



PERMANENT
TECHNICAL
COMMITTEE

PC0573Ea

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Brussels, 10 September 2019.

FRAMEWORK OF STANDARDS – UPDATE/MAINTENANCE MECHANISM

(Item XVI.b on the Agenda)

I. Introduction

1. At its March 2019 sessions, when considering the E-Commerce Package, the Permanent Technical Committee (PTC) had recognized the need to define a mechanism for maintaining the Framework of Standards on Cross-Border E-Commerce¹ and associated documents. A robust maintenance mechanism is required as certain aspects might need to be refined, reviewed and amended in the future, given that E-Commerce is a dynamically evolving environment.
2. To that end, the PTC had invited Members to submit proposals with regard to the maintenance process to the Secretariat by 1 September 2019 for further discussion at this Autumn PTC sessions.

II. Potential update/maintenance mechanism

3. Following the PTC's request, some Members have provided suggestions with regard to potential maintenance mechanisms, associated processes and way forward. Those suggestions have been outlined herein under.
 - i. **Australia**
4. Australia supports the development of a robust review mechanism for the Framework of Standards on Cross-Border E-Commerce, including its supporting annexes (Framework). A well-designed review mechanism will ensure that the Framework can

¹ <http://www.wcoomd.org/en/topics/facilitation/instrument-and-tools/frameworks-of-standards/ecommerce.aspx>

adapt to evolving business models and emerging issues across the global E-Commerce supply chain.

5. Australia considers an ideal review mechanism should address the following considerations:
 - **Timing** : The timing of the first review should take into account the need for WCO Members to implement the Framework, and to develop sufficient experience with its standards to inform future amendments.
 - **Governance arrangements** : The review mechanism should take into account best practice governance arrangements, to ensure that any changes to the Framework are done in a periodic, orderly and transparent manner.
 - **Structure** : The frequency of reviews should take into account the phased endorsement of the Framework of Standards (June 2018), the initial tranche of six annexes (June 2019) and the remaining three annexes (June 2020).
6. Australia proposes a two-tier review mechanism that provides:
 - a four-year periodic review of the Framework including all annexes as required, as determined by the PTC (commencing Fall PTC 2021), and
 - an annual review of at least two annexes each year, as determined by the PTC (commencing Fall PTC 2022).

Four-year review of the Framework

7. Australia considers that a four-year review cycle provides appropriate lead time for WCO Members to implement the existing Framework, and to gather experiences and case studies that could be used to inform the next review. A four-year periodic review cycle also ensures that there would be an opportunity to comprehensively review the entire Framework, including any annexes that have not been considered as part of the annual review.
8. The PTC's ordinary governance process would apply to determine the scope of the four-year review. The first review of the Framework could be commenced in 2021 and endorsed in June 2022, four years after the adoption of the Framework of Standards by the Council in 2018. This is comparable to review timeframes under the World Trade Organization (WTO) Trade Facilitation Agreement (TFA).

Annual review of annexes

9. Australia's proposal for annual reviews provides regular opportunities to update annexes in response to emerging and/or time-critical E-Commerce issues. Reviewing at least two annexes annually also means the majority of annexes would be reviewed over three years, narrowing the scope of the fourth year review of the Framework and distributing the workload for WCO Members.
10. An annual work programme could be determined in response to WCO Members' proposals based on their own experiences or concerns, or at the PTC's own initiative. The PTC would determine which annexes to review and the governance process for the review.

This approach is comparable to the Revised Kyoto Convention and the SAFE Framework of Standards.

11. Australia also provided an analysis of other comparable review mechanisms both within the WCO and the WTO (appended as an Annex to this document).

ii. European Union

12. The European Union (EU) believes that the most important thing is the completion of the Framework of Standards on Cross-Border E-Commerce package by June 2020, recognizing that the WGEC's mandate has been extended by the WCO Council to work in a virtual manner until then.
13. As for the maintenance of the package, the EU acknowledges the benefit to continue with this virtual collaboration that may also act as a platform among WGEC members to share their best practices and new proposals on the documentation. In order to ensure the efficiency of exchanges and virtual meetings, it would be sensible to maintain the concept of sub-groups. As the work has been advanced significantly since the setting up of the sub-groups, it may be reasonable to re-open them for all interested parties and appoint new co-leads.
14. Besides, past experiences confirm that in certain instances, there is a clear need for in-person meetings where critical points are raised and discussed by involving relevant stakeholders. Therefore, the WCO Council's conclusion to keep the E-Commerce topic as a standing point on the agendas of the PTC and the Enforcement Committee is well appreciated.
15. In addition, the EU suggests to organize, once a year, an in-person WGEC meeting, if possible alongside one of the PTC meetings (maybe by prolonging it) that would ensure the presence of all relevant stakeholders.

iii. Netherlands

16. The Netherlands has put forward the following proposals regarding a periodic review mechanism :
 - conduct periodic virtual meetings during the remaining period of the current Working Group on E-Commerce (June 2020), with an aim to finalizing the outstanding documents.
 - review and amend the Framework of Standards in future (after June 2020).
 - maintain the existing sub-group mechanism (including co-leads).
 - change the co-leads periodically (e.g., every 2 years)
 - communicate virtually to the extent possible.
 - Organize a physical meeting in Brussels once a year to discuss topics such as business developments, governmental developments, and best practices.

iv. United States

17. Concerning a maintenance mechanism, the United States proposes the following:

- Every year, the PTC takes up two of the annexes of the Framework of Standards for review and any updating.
- The PTC Chair would have the discretion in determining which two annexes would be the most appropriate and setting any parameters around the process for review. This could be decided at the Fall PTC with intersessional work and deliberation/conclusion at the Spring PTC.

III. Action required

18. The PTC is requested to :

- discuss and define a maintenance mechanism for reviewing/updating the Framework of Standards on Cross-Border E-Commerce and associated suite of resource guidance and tools in the form the E-Commerce Package; and
- provide guidance on the future scope of work, including the implementation of the Framework of Standards in an expeditious and harmonized manner, as stipulated in the Council Resolution.

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Comparable Review Mechanisms
(provided by Australia)

Instrument / Process	Review process
WTO Trade Facilitation Agreement ('TFA')	A Committee on Trade Facilitation reviews the operation and implementation of the TFA four years after the agreement comes into force, with periodical reviews thereafter.
SAFE Framework of Standards (SAFE Framework)	<p>The SAFE Framework of Standards is reviewed by the SAFE Working Group (SWG) under a two tiered process:</p> <p><u>Periodic review</u> The SWG is required to review the SAFE Framework as part of a regular three year review cycle.</p> <p><u>Ad hoc review</u> Any WCO member can propose an amendment to the SAFE Framework to the SWG. The SWG Secretariat evaluates the proposal and determines whether it should be considered as part of the next periodic review, or if circumstances are of an immediate or urgent nature to require out-of-cycle consideration. In such cases, proposals are considered by the SWG and ultimately presented to the Council for endorsement.</p>
Revised Kyoto Convention (RKC)	<p>A Management Committee is tasked with reviewing the RKC and making recommendations on amendments to the convention, its annexes and supporting materials. Parties to the RKC can propose amendments to the Management Committee for further consideration.</p> <p>In addition, the RKC provides a three year review mechanism for contracting parties that maintain a reservation towards a specific annex, or a chapter of a specific annex.</p>
WTO Trade Policy Reviews	<p>Trade Policy Reviews are conducted through a staged review process depending on the relative size of a WTO members' respective share of world trade.</p> <p>For example, the four largest trading nations are subject to review every two years, the next 16 are reviewed every four years, with remaining WTO members reviewed every six years.</p>