



Brussels, 18 September 2018.

**PRE-ARRIVAL PROCESSING (ART. 7.1 TFA) AND EXPEDITED SHIPMENTS (ART. 7.8 TFA)**

**(Item VIII on the Agenda)**

**I. Introduction**

1. The WTO Agreement on Trade Facilitation (TFA) was concluded at the 2013 Bali Ministerial Conference, which entered into force on 22 February 2017 following its ratification by two-thirds of the WTO membership. The TFA contains a host of trade facilitation measures for expediting the movement, release and clearance of goods, including through effective cooperation between Customs and other relevant government agencies and stakeholders. The implementation of the TFA is currently underway by WTO Members based on their categorization of various measures, using various WCO instruments and tools.
2. Within the context of the global trade facilitation agenda and acknowledging the dynamic changes in the international supply chain driven by growing cross-border E-Commerce, the WCO, in June 2018, launched the Framework of Standards on Cross-Border E-Commerce<sup>1</sup> as the baseline global standards to support the establishment of a secure, sustainable and inclusive E-Commerce environment, The Framework also supports, inter alia, the implementation of the TFA and the United Nations 2030 Agenda for Sustainable Development.
3. In addition, the WCO has developed a set of procedural Guidelines (known as Immediate Release Guidelines<sup>2</sup>) to enable Customs administrations to combine immediate release with the relevant and appropriate controls for the consignments concerned. The Guidelines state that Customs will generally grant immediate release/clearance to all consignments, provided that the conditions laid down by Customs are met and that the

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

<sup>2</sup> <http://www.wcoomd.org/en/topics/facilitation/instrument-and-tools/tools/immediate-release-guidelines.aspx>

necessary information required by national legislation is communicated at a specified time prior to the arrival of the shipment.

4. The Guidelines were recently updated to adapt them to the cross-border E-Commerce environment, as well as to provide specific guidance to both Customs and Trade on expediting the release/clearance of increasing volumes of low-value and small shipments. The updated Guidelines also provide examples of Members' practices and reference other relevant international standards and tools including the WTO TFA and the WCO Revised Kyoto Convention (RKC).

## **II. Pre-Arrival Processing (Article 7.1)**

5. Article 7.1 of the TFA requires Members to adopt or maintain procedures allowing for the submission of import documentation and other required information, including manifests, in order to begin processing prior to the arrival of goods with a view to expediting the release of goods upon arrival. Members are also required, as appropriate, to allow electronic lodgement of such documents.
6. These provisions can, to a certain extent, be viewed together with Article 7.3 (Separation of Release from Final Determination of Customs Duties, Taxes, Fees and Charges), as pre-arrival processing may, in some countries, allow for the release of goods prior to their arrival, with the final determination of Customs duties, taxes, fees and charges to be carried out at a later stage.
7. The key requirement here is that traders shall be permitted to submit the import documentation and other information required for release of imported goods, in electronic format, where appropriate, prior to the arrival of goods in order to expedite their release.
8. In some countries this procedure allows for the clearance of goods prior to their arrival (pre-clearance), while others allow the advance lodgment of the goods declaration but not prior release or clearance that is done only after the arrival. This is to avoid any potential changes being made to the consignment during its transportation.

### **- Relevant WCO Instruments and Tools**

9. Standard 3.25 of the RKC provides that Customs shall allow the lodging and registering of goods declarations and supporting documents prior to the arrival of goods. This will allow Customs to make a decision on whether they need to examine the goods and/or documents or not. If not, goods can be released upon arrival. The RKC Guidelines to Standard 3.25 provide more detailed information on prior submission of declarations. Additionally, section 6.4 of the ICT Guidelines (Guidelines to Chapter 7 of the RKC General Annex)<sup>3</sup> provides more detailed information on goods declaration processing (import and export) including pre-arrival/pre-departure processing.
10. In the context of the RKC, pre-arrival processing has broader connotations and involves the (electronic) submission of the relevant goods and/or cargo declaration to Customs and relevant authorities prior to the arrival (for import) or prior to the departure (for export) of goods. Authorities are then able to conduct risk assessment and to process the declaration with a view to prepare the release decision prior to the goods arriving at the port of entry/port of exit, thus enabling the release of the goods immediately upon arrival.

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<sup>3</sup> <http://www.wcoomd.org/en/topics/facilitation/instrument-and-tools/tools/ict-guidelines.aspx>

This may include communicating the release decision to the persons concerned so that they can better plan their supply chain and associated logistics.

11. The Technical Specifications for Standard 1 (Integrated Supply Chain Management) of the SAFE Framework of Standards<sup>4</sup> set out detailed procedures for the submission of advance electronic data, including the import/export goods declaration, cargo declaration and associated time limits for each mode of transport. Standard 6 of Pillar 1, in particular, specifies that Customs administrations should require advance electronic information in time for adequate risk assessments to take place. Additionally, the Standard 4 of Pillar 1 foresees establishment of a risk-management system based on advance information and strategic intelligence, to identify potentially high-risk shipments and automate that system.
12. Furthermore, the WCO Immediate Release Guidelines (IRG) provide guidance to :
  - facilitate the pre-arrival processing and risk management of the consignments based on advance electronic information;
  - streamline and expedite the handling of the consignments upon arrival; and
  - assist Customs administrations in determining data requirements and the exact procedure to be applied for each of the four categories of items.
13. These Guidelines encourage operators to pre-advise Customs of the shipment or arrival of consignments. The provision of such information in advance may enable Customs to: (a) ascertain the category of consignments, prior to arrival, so that the appropriate release/clearance procedures can be applied at the time goods actually arrive; (b) apply risk management techniques to identify high-risk consignments requiring more scrutiny and; (c) release immediately correspondence and documents and no value or low value non-dutiable and/or non-taxable consignments which contain goods on which there are no restrictions and prohibitions.
14. The Guidelines further clarify that :
  - Advance lodgement of information and documentation should not affect the point in time to be taken into consideration in determining the rate of duties and taxes, where applicable, as this will always be the point in time which is specified in national legislation.
  - If national legislation provides for submission of data to a single agency on behalf of other agencies within the Customs territory, Customs administrations should accept appropriate data from that source.

### **III. Expedited Shipments (Article 7.8)**

15. Article 7.8 of the TFA foresees that Members shall establish special facilitative procedures (as described in paragraph 8.2) to allow expedited release of at least those goods entered through air cargo facilities. Members may permit only those persons or firms who fulfil the criteria listed in the subparagraphs of 8.1 to apply for expedited release treatment. Criteria for application for expedited release treatment shall be published.

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<sup>4</sup> <http://www.wcoomd.org/-/media/wco/public/global/pdf/topics/facilitation/instruments-and-tools/tools/safe-package/safe-framework-of-standards.pdf?la=en>

16. The TFA does not define the term 'expedited shipment'; it broadly refers to the expedited release of at least those goods entered through air cargo facilities to persons who apply for such treatment. The RKC defines 'Release' and 'Clearance' as below :
- "release of goods" means the action by the Customs to permit goods undergoing clearance to be placed at the disposal of the persons concerned.
  - "clearance" means the accomplishment of the Customs formalities necessary to allow goods to enter home use, to be exported or to be placed under another Customs procedure.
17. In today's context, over 90% of the cross-border E-Commerce shipments are moving through air, and are normally handled by express service providers and postal operators. Given this scenario, Article 7.8 of the TFA provides an additional mechanism for an expeditious release of shipments subject to the fulfillment of the attendant requirements. Such a facility is especially important for micro, small and medium-sized enterprises (MSMEs) and e-vendors/platforms/platforms that are trying to access global supply chains, and are operating in a "just-in-time" production or delivery environment.

- **WCO Immediate Release Guidelines**

18. The implementation of Article 7.8 is squarely supported by the Immediate Release Guidelines, which provide, among other things, that the Customs will generally grant immediate release/clearance for all consignments, provided that the appropriate conditions are met and the necessary information is communicated in the specified time before the arrival of goods. The key features of the Guidelines are the categorization of shipments (as outlined below) and their immediate release and/or clearance, based on corresponding minimum data and documentary requirements.

**Category 1** - Correspondence and documents (documents)  
**Category 2** - Low value consignments for which no duties and taxes are collected (*de minimis* threshold)  
**Category 3** - Low value dutiable consignments (simplified declaration)  
**Category 4** - High value consignments (full declaration)

19. The main difference here is that the WTO TFA provides a possibility of limiting who may apply for expedited shipments, indicating specific criteria - that are not contained in the Immediate Release Guidelines -, that is primarily based on four categories of goods to which different simplified procedures apply. The Guidelines also provide specified data elements that need to be submitted to the Customs in advance (pre-arrival). Additionally, the TFA mentions only expedited release and not expedited clearance (which is covered in the Immediate Release Guidelines, being two different processes as defined in the RKC).

**IV. Framework of Standards on Cross-Border E-Commerce and the TFA: Linkages and Synergies**

20. Cross-border E-Commerce, mainly characterized by business-to-consumer (B2C) and consumer-to-consumer (C2C) transactions, is expected to reach to USD 1 trillion in 2019, with an annual growth rate of over 27%. At present, approximately 1.6 billion consumers make online purchases and this figure is estimated to grow to 2.2 billion consumers by 2022. According to some estimates, it is already over 15% of total international trade.

21. With rapidly growing share of E-Commerce in the international trade and its unique specificities such as electronic nature, wider access, speed and efficiency, there is growing demand by consumers and businesses for simple and transparent procedures attuned to E-Commerce environment for an expeditious release of shipments. This assumes significance as some of the procedures designed to support business-to-business (B2B) transactions are not able to deal with the new realities and dynamically evolving business models.
22. To that end, the WCO Framework of Standards on Cross-Border E-Commerce covers every facet of cross-border E-Commerce that relates to Customs and other regulatory processes involving various stakeholders. It also provides pragmatic, fair and innovative solutions along with practical approaches to effectively deal with various current and emerging challenges stemming from the phenomenal growth in cross-border E-Commerce. The Framework draws on the collective experience and knowledge of Customs administrations, other government agencies, industry, academia and civil society and is in keeping with the WCO's mandate to contribute to the standardization and harmonization of cross-border regulatory processes.
23. The corner stone of the Framework is the exchange of advance electronic data for effective risk management and enhanced facilitation of growing volumes of cross-border small and low-value B2C and C2C shipments, and the adoption of simplified procedures with respect to areas such as clearance, revenue collection and return, in close partnership with E-Commerce stakeholders. It also encourages the use of non-intrusive inspection (NII) equipment, data analytics and other cutting-edge technologies to support cross-border E-Commerce.
24. Article 7, one of the core articles of the TFA, stipulates provisions for the release and clearance of goods, providing various concrete and practical trade facilitation initiatives such as: Pre-arrival Processing; Electronic Payment; Risk Management; Post-clearance Audit; Time Release Studies, Authorized Operators concept, Expedited Shipment, and Perishable Goods. At the same time, Article 1 provides for the availability and transparency of all the relevant regulatory information; Article 8 mandates border agency cooperation and Article 10 stipulates formalities and documentation requirements and the use of related international standards.
25. Given these trade facilitation measures in the TFA that are equally relevant and applicable to the trade via E-Commerce, the Framework of Standards on Cross-Border E-Commerce further elaborates these provisions, provides additional measures, and offers more practical and operational perspectives for an enhanced facilitation, as well as an effective control, as appropriate.
26. The Framework of Standards leverages, and builds upon, the WTO TFA, among other international instruments and tools. A preliminary mapping of the Cross-Border E-Commerce Framework of Standards with the TFA (appended as an Annex to this document) indicates that the Framework supplements and complements a number of the key trade facilitation measures of the TFA and expands them to better support the increasing trade via E-Commerce channel.
27. Going forward, the Framework of Standards will be further enriched with technical specifications, data elements, implementation strategy, and case studies to ensure its expeditious, effective and harmonized implementation, thus further supporting the implementation of relevant TFA measures in the E-Commerce context, as well as the ongoing work on the WTO's Work Programme on E-Commerce.

**V. Suggested Considerations**

28. To take forward the discussion on this topic, the TFAWG delegates are invited, through breakout groups, to consider the following questions (but not limited to) :

- What are the key enablers and critical success factors for an effective implementation of Articles 7.1 and 7.8 of the TFA?
- How could the WCO Framework of Standards on Cross-Border E-Commerce and other associated tools assist a harmonized and expeditious implementation of these TFA measures in general, and Articles 7.1 and 7.8 in particular?
- Noting that Articles 7.1 and 7.8 are neither the ten most notified measures nor the ten least notified measures under categories 'A', 'B' and 'C', what kind of capacity building assistance Members would need to implement these measures?

**VI. Action Requested**

29. Following the breakout sessions, the TFAWG is invited to :

- examine linkages and synergies between the WTO TFA and the WCO Framework of Standards on Cross-Border E-Commerce, based on the preliminary mapping set out in Annex to this document;
- discuss the challenges and opportunities for harmonized implementation of Articles 7.1 and 7.8 of the TFA through the use of WCO instruments and tools, and share related national practices and initiatives; and
- examine the associated regulatory and capacity building requirements and provide guidance thereon.

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**Relationship between the WTO TFA measures and the WCO Framework of Standards on Cross-Border E-Commerce**

TFA Articles	Corresponding expanded Principles and Standards of the Framework of Standards on Cross-Border E-Commerce
<p>Article 1: Publication and availability of information</p> <p>Article 2: Opportunity to comment, information before entry into force and consultations</p>	<p>Principle VI: Public Awareness, Outreach and Capacity building.</p> <p>Standard 13: Communication, Public Awareness and Outreach.</p> <p><i>Customs administrations should <b>make consumers, the public and other stakeholders aware of the regulatory requirements, risks and responsibilities</b> associated with cross-border E-commerce through comprehensive awareness raising, communication, education and outreach programmes.</i></p>
<p>Article 7: Release and Clearance of Goods</p> <p>7.1: Pre-arrival processing</p>	<p>Principle I: Advance Electronic Data and Risk Management</p> <p>Standard 1: Legal Framework of Advance Electronic Data</p> <p><i>A legal and regulatory framework should be established for <b>requiring advance electronic exchange of data</b> between relevant parties involved in the E-Commerce supply chain, and Customs administrations and other relevant government agencies to enhance facilitation and control measures, taking into account applicable laws, inter alia, those related to competition (anti-trust), and data security, privacy, protection, ownership.</i></p> <hr/> <p>Principle II: Facilitation and Simplification</p> <p>Standard 5 Simplified Clearance Procedures</p> <p><i>Customs administrations, working in coordination with other relevant government agencies as appropriate, should establish and maintain simplified clearance formalities/procedures <b>utilizing pre-arrival processing</b> and risk assessment of cross-border E-Commerce shipments, and procedures for immediate release of low-risk shipments on arrival or departure. Simplified clearance formalities/procedures should include, as appropriate, an account-</i></p>

	<i>based system for collecting duties and/or taxes and handling return shipments.</i>
7.2: Electronic Payment	<p>Principle III: Fair and Efficient Revenue Collection</p> <p>Standard 7: Models of Revenue Collection</p> <p><i>Customs administrations, working with appropriate agencies or Ministries, should consider applying, as appropriate, various types of models of revenue collection (e.g., vendor, intermediary, buyer or consumer, etc.) for duties and/or taxes. In order to ensure the revenue collection, Customs administrations should <b>offer electronic payment options</b>, provide relevant information online, allow for flexible payment types and ensure fairness and transparency in its processes. Models that are applied should be effective, efficient, scalable, and flexible, supporting various business models and contributing to a level playing field for and among the various E-Commerce stakeholders.</i></p>
7.4: Risk Management	<p>Principle I: Advance Electronic Data and Risk Management</p> <p>Standard 3: Risk Management for Facilitation and Control</p> <p><i>Customs administrations should develop and apply <b>dynamic risk management techniques</b> that are specific to the E-Commerce context to identify shipments that present a risk.</i></p> <p>Standard 4: Use of Non-Intrusive Inspection Technologies and Data Analytics</p> <p><i>Customs administrations should use <b>data analytics and screening methodologies</b> in conjunction with non-intrusive inspection equipment, across all modes of transportation and operators, <b>as part of risk management</b>, with a view to facilitating cross-border E-Commerce flows and strengthening Customs controls.</i></p>
7.7: Trade Facilitation Measures for Authorized Operators	<p>Principle II: Facilitation and Simplification</p> <p>Standard 6: Expanding the Concept of Authorized Economic Operator (AEO) to Cross-Border E-Commerce</p>

	<p><i>Customs administrations should explore the possibilities of <b>applying AEO Programmes and Mutual Recognition Arrangements/Agreements in the context of cross-border E-Commerce</b>, including leveraging the role of intermediaries, to enable Micro, Small and Medium-sized Enterprises (MSMEs) and individuals to fully benefit from the opportunities of cross-border E-Commerce.</i></p>
7.8: Expedited Shipment	<p>Principle II: Facilitation and Simplification</p> <p>Standard 5: Simplified Clearance Procedure</p> <p><i>Customs administrations, working in coordination with other relevant government agencies as appropriate, should establish and maintain simplified clearance formalities/procedures utilizing pre-arrival processing and risk assessment of cross-border E-Commerce shipments, and procedures for <b>immediate release</b> of low-risk shipments on arrival or departure. Simplified clearance formalities/procedures should include, as appropriate, an account-based system for collecting duties and/or taxes and handling return shipments.</i></p>
7.9: Perishable Goods	
Article 8: Border Agency Cooperation	<p>There are many Standards in the Framework that requires close coordination between Customs administration and other relevant government agencies. These standards include: Standard 5, Standard 7, Standard 9, Standard 13, Standard 14, and Standard 15.</p>
Article 10: Formalities connected with importation and exportation and transit	<p>Principle I: Advance Electronic Data and Risk Management</p> <p>Standard 1: Legal Framework for Advance Electronic Data</p>
10.1: Formalities and Documentation Requirements	<p>Principle II: Facilitation and Simplification</p> <p>Standard 5: Simplified Clearance and Procedure</p>
10.3: Use of international standards	<p>Principle I: Advance Electronic Data and Risk Management</p> <p>Standard 2: Use of International Standards for Advance Electronic Data</p>

	<i>Relevant WCO and other international standards and guidance should be implemented in accordance with national policy, in an effective and harmonized manner, to facilitate the exchange of advance electronic data.</i>
10.4: Single Window	<p>Principle IV: Safety and Security</p> <p>Standard 10: Inter-Agency Cooperation and Information Sharing</p> <p>Governments should establish cooperation frameworks between and among various national agencies through relevant electronic mechanisms including <b>Single Window</b>, as appropriate, in order to provide cohesive and coordinated response to safety and security risks stemming from cross-border E-Commerce, thus facilitating legitimate trade.</p>
10.8: Rejected Goods	<p>Principle II</p> <p>Standard 5: Simplified Clearance Procedures</p> <p>Customs administrations, working in coordination with other relevant government agencies as appropriate, should establish and maintain simplified clearance formalities/procedures utilizing pre-arrival processing and risk assessment of cross-border E-Commerce shipments, and procedures for immediate release of low-risk shipments on arrival or departure. Simplified clearance formalities/procedures should include, as appropriate, an account-based system for collecting duties and/or taxes and <b>handling return shipments.</b></p>
Article 12: Customs Cooperation	<p>Principle V: Partnerships</p> <p>Standard 12: International Cooperation</p> <p><i>Customs administrations should expand <b>Customs cooperation and partnerships</b> to the cross-border E-Commerce environment in order to <b>ensure compliance and facilitation.</b></i></p>