

Draft E-Commerce Stakeholders: Roles and Responsibilities *(February 2020)*

This section lists the key stakeholders in the cross-border E-Commerce supply chain, their main roles and responsibilities, and potential opportunities for data exchange. These stakeholder categories refer to their actual role in the supply chain rather than to their status or legal form.

a. E-Commerce Platforms/Marketplaces

An E-Commerce platform/marketplace runs an information network system which provides web pages as a virtual trading venue where both parties (consumers/buyers and vendors) can buy/sell goods.

E-Commerce platforms/marketplaces have developed over time from merely enabling transactions via the Internet into comprehensive, online solutions that allow vendors to target, capture, engage and retain customers, through the traditional web store as well as via mobile and social media channels. Their service offering and involvement in online sales processes are continuously evolving alongside newer business models.

E-Commerce platforms/marketplaces typically operate a web store where products are displayed and where consumers/buyers can place their orders. They provide software tools for vendors to upload their product catalogue to the Website and to design shop pages. They operate a check-out module which finalizes the order, proposes a selection of payment and delivery methods to the consumer/buyer, and completes the necessary security checks to prevent fraud. Once the order is approved by the vendor, the consumer/buyer is charged for the sale and the E-Commerce platform/marketplace remits the sales proceeds to the merchant, while reporting the transaction to the vendor's account pages. The platform/marketplace may provide additional services to the vendor and consumer/buyer such as, for example, advice on consumer protection, data privacy, and Tax and Customs rules. E-Commerce platforms/marketplaces can also issue invoices on behalf of the vendor according to its specifications and handle consumers'/buyers' inquiries. Depending on the contract, the E-Commerce platform/marketplace might also intervene in the return and refund process for rejected goods.

A platform/marketplace may play a role in assuming responsibility for the regulatory requirements of importing countries, and may bear the responsibility of authenticating vendors utilizing its platform/marketplace, consumer/buyer transactions, transaction validity and consumer safety and protection interests.

In the E-Commerce supply chain, Customs should explore opportunities for engaging E-Commerce platforms/marketplaces as they are new participants and might be a source of data, depending on the type of contractual relationships the E-Commerce platform/marketplace has established. A coordination mechanism could be explored with Customs for establishing data exchange mechanisms.

Depending on the business model, platforms/marketplaces typically collect various data during the sale and delivery process, as part of their commercial operations.

b. Vendors

The role of the vendor is to sell and to provide the product to the consumer/buyer. Identifying the vendor in an online sales transaction may not always be straightforward. From a commercial perspective, the online sale can be concluded:

- (1) through the vendor's own website;
- (2) through a "transparent" third-party E-Commerce platform/marketplace, where the product is presented to the consumer/buyer but the contract is still concluded between the vendor and the consumer/buyer; or
- (3) using a third party E-Commerce platform/marketplace, where the consumer/buyer concludes a transaction with the platform/marketplace itself and the vendor (seller) of the goods is not identified to the consumer/buyer.

Vendors typically generate and possess sets of key data during the sale and delivery process, which may notably be required to complete Customs and tax obligations in the country of importation/destination.

A vendor should ensure that goods meet the regulatory requirements of the respective importing country, and bear responsibility for the transmission of complete and accurate information to other stakeholders such as E-Commerce platforms/marketplaces and logistics service providers, express carriers, postal operators, Customs brokers, for the authentication and description of the goods, for sale transaction, and for risk information disclosure to consumers/buyers, protecting consumer rights, establishing a product quality traceability system and a security risk prevention and control mechanism.

c. Consumers/Buyers

Consumers/buyers mean residents/visitors in the importing countries who purchase products from the E-Commerce platforms/marketplaces and vendors.

The consumer/buyer initiates the purchase, authorizes the transfer of payment to the vendor or to a designated intermediary, and in most cases receives the goods from the logistics service provider/express carrier/postal operator. The buyer is always involved in the transaction chain, regardless of the business model (e.g., direct sale, sale via an E-Commerce platform/marketplace, shipment via express or postal channel). The consumer/buyer has important information about the transaction and the product, as provided by the vendor or the E-Commerce platform/marketplace, including the sales price and the terms of delivery.

Consumers/buyers are usually responsible for the payment of any duties and/or taxes payable in respect of online purchases, but this responsibility can vary depending on the contractual terms¹. Consumers/buyers may not always be aware of their position with respect to import duties/taxes and the responsible use/discard of the commodities once received. This may result in situations where they face an unexpected charge at the time of purchase, or a claim for the payment of import duties/taxes upon delivery, or the discard of the purchased goods if they do not meet the import requirements of the country where the consumer/buyer resides.

Consumers/buyers should pay duties and/or taxes in accordance with the national regulations in the country of importation/destination.

¹ For example, the use of various Incoterms has a bearing on the respective responsibilities of the seller, carrier, buyer, etc.

The consumer/buyer has the information about the transaction and the product as provided by the vendor and/or E-Commerce platform/marketplace, its sales price and terms of delivery. The consumer/buyer could share all the relevant information with Customs and other border agencies through simplified information technology (IT) interfaces.

d. Financial Intermediaries and E-Payment Service Providers

Financial intermediaries and E-Payment Service Providers provide payment services when they are commissioned by E-Commerce platforms/marketplaces/vendors.

The traditional role of financial intermediaries consists of the transfer of the payment from the consumer/buyer to the vendor. In the E-Commerce environment, where the consumer/buyer may have limited knowledge of the vendor and may fear identity theft and fraud, the security of the customer/purchaser's bank data is of major concern. As a response, financial intermediaries have developed payment solutions that are only indirectly associated with the customer/purchaser's bank account. These include secure debit cards, which mitigate the risk involved with the vendor storing credit card information, and online payment systems provided by specialized online payment service providers.

Typically, the vendor enters into an agreement with the payment service provider to facilitate transactions with consumers/buyers. Payment by consumers/buyers may be made directly to an "e-money" account with the payment service provider, or directly to the vendor's bank account. The system is secured, and generally the vendor does not receive the bank, credit or debit card data of the consumer/buyer. The consumer/buyer may not always be required to have an account with the payment service provider.

During the payment process, the financial intermediary collects and stores data such as vendor and consumer/buyer account information (name, address and bank details) and the financial data of the transaction. In most cases, the financial intermediary does not collect information concerning the nature of the goods being sold or the place to which they are to be delivered. Depending on the information available with financial intermediaries and data privacy laws, possibilities for sharing such information with Customs and other government agencies within the framework of the relevant regulations could be explored.

e. Freight Forwarders and Logistics Service Providers

"Freight Forwarding and Logistics Services" means services of any kind relating to the carriage (performed by single mode or multimodal transport means), consolidation, storage, handling, packing or distribution of the goods, as well as ancillary and advisory services in connection therewith, including but not limited to Customs and fiscal matters, declaring the goods for official purposes, procuring insurance of the goods and collecting or procuring payment or documents relating to the goods. Freight forwarding services also include logistical services with modern information and communication technology in connection with the carriage, handling or storage of the goods, and de facto total supply chain management. These services can be tailored to meet the flexible application of the services provided.

In an E-Commerce environment, the freight forwarder can not only report the cargo, but also take care of border clearance (Customs declaration, quarantine, security requirements, etc.) and even arrange the delivery of the goods. The role of the freight forwarder is therefore diversified and depends on the type of contract signed with its customer (vendor or shipper). In addition to its responsibility in terms of reporting the cargo and ensuring that goods cross the border, the freight forwarder can act as a declarant, taking responsibility for the Customs declaration and guaranteeing the payment of taxes and duties.

The vendor of the goods contracts with the freight forwarder to transport the sold goods to their purchaser abroad. The vendor fulfils the order and requests the freight forwarder to pick up the goods. The freight forwarder can collect the shipment from the vendor himself, or sub-contract this task to a carrier. The freight forwarder systematically collects the related data, which typically include the nature of the goods, their value and destination as declared by the vendor. Data and scanned documents, if required, are transmitted to the Customs authorities in the country of export and in the country of importation/destination, for Customs clearance. The freight forwarder can lodge the Customs declaration on behalf of his customer or sub-contract this to a Customs broker. Finally, the freight forwarder can take responsibility for the delivery of the goods or sub-contract this to a carrier.

As service providers responsible for cargo forwarding, and in some cases transportation, Customs clearance and delivery, freight forwarders may also transmit logistics information to Customs and other government agencies, and undertake Customs declaration procedures.

Logistics service providers may be responsible for the movement, packing, consolidation and storage of E-Commerce goods; this may include coordinating air, land, maritime and rail transportation, warehousing (included fulfilment houses) and distribution, as well as establishing and managing key logistics nodes, while also conveying timely and accurate logistics information to pertinent users and regulatory agencies, as required. These providers can also operate as Customs brokers. They must have corresponding operational qualifications and establish a logistics risk management and control mechanism.

Customs administrations could establish a mechanism for enabling the sharing of logistics data within the framework of the law.

f. Customs Brokers

Customs brokers are engaged by parties who are responsible for meeting the import and export requirements of Customs administrations and other government agencies. In jurisdictions where Customs brokers are regulated, they are usually subject to legislative or regulatory requirements relating to knowledge, financial stability and compliance standards. In meeting the requirements, Customs brokers may act as authorized agents for the purpose of performing various services, including the filing of required documents and the payment of duties and taxes for their clients within the compliance framework set for them.

Although Customs brokers are most frequently engaged for managing the data required for the clearance and entry of imports/exports, the WCO Customs Broker Guidelines outline other activities that may be part of a Customs broker's scope of practice, as follows:

“The function of a Customs broker also varies greatly among Members. It encompasses a wide spectrum of activities, notable among them are : the preparation of documents related to release and clearance on behalf of traders; submission of declarations and other information to Customs and other government agencies; payment of duties and taxes on behalf of traders; samples before the lodging of a Customs declaration; dealing with refunds and adjustments on behalf of traders; accounting of goods and the entry of goods; liaising with other government agencies for licences, permits and other requirements; assistance in post clearance audits; representation of clients in dispute resolutions; consultancy/advice to traders in meeting various regulatory requirements.”.

In an E-Commerce environment, a vendor fulfils a purchase order and typically contracts with a carrier for transportation. The vendor provides data, which typically includes a description of the goods, their value and their destination. Customs administrations require this data to perform their risk assessments. Additional data is required at a later stage in the Customs process. A Customs broker may be engaged by the vendor, the carrier or the importer to facilitate this initial and/or subsequent submission of required data, to provide financial

security and/or to pay the assessed duties and taxes. Where a vendor is acting as the importer of record, thereby assuming responsibility for compliance including payment of duties and taxes, the ultimate consignee/consumer is able to purchase the goods on a landed cost basis. However, there are other possibilities. The importer of record could be a domestic or non-resident commercial importer, a consumer/buyer, or even a Customs broker choosing to act as the importer of record.

Customs brokers often have invested in processes that facilitate the submission or transmission of data and the payment of duties and taxes to Customs administrations and other government agencies. The precise services to be provided by a Customs broker will depend on the contractual arrangement with the client, and a Member's domestic law.

g. Express Carriers

Express carriers are integrated service providers that ensure door-to-door transport from the vendor to the purchaser, encompassing the information management process and, depending on the contract, the management of tax and Customs requirements. They maintain control of the goods throughout the exportation, transit and importation processes.

The vendor of the goods contracts with the express carrier to transport the sold goods to their purchaser abroad. The vendor fulfils the order and requests the express carrier to pick up the goods. The express carrier collects the shipment from the vendor and has a data file, which typically includes the nature of the goods, their value and destination as declared by the vendor. The goods are taken to the express carrier's service station and processed to support their delivery. Data and scanned documents, where required, are transmitted in electronic format to the Customs authorities in the country of export and the country of importation/destination, for Customs clearance. This system allows Customs administrations at exit/destination to obtain information prior to the departure/arrival of a shipment at the port of exit/entry.

The shipment is consolidated with others and delivered to the outbound gateway at the seaport or airport. The express carrier performs the export Customs clearance and the shipment is dispatched to the carrier's local hub. At this hub, shipments are separated and loaded together with other shipments for the destination gateway, and the goods are transported to the importation/destination country. At the destination gateway, the shipment is cleared. Duties and taxes at importation are usually paid as appropriate, based on the information contained in the advance data provided. The goods are dispatched to the local facility for delivery to the consumer/buyer and, if required, duties and taxes are collected.

Express carriers routinely complete the Customs clearance procedures and pay the duties and taxes at importation on behalf of buyers/vendors. They have arrangements in place with Customs administrations in many countries around the world, allowing them to provide advance electronic information and complete Customs procedures electronically. As a declarant, they could be responsible for the payment of duties and taxes to the authorities on importation. Depending on the contract with the vendor, these duties and taxes may then be either forwarded to the vendor or charged to the consumer/buyer at the time of delivery.

As a service provider responsible for cargo forwarding, transportation, Customs clearance and delivery, express carriers may also transmit logistics information to Customs and other government agencies, and undertake Customs declaration procedures.

h. Fulfilment houses/centres

A fulfilment house/centre is a warehouse which may be run on behalf of a third party business. Some vendors or E-Commerce platforms/marketplaces and larger companies

operate their own fulfilment houses/centres. Primary services include order management, break bulk services, warehouse management, inventory controls, unpacking and repacking of goods, printing of relevant commercial/shipment documentation, processing returns, and repair services. Fulfilment houses/centres can handle bulk goods, however in the E-Commerce environment these are typically smaller shipments. Fulfilment houses/centres may store international or domestic goods. Delivery services may be performed by the fulfilment house/centre or contracted out.

There are several types of fulfilment houses/centres related to the international supply chain and E-Commerce that include:

- **Offshore Fulfilment House/Centre:** This type of fulfilment house/centre is designed to service both domestic and international sales. Depending on the type of online sale, the shipment can be either delivered locally or prepared for export to another country.
- **Foreign Trade Zone (FTZ)/Bonded Warehouse Fulfilment House/Centre:** International shipments move in-bond to an FTZ/bonded warehouse, where goods are stored until they are sold. When the goods are sold, Customs formalities take place to remove the goods from the FTZ/bonded warehouse for export or delivery to the customer.
- **Domestic Fulfilment House/Centre:** International shipments are cleared prior to going into the Fulfilment House/Centre. When the online sale takes place, it is a domestic sale. Key point: the company that operates the fulfilment house/centre may/may not be the purchaser of the goods or the importer from a Customs perspective.

i. Postal Operators

Postal operators play an important role to facilitate the exchange of E-Commerce through the international postal network. Designated postal operators comprise any governmental or non-governmental entity officially designated by one of the Universal Postal Union (UPU) member countries to operate international postal services and to fulfil the related obligations arising out of the Acts of the Union on its territory.

According to the Acts of the UPU, postal operators shall comply with the requirements for providing electronic advance data on all E-Commerce items. Each item for which electronic advance data is provided shall be accompanied by the appropriate UPU Customs declaration form and bear a unique item identifier in both human-readable and barcode format, conforming to UPU Technical Standard S10. All exchanges of electronic advance data provided for Customs and security reasons shall be compliant with UPU Messaging Standard M33 (ITMATT) and shall correspond to the content of the UPU Customs declaration form.

Designated postal operators are encouraged to take all reasonable steps to inform their E-Commerce customers on how to comply with Customs formalities and specifically to ensure that the customs declaration forms (CN22 and CN23) are completed in full, in order to facilitate the rapid clearance of items. However, the completion of the Customs declaration is the responsibility of the sender alone.

The information provided by the sender on the CN22 and CN23 forms relates to the name, address and contact details of the addressee and the sender, the description of the contents of the package, their weight and their value, as well as any other relevant element for Customs clearance such as an import license number. The postal operator relies on the sender for the correctness and reliability of this information. The information on the Customs declaration form is then transmitted electronically from the origin post to the destination post. It is the destination post's responsibility to transmit the message to the destination Customs.

In order to facilitate pre-advice and possible pre-clearance of postal items, the WCO and the UPU have developed joint electronic messaging standards, which are compliant with the WCO Data Model. Moreover, the UPU has developed an electronic Customs Declaration System based on these joint messaging standards. It enables customers to enter data about an item online, and enables postal operators to provide Customs with advance data about a postal item. It also enables Customs to inform postal operators about the action to be taken with respect to any given shipment and improve Customs control with regard to international postal items that could facilitate their movement across the border.

After having declared the goods for importation to the Customs administration and after the goods have been released, the postal operator in the destination country delivers the items to the addressee (consumer/buyer). In some cases, in accordance with the national legislation, the postal operator could take the responsibility of ensuring payment of duties and taxes.
