



E-COMMERCE

a) Draft Recommendation for the Policy Commission

(Item X.b on the Agenda)

I. Background

1. One of the most practical instruments of the WCO for providing policy orientation and securing the highest degree of harmonization is the Recommendation adopted by the WCO Council. While Recommendations are not binding instruments they can be formally adopted with the condition for application that implicitly commits administrations, insofar as possible, to implementing its provisions in collaboration with all stakeholders.
2. The Recommendation can equally be accepted by non-Members of the Council as well as Customs or Economic Unions.
3. As part of its work programme, the WCO Working Group on E-Commerce (WGEC) is developing draft Recommendation on cross-border E-Commerce, which could potentially be adopted the WCO Council.

II. Draft Recommendation on E-Commerce

4. Based on the work carried out by the WGEC and its four Sub-Groups, a draft Recommendation has been developed by a group (comprising the WGEC Co-Chairs and the Sub-Group Co-Leads) led by the EU with the support of the Secretariat. It is appended as an Annex to this document.
5. The draft Recommendation outlines, among others, the following key principles :
 - Advance Electronic Data and Risk Management
 - Facilitation and Simplification
 - Safety and Security
 - Revenue Collection
 - Measurement and Analysis

- Partnerships
 - Public awareness, outreach, and capacity building
 - Legislative Frameworks
6. These principles contained in the draft Recommendation will be further elaborated in the WCO Handbook on Cross-Border E-Commerce (EM0014E) to provide practical approaches with good working examples to implement them.
7. The Recommendation is intended to provide a good basis for establishing/adjusting E-Commerce strategic framework and associated operational plans to effectively address the challenges stemming from growing cross-border E-Commerce.
8. The draft Recommendation will be discussed by the 2nd meeting of WCO Working Group on E-Commerce (WGEC) to be held from 10 to 13 October 2017 (the week prior to the PTC meeting). The outcomes of the WGEC will be presented at the PTC. PTC Delegates are requested to coordinate with their respective WGEC delegates in advance of the meeting.
9. Based on the discussions and additional inputs provided by the PTC, the draft Recommendation will be further refined and presented to the December 2017 Policy Commission and the Council for their respective consideration and potential adoption.

III. Action Requested

10. The PTC is invited to examine and provide suggestions for further enriching the draft Recommendation on Cross-Border E-Commerce (appended as an Annex to this document).

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**DRAFT RECOMMENDATION OF THE CUSTOMS COOPERATION COUNCIL
ON THE GUIDING PRINCIPLES FOR CROSS-BORDER E-COMMERCE
(DECEMBER 2017)**

ACKNOWLEDGING that the digital transformation of the economy is one of the key drivers in the global trade environment,

NOTING that the digitalization of the economy has revolutionized the way businesses and consumers are selling and buying goods, providing wider consumer choices as well as customization, advanced shipping, payment and delivery options,

BEARING IN MIND that E-Commerce provides a huge opportunity for the economic growth and competitiveness of nations,

ACKNOWLEDGING that the exponential growth of E-Commerce, in particular new trade patterns including the growth in direct business-to-consumer (B2C) and consumer-to-consumer (C2C) transactions and an increased role of consumers in individual transactions, is presenting several challenges to governments and businesses alike, in terms of trade facilitation and security, fair and efficient collection of duties and taxes and society protection,

CONSIDERING that key challenges stemming from increasing volumes of mainly small B2C and C2C E-Commerce shipments and the time sensitivity thereof cannot be adequately dealt with under the current conditions,

OBSERVING that the current methods of revenue collection might not be efficient and effective enough for the dynamics and trends of E-Commerce flows,

RECOGNIZING that cross-border E-Commerce is characterized by : online initiation; cross-border transaction/shipment; physical goods; and destined to consumers (commercial and non-commercial),

ACKNOWLEDGING the need to adequately measure cross-border E-Commerce flows and importance of Customs' role therein for well-informed policy decision making, risk assessment, analysis of trade statistics, and the exchange of information,

TAKING INTO ACCOUNT the different levels of digitalization and associated gaps as well as challenges in IT preparedness and accessibility to IT solutions (digital divide) among Members,

HAVING REGARD to the WCO Revised Kyoto Convention (RKC), the WTO Agreement on Trade Facilitation (TFA), the WCO SAFE Framework of Standards (SAFE FoS), Annexes 9 and 17 of the ICAO Chicago Convention, the UPU Convention and Security Standards (S58 and S59) and other relevant international standards,

AIMING to adapt, embrace and leverage opportunities presented by E-Commerce, and find solutions collaboratively between government and business stakeholders to challenges using modern technologies to facilitate legitimate trade, in particular for Micro, Small and Medium Enterprises (MSMEs),

ADOPTING streamlined Customs and other border formalities in order to strengthen security and safety (including product safety and compliance with intellectual property rights) and to establish fair and efficient revenue collection mechanisms,

AIMING to deliver common standards, guidelines, and tools for Customs clearance and data harmonization, to the extent possible, to address challenges relating to certain high-risk consignments, whilst facilitating legitimate E-Commerce flows,

ENDEAVOURING to develop a harmonized approach to E-Commerce, in close coordination with other international organizations, that provides flexibility and customization for future developments and emerging business models, and

DESIRING to contribute to the development of this new trade channel and improve the effectiveness and efficiency of related processes of Customs administrations and other relevant agencies,

The COUNCIL

RECOMMENDS that an E-Commerce strategic framework should be established in order to ensure a harmonized implementation of the following principles for cross-border E-Commerce by Members of the Council and all Members of the United Nations Organisation or its specialized agencies, and international or regional Customs or Economic Unions:

PRINCIPLE I - Advance Electronic Data and Risk Management

This principle is cross-cutting and supports trade facilitation, security and safety and revenue collection.

i. Advance electronic data

- Establish a legal and policy framework allowing for the electronic exchange of data between all parties involved in the international supply chain, noting issues of data privacy/protection and national legislation;
- Implement solutions to facilitate the submission of timely and accurate advance electronic data using inter alia relevant WCO instruments and tools with due regard to :
 - Timeliness of data (pre-arrival - Customs clearance)/(pre-loading - security risk assessment),
 - Standards for the exchange of electronic messages, and
 - Data quality;
- Take possible sources of data into account :
 - New business models of E-Commerce which process data from various sources on transactions, payments, and logistics (e.g., deliveries), and
 - Parties that can provide data include : shippers, e-vendors/ platforms, importers, and intermediaries (e.g., express services, postal operators, Customs brokers, and payment service providers);
- Establish mechanisms for the exchange of advance electronic information between Post and Customs for the purpose of targeting and facilitation, leveraging the work already undertaken in the framework of the WCO/UPU Contact Committee including the Joint WCO-UPU Customs-Post Messaging Standards;
- Ensure reconciliation of data from the front (advance reporting) to the back end (accounting) and re-use of data through the supply chain.

ii. Risk Management

- Apply non-intrusive inspection (NII) technologies and risk-based interventions using modern methods of data analytics to facilitate and accelerate legitimate E-Commerce and, at the same time, identify and stop illicit trade. Risk management based on knowledge of entities and patterns/trends should be at the heart of this process;
- Leverage the vast volume of data generated in the E-Commerce environment when developing and implementing automated risk management processes;
- Identify all relevant stakeholders; including “unknown players” (e.g., individuals, occasional mailers) to address related challenges through :
 - Data validation model – robust identity management system;
 - Trusted data sources that are globally recognized.
- Promote cooperation between Customs and other governmental agencies at different levels (national/regional) including the exchange of information, capacity building and the sharing of good practices to adopt/enhance risk management systems of these agencies;
- Explore opportunities for information sharing between the government and the private sector, within the boundaries of the law. Cooperation in the exchange of data could facilitate the blocking of websites/platforms/access of vendors that are involved in the trading of illicit goods.
- Apply advance cargo information and screening methodologies across all modes of transportation to the extent possible with a view to strengthening Customs controls.

PRINCIPLE II - Facilitation and Simplification

- i. Establish simplified clearance procedures for dealing with the increasing volumes of small shipments/parcels based on the following :
 - Account-based consolidated entry/exit summaries by enterprises/individuals and intermediaries, with periodic payment of all relevant duties and taxes, subject to the compliance with regulatory requirements and provision of financial security/guarantee, as appropriate;
 - Simplified electronic access by Customs to relevant data or documents held on E-Commerce operators systems or a centralized national electronic platform to support data validation and verification;
 - Simplified requirements regarding origin, where required, value and classification;
 - Upon request, verification or proof of transaction payment through E-Commerce intermediaries.
- ii. Adopt or enhance Customs procedures that provide for the expedited release of shipments, while maintaining appropriate Customs controls, based on the WCO Immediate Release Guidelines, including the use of reduced data requirements for specified flows of goods, by taking into account the categorization of shipments provided in the Guidelines.
- iii. Carry out data processing and other formalities before arrival, aiming to expedite release all low-risk shipments on arrival.
- iv. Coordinate release among all relevant border agencies through a single window environment.
- v. Set out simplified return/refund procedures, such as :

- Control of return shipments by reconciling the inbound with the outbound shipment and granting duty exemption on re-importation;
 - Post-submission of supplementary documents (proof such as export declaration and/or proof of order cancellation);
 - Electronic drawback/refund system based on an efficient reconciliation between the imported and the returned shipment (if/when taxes and duties have already been paid).
- vi. Enhance data submission, exchange, processing, and release through a Single Window paperless environment.
- vii. Revise existing formalities and/or adopt new procedures, as appropriate, concerning item level data reporting, taking into account existing and evolving E-Commerce business models, as well as considering the needs of MSMEs and individual buyers (consumers) and sellers.
- viii. Strengthen partnerships with E-Commerce vendors/platforms, for example by including them in Authorized Economic Operator (AEO) programmes and Mutual Recognition Arrangements/Agreements (MRAs).

PRINCIPLE III – Safety and Security

- i. Develop and apply risk profiles that identify high-risk shipments that pose safety and security risks in E-Commerce channels based on WCO tools and global and national contexts, noting that security risks are generic while safety risk factors are not perceived equally in all States. Once safety threat indicators (e.g., dangerous goods, strategic trade control goods) are defined; this would allow sharing between Customs authorities where appropriate and to the extent that administrations are able to improve their risk-analysis processes and indicators.
- ii. Improve Customs-E-Commerce operators cooperation: Customs administrations and E-Commerce operators should continue to working in partnership supporting risk management.
- iii. Develop and exploit IT capability that identifies illicit trade channels (e.g., dark web) to understand its impact on legitimate E-Commerce channels and take appropriate counter measures.
- iv. Use existing tools, such as the WCO IRIS platform¹ and Information & Intelligence Centre (I2C)² to support profiling and risk assessment.
- v. Leverage WCO regional structures and trade associations to help filter and collect best practices and ensure practices are organized effectively to make them useful and accessible.

PRINCIPLE IV - Revenue Collection

- i. Capture relevant data as early as possible before the importation, as this will facilitate identification of the nature of the goods and their value, thus permitting fair and efficient revenue collection.

¹ <https://iris.wcoomd.org/>

² <http://www.wcoomd.org/en/topics/enforcement-and-compliance/instruments-and-tools/i2c.aspx>

- ii. Apply, as appropriate, alternative models of revenue collection (e.g., vendor collection, intermediary collection, and consumer collection) and test them through pilot projects or other means.
- iii. Define the roles and responsibilities of e-vendors/platforms and intermediaries in the supply chain concerning revenue collection and authorise them accordingly.
- iv. Analyze *de Minimis* thresholds (duties, VAT/GST) through a scientific study to determine direct/indirect consequences of its potential increase or decrease.
- v. Review/adjust *De Minimis* thresholds, as appropriate, based on but not limited to the following considerations :
 - o National specificities, economic environment, and geographical context
 - o Simplified revenue collection models,
 - o Cost of intervention and duty collection,
 - o Compliance costs,
 - o Revenue concerns,
 - o Needs of Customs supervision,
 - o Distortionary impact on domestic retailers and producers
 - o Fair, transparent, consistent application,
- vi. Analyse, and where appropriate, make changes to the principles and rules currently in force, in view of the rising ratio/valuation of intangible goods/services included in physical goods (e.g. the intellectual contribution of software producers) and their impact on factors (such as tariff classification, value, etc.) determining tariff application.

PRINCIPLE V - Measurement and Analysis

- i. Establish reliable mechanisms to accurately measure and analyze cross-border E-Commerce in close cooperation with international organizations such as the WTO, OECD, UNCTAD, UPU, ICAO, WEF, World Bank Group as well as with E-Commerce stakeholders, including through understanding various business models and sharing of data.
- ii. Use Data Analytics (including “Big Data” modules) and the existing capabilities of international organizations, e-vendors/platforms, and other stakeholders, with a view to generating trends and analysis for evidence based decision making to support the implementation of the Guiding Principles and the efficient and sustainable growth of cross-border E-Commerce.
- iii. Establish mechanisms to capture data at item level to facilitate trade statistical analysis, while implementing simplified clearance processes, for example the consolidated simplified summary declaration.

PRINCIPLE VI - Partnerships

- i. Develop and enhance coordination and partnerships between relevant stakeholders (including Customs, other government agencies, e-vendors/platforms, logistics service providers, international organizations, academia, trade associations, non-governmental organizations, social media, financial intermediaries, individual buyers

(consumers) and sellers). This could include more formal arrangements such as Memoranda of Understanding and Trusted Trader Programmes.

PRINCIPLE VII - Public awareness, outreach and capacity building

- i. Raise public awareness and outreach to address issues such as compliance with Customs and other regulatory requirements as well as potential threats to safety (including product safety) and security in the E-Commerce supply chain. Administrations and stakeholders should strive to raise awareness on goods presenting a safety issue in accordance with national safety regulations, by making information available at a single access point on their websites in order to educate all stakeholders on safety requirements.
- ii. Use all possible means, such as website, mass media, and social media, to share and disseminate related information with stakeholders. Customs should also encourage other partners (such as e-vendors/platforms, Post, express) to further disseminate this information through their own platforms.
- iii. Develop a communication strategy for engaging with other agencies/ organizations and relevant stakeholders to ensure regular and consistent messaging on opportunities and challenges presented by E-Commerce.
- iv. Build capacities including bridging the digital divide through technical assistance, training, and education, integrating the experience of various stakeholders to keep up with rapidly-evolving E-Commerce. Some examples include online training and international events which leverage the first-hand experiences of frontline officers and operators.

PRINCIPLE VIII – Legislative Frameworks

- i. Leverage existing tools/instruments in addressing security and facilitation challenges, such as the WCO Revised Kyoto Convention (RKC), the WTO Agreement on Trade Facilitation (TFA), the WCO SAFE Framework of Standards, Annexes 9 and 17 the ICAO Chicago Convention, and the UPU Convention and Security Standards (S58 and S59).
- ii. Review and, where required, make changes/adjustments to procedures and practices in order to ensure a level playing field for all economic operators, to the extent possible.

REQUESTS Members of the Council and members of the United Nations Organisation or its specialized agencies, and Customs or Economic Unions, which accept this Recommendation and implement the principles outlined therein, to notify the Secretary General of the Council of the date from which they will apply the Recommendation and of the conditions of its application. The Secretary General will transmit this information to the Customs administrations of all Members of the Council. He will also transmit it to the Customs administrations of the members of the United Nations Organisation or its specialized agencies and to Customs or Economic Unions which have accepted this Recommendation.