate as they move forward in processing E-Commerce shipments and providing Customs clearance, inter alia assessing, remitting and collecting associated duties and taxes, in a more effective manner that facilitates cross-border E-Commerce and compliance with Customs formalities.

- I. ***Seller/Vendor based collection:*** In this type of approach, the non-resident seller/vendor would be required to assess, collect and remit Customs duty and/or taxes on imports to the destination ~~C~~customs or ~~T~~tax administration. This approach typically involves necessitates- (US) a registration process with either ~~C~~customs or ~~T~~tax authorities (or both), preferably electronic, ~~for non-resident vendors, an information and education campaign to inform sellers/vendors, and alignment with Customs processes to treat consignments that have and have not complied with the collection approach. (US)~~
- A clear legal framework to identify and (US) obligate sellers and vendors to comply. Failing compliance, proportionate (US) punitive actions should be available and implementable against non-compliant sellers/vendors.

⁸ Australia: It suggests changing the phrasing, perhaps to “The traditional Customs treatment...”

- When considering the implementation of this approach, ~~C~~Customs administrations are encouraged to institute facilitation measures that encourage close cooperation between sellers/vendors and ~~C~~customs and ~~T~~tax authorities in order to reduce the compliance costs of sellers/vendors and the administrative costs for government authorities, and increase the accuracy of the transmitted data.

As with traditional border approaches, governments must balance [the risk]⁹ with facilitating E-commerce shipments. [A regulatory framework could ensure adequate guarantees from the seller/vendor or its representative.]¹⁰

In keeping with current best practices, the collection of all duties and taxes (~~i.e., Customs duties, taxes and excise duties~~) (US) could be made through a single payment portal or other convenient payment mechanisms, preferably electronically.

~~The seller/vendor approach particularly lends itself to operating as a hybrid approach in conjunction with the other two approaches outlined below.~~ (US)

- II. **Intermediary based collection:** In this type of approach, [~~duties and~~ (US) taxes ~~and/or duties~~ (US)]¹¹ due in the destination country would be collected and remitted on behalf of the buyer/consumer or consignee by different types of intermediaries, including e-platforms/marketplaces, transporters (e.g., express carriers and postal operators), Customs brokers and freight forwarders. These intermediaries would be required to collect Customs duties and/or VAT/GST, either self-assessed or assessed on import by destination Customs or the Tax administration, and remit them to the destination Customs or Tax administration, preferably periodically on an account basis.

An efficient intermediary collection approach can be based on the following principles:

- Intermediary is a party to a transaction which results in a shipment into the taxing jurisdiction.
- Intermediary is designated to cooperate with Customs in the area of Customs declaration, control, clearance and payments on behalf of buyers/consumers.
- The approach allows for identification of the buyer/consumer for Customs-related matters and risk management.

Under this approach, Customs may also consider the emerging role that financial intermediaries (e.g., banks, credit card companies and other payment providers) might play in revenue collection processes, noting that financial intermediaries may not have information that is linked to particular goods, import transactions, and importers-unique

⁹ US: [The risk of what? What is the risk at issue here?](#)

¹⁰ US: [A question to be resolved is how a regulatory framework ensure guarantees. As written, it is not clear as to what is intended by the statement. It would be helpful to understand what guarantees are being ensured. In addition, in this context it will be helpful to have clarity on what is meant by a regulatory framework and what is contained within it.](#)

¹¹ Australia: [For consistency, we suggest stating duties first and taxes second throughout the annex.](#)

~~function they perform in
the E-Commerce environment.~~ (US)

- III. **Buyer/Consumer based collection:** In this type of approach, the resident buyer/consumer would be required to remit ~~Customs~~ (US) duties and/or taxes relating to imports of goods to ~~c~~Customs or ~~T~~tax administrations. The duties and taxes due should be calculated and assessed either through:
- buyer self-assessment of amount owed;
 - E-Commerce stakeholder (e.g., freight forwarder, Customs broker or transporter) assessment of amount owed; or
 - Customs assessment of amount owed.

Variant and hybrid Approaches to collection (US)

Different variants of the above approaches, and hybrid approaches, (US) could also be considered.

For example, a variation of the seller/vendor approach would be to designate an intermediary, such as include e-platforms/
marketplaces, ~~(Intermediary approach)~~ as the seller/vendor (Australia). For businesses selling through marketplaces, the marketplace would be deemed the seller for revenue collection purposes, and would be required to assess, collect and remit ~~Customs~~ (US) duty and/or taxes. ~~This approach reduces the number of entities required to collect revenue to vendors who sell through their own websites.~~ (US) This hybrid approach places the revenue collection at the point of sale, distinct from the traditional approach of applying [taxes and/or duties (US)]¹² at the border.¹³¹⁴

Another hybrid approach may combine the seller/vendor and intermediary collection approaches. The seller/vendor collects the amount of ~~Customs~~ (US) duties and taxes due from the consumer at the point of sale, along with the other costs (like shipping or transportation). The intermediary (e.g., express carriers and postal operators) remits the amount to the destination ~~C~~ustoms or ~~T~~tax administration, charging the seller/vendor through its account with the carrier/operator. This approach reduces ~~C~~ustoms clearance time, and the buyer knows exactly the amount of duties and taxes that have been charged at the point of sale.

When ~~C~~ustoms and/or ~~t~~ax authorities use variants of an approach, or a hybrid approach, businesses may have multiple responsibilities if they operate across the supply chain. -Authorities should aim to streamline requirements to reduce the impact on such businesses, where possible.

When using variant or hybrid approaches for collection, a Member should coordinate its ~~c~~ustoms and ~~t~~ax processes to avoid double charging or double liability. (US)

¹² Australia: For consistency, we suggest stating duties first and taxes second throughout the annex.

¹³ US: It is not clear what this sentence means. The preceding description still sounds like the intermediary approach.

¹⁴ Australia: It proposes to amend the sentence to clarify the example and to distinguish it from the intermediary approach.

Further, customs and/or tax authorities should ensure that in any approach it adopts, that approach preserves the rights of all parties to the transaction. -Such rights include the right to appeal a decision of the customs administration in regard to the transaction, the right to seek a refund, the right to protest the liability of the party at issue, the amount, and the rate of duties, and taxes. These rights should be timely, cost-effective, and not create a barrier to trade for the users. (US)

A brief analysis of the potential advantages and important considerations of various collection approaches is outlined below:

| Approach | Potential advantages | Important considerations | Additional Comments ¹⁵¹⁶ |
|-----------------------------------|---|--|--|
| <p>Seller/vendor based</p> | <ul style="list-style-type: none"> • Easy identification of the taxable party, including via attendant registration requirements. • Has access to all initial transaction data related to the E-Commerce transaction (such as goods description, value, quantity), that is important for further assessing duties and taxes. • Has a commercial interest in providing an all-inclusive price to customers that speeds up the delivery and improves the customer experience (no stops at Customs). • Facilitates the procedures for [refunds and reimbursements]¹⁷. • Low cost¹⁸ and disruption for buyers, sellers and Government to pay and collect | <ul style="list-style-type: none"> • Difficulties in controlling and auditing data, especially if the vendor is non- resident. • Potential concern about data reliability. • Undervaluation¹⁹. • Risk of disconnect between revenue collection and Customs procedures. • Increased burden on foreign suppliers to collect [taxes and or duties]²⁰²¹ (US). • A means by which foreign suppliers remit taxes and duties (US) would need to be established. • Punitive actions against non-compliant | <ul style="list-style-type: none"> • Lack of legal enforcement on foreign vendors; consider agreements for exchange of data between jurisdictions. • Requires creating a system which provides sufficient incentives for firms to voluntarily collect and remit taxes of many countries. • Compliance would be facilitated and encouraged by simplified procedures and by providing additional incentives to be compliant. • Need to create a system for occasional vendors. • This could be an interesting approach for already established traders. For new |

¹⁵ US: This chart continues to be difficult to understand. We suggest that the bullets be the same grammatically and contain full thoughts in order to be helpful to the reader. We also previously suggested that the "Important Considerations and "Additional Comment" columns be combined into one column labelled "Important Considerations.

¹⁶ Australia: The bullets in this chart could be improved with some changes to expression and detail. As both of these columns have a distinct functional purpose, it is necessary to retain the separation of these bullets to ensure WCO Members can accurately interpret and use this chart as intended. It is noted that the third and fourth columns have already been amended several times in response to WCO Member feedback.

¹⁷ US: Need to clarify refunds and reimbursements to whom? Does this refer to goods that are returned?

¹⁸ US: It is unclear what low cost is referring to. The "Additional Comments" bullet 2 highlights that a system which provides sufficient incentives for voluntary collection will have to be created A systems will have to be established by all stakeholders, this could be costly. The additional comments bullet 4 also references the need for a system for occasional vendors. Is there any evidence or experience that supports the proposition that this model would be "low cost?"

¹⁹ US: This is an incomplete reference and should be amended to match other examples in this section

²⁰ Australia: For consistency, we suggest stating duties first and taxes second throughout the annex.

²¹ US: The narrative part of the paper discusses taxes and duties.

| Approach | Potential advantages | Important considerations | Additional Comments ¹⁵¹⁶ |
|----------|---|--|---|
| | <p>taxes, because taxes and duties should not be collected at the border.</p> <ul style="list-style-type: none"> Flexibility of application with other approaches to deliver tailored outcomes to suit the requirements (e.g., reduced registration, low administration cost and/or minimal intervention at the border). | <p>sellers may be limited.</p> <ul style="list-style-type: none"> If not administered correctly, local industry may be disadvantaged if taxes are applied to local sales but not applied to international sales by non-compliant foreign sellers. | <p>ones, it can create bottlenecks unless e-platforms/ marketplaces are considered.</p> |
| Approach | Potential advantages | Important considerations | Additional Comments |

| Approach | Potential advantages | Important considerations | Additional Comments ¹⁵¹⁶ |
|--|---|---|--|
| <p>Intermediary based E-platforms/ marketplaces, express carriers, postal operators, freight forwarders and Customs brokers</p> | <ul style="list-style-type: none"> • Beneficial to consumers, especially individuals, SMEs, who rely on intermediaries to help them navigate Customs procedures and rules and develop efficient data management systems. • [Possibility to develop better-placed systems to obtain data from traders (sellers, e-platforms/ marketplaces) on regular basis that is necessary to assessing payable duty and taxes]²². • Possibility to transmit data more easily due to having necessary infrastructure for electronic interaction for uses other than Customs clearance (i.e., safety and security). • <u>Limited (US)</u> Administrative impact can remain limited (US) to the buyer/ consumer. • [Flexibility to perform Customs audits/ reviews]²³. • Private sector partner with financial incentive to reduce the risk of fraud and to offer an all-inclusive, no-hassle delivery and to improve customer experience. | <ul style="list-style-type: none"> • Increased volume of items for postal operators could be a challenge to collect duties and taxes. • Undervaluation applies to all approaches, but a specific source of concern for transporters is that they may be held liable for the accuracy of data communicated by suppliers. Not always possible to identify undervaluation. • Potential increase of delivery time if revenue collection processes were carried out manually. • Potential concern for data reliability as intermediaries use data provided by third persons. | <ul style="list-style-type: none"> • Accelerate move to electronic exchange of data on E-Commerce items, including value, HS code if required, relating to revenue collection. • Data accuracy should be considered. • Payments to Customs on periodic basis [e.g., once a month] through convenient payment mechanism, including modern payment forms. • Concerns about intermediaries being responsible for mis-declarations and undervaluation could be diminished by making the invoice or order details available electronically to Customs, or cross- checking various sources of information (including data from e-platforms/ marketplaces, sellers, financial intermediaries) to confirm order details. • Risk parameters established by Customs in intermediaries' processes. |
| <p>²² US: The meaning of this bullet is unclear. What is meant by a "better-placed system?"</p> | | | |
| <p>²³ US: A clearer explanation of this identified advantage would be helpful.</p> | | | |

| Approach | Potential advantages | Important considerations | Additional Comments |
|--|--|--|--|
| <p>Intermediary based (cont'd.)</p> <p>Financial intermediaries</p> | <ul style="list-style-type: none"> • Verification of identity of traders is easily obtained. • Primary sources of financial data. • Consistent with the supply chain models of many E- Commerce companies. • Legal liability to comply falls on entities within the domestic jurisdiction. | <ul style="list-style-type: none"> • Territoriality of taxes is complex. • Shipment data and description of goods may not be available (in particular to establish correct tax or duty rates). • [Clarity on refund process]²⁴. • New technology may be needed, and as such may require capital outlay and development. | <ul style="list-style-type: none"> • Third parties may have to be included in this approach to obtain all data for risk management purposes, as the approach only relates to the role of an intermediary involved in the financial transaction. |

²⁴ [US: Again, what refund process is being addressed here needs to be clarified.](#)

| Approach | Potential advantages | Important considerations | Additional Comments |
|------------------------------------|---|---|--|
| <p>Buyer/Consumer based</p> | <ul style="list-style-type: none"> • Tax stays in the country of destination and is not paid to an offshore business, for example. • Person liable to pay the tax is within jurisdictional reach of the taxing State. • Clear view of responsibility for person declaring and paying duties and taxes. • Valuation, proof of payment. | <ul style="list-style-type: none"> • Less awareness of Customs-related rules and accuracy relating to the duties and taxes. • This approach may create a significant number of new registrations for importers. • Risk of disconnect between revenue collection and Customs procedures. • Increased burden for Customs or Tax authorities to follow up and collect the relevant taxes from all consumers individually. • Potential concern for data reliability. | <ul style="list-style-type: none"> • Several Options of payment can be available. • Need to implement technology-based situation interconnectivity. • Electronic payment system should be developed to simplify payment process. • Risk management system should be improved for processing large amounts of information from many individuals that are not well known to Customs (unknown players). |

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