



PERMANENT  
TECHNICAL  
COMMITTEE

PC0374E1a

-  
203<sup>rd</sup>/204<sup>th</sup>  
Sessions

-  
17 -21 March 2014

Brussels, 28 April 2014.

**REPORT TO THE CUSTOMS CO-OPERATION COUNCIL ON THE  
203<sup>RD</sup>/204<sup>TH</sup> SESSIONS OF THE PERMANENT TECHNICAL COMMITTEE**

**(17-21 March 2014)**

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<b>I.</b>	<b>Opening and adoption of the Agenda:</b> <i>(For guidance and decision)</i>  a) Opening of the Meeting b) Introduction by Mr. Gaozhang ZHU, Director of Compliance and Facilitation c) Adoption of the Draft Agenda and the Summary Document	1 - 16
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<u>Agenda Item Number</u>	<u>Subject</u>	<u>Paragraph</u>
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ENFORCEMENT COMMITTEE (EC)**

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## **EXECUTIVE SUMMARY**

**At its 203<sup>rd</sup>/204<sup>th</sup> Sessions (17 to 21 March 2014), the Permanent Technical Committee (PTC):**

### **Item I - Opening and adoption of the Agenda**

#### **a) Opening of the Meeting**

#### **b) Introduction by Mr. Gaozhang ZHU, Director of Compliance and Facilitation**

- acknowledged the introductory remarks made by Mr. Gaozhang Zhu, Director of Compliance and Facilitation who, among other things, highlighted the focus of the PTC on the WTO Agreement on Trade Facilitation (ATF), as the full implementation of the ATF will contribute to economic growth and recovery, improved revenue collection and alleviation of poverty. He then added that a Working Group on the ATF had been set up by the WCO Policy Commission in December last year, whose main objective was to advise the Policy Commission, the Permanent Technical Committee, the Capacity Building Committee, and the Secretary General on the full range of issues concerning the ATF. He highlighted some of the main messages coming out of this meeting which was held in the week before the PTC. Finally, he invited the delegates to have in mind the implications of the ATF for all topics under the PTC discussions, such as Coordinated Border Management, Customs-to-Business Partnership, IT and others.

#### **c) Adoption of the Draft Agenda and the Summary Document**

- adopted the draft Agenda (Doc. PC0346E1c), and the PTC Summary Document (Doc. PC0347E1b);

### **Item II - WTO Agreement on Trade Facilitation (ATF)**

#### **a) WTO Agreement on Trade Facilitation and its implications on Customs and the WCO, panel discussion**

- took note of the panel discussion moderated by Mr. Mark Dillon from UK, joined by the representatives from Swaziland, China, EU, Philippines and the International Chamber of Commerce on the important role of WCO and its Member Administrations, but also the role of the private sector, in the implementation of the WTO Agreement on Trade Facilitation. Discussions highlighted the useful guidance, instruments and tools supported by technical assistance and capacity building programs that the WCO provides to its Members, and how the regional coordination in implementation of the Agreement supports the multilateral obligations. It also showed that the overall objective was progress with the implementation of trade facilitation measures in as many developing countries as possible, which would attract FDI, hence generate additional income and jobs. Customs was in a unique position to assist with implementation and was encouraged to cooperate with all other relevant stakeholders, including other governmental agencies. The Philippine Trade Attaché explained how Customs is taking the lead as regards national implementation, based on the example of the Philippine Inter-disciplinary Committee tasked with preparations for the ATF implementation and

chaired by Customs. Some Panelists underlined that Customs was far ahead of other agencies as regards implementation of a number of ATF provisions, and should thus encourage the other agencies to make progress and move towards trade facilitation.

#### **b) Working Group on WTO ATF**

- took note of the presentation on the WCO's role as regards the WTO ATF by the WCO Coordinator for the WTO ATF, Deputy Director for Facilitation and Procedures Ms. Susanne Aigner. The standard presentation has been published on the Members' website and can be used by interested Members.

##### **■ Outcomes of discussions from the 1st Meeting of the Working Group on WTO ATF**

- took note of the oral report made by the Chairperson, Ms. Gugu Treasure DLAMINI-ZWANE of Swaziland on the first meeting of Working Group on WTO ATF (WGATF) which was held in Brussels from 11-12 of March, 2014. She reported to the meeting that participants hope for WCO involvement in the WTO Preparatory Committee's work at an early stage and will be proposing observer status for WCO to ensure proper contribution from the Customs community.

##### **■ Terms of Reference**

- took note of the report by the Secretariat as regards the Draft TOR (PC0348E1a) and, subject to some amendments, endorsed the ToR.

##### **■ Roadmap**

- Took note of the WCO Roadmap (PC0349E1a) presented by the WCO Secretariat as well as of the information that the WGATF has set up a small virtual drafting group to develop a work programme for the WGATF. Delegates welcomed the transparency and welcomed also the decision by the WGATF to develop a proper work programme with a time table.

#### **c) Analysis of trade facilitation measures in Section I based on WTO TF Toolkit**

##### **■ Article 7.7 on Authorized Operators**

- took note of the Analysis of Section I of the ATF developed by the WCO Secretariat to provide relevant information and guidance for implementation of its provisions by using WCO as well as other instruments and tools to ensure a harmonized approach by Members. The Analysis served as a starting point of WCO's activities in supporting its Member administrations in implementing the ATF. Further work to clarify the concepts of "AO" and "AEO" was needed. One Member emphasized the importance of special assistance to meet the needs of Least Developed Countries when implementing the SAFE AEO.



**d) Analysis of Section II - Technical assistance and capacity building**

- took note of the necessary cooperation within the Secretariat in providing guidance related to the results of the Analysis of Section II of the ATF with purpose of exploring the WCO approach and strategy for the technical assistance and capacity building, including the WCO Project Map Database. It was noted that particular attention should be paid to this matter at the 5<sup>th</sup> Session of the Capacity Building Committee.

**e) Break-out session****f) Plenary Session**

- took note of the reports of the break-out sessions where participants discussed a potential further update of the Analysis of Section I of WTO ATF, Members' expectation of WCO technical assistance and capacity building, sharing Best Practices and the way forward.
- expressed their appreciation for the Analysis of Section I Document as a good starting point, indicating how ATF provisions are covered by WCO Instruments, e.g. the RKC, and Tools and where gaps between the WCO instruments, tools and the text of WTO Agreement on Trade Facilitation exist. Members further expressed that the Analysis of Section I is a useful tool and a living document for fine tuning based on the ongoing legal work on ATF in the WTO. They further suggested that it be made usable for other border agencies and to engage other stakeholders as well. This would involve introducing the National and/or Regional Facilitation Committees, and/or making them work.
- took note of the comments and suggestions by Members on ATF Article 7.7 Authorized Operators, the concerns raised specifically on the definition of different concepts and the possibility to harmonise the concepts. Delegates expressed strong support for the SAFE Framework of Standards to Secure and Facilitate Global Trade, the SAFE Package and the standards developed for the Authorised Economic Operator, also with a view to mutual recognition, and asked the WCO Secretariat to continue its promotion. The delegate from EU announced that the EU will submit its position in writing to the WCO Secretariat.
- took note of the suggestion by a Member that WCO Technical Assistance and Capacity Building efforts should first focus on the mandatory provisions of the ATF rather than the best endeavour provisions to make sure that these provisions could efficiently be implemented. Members also suggested that it is necessary to define the scope of "Member" in dealing with the situation of how the WCO can provide assistance to non-WCO members.
- took note of the suggestion to start the collection of national practices by searching the Members web sites, a number of which already provide ample information which could be used.
- took note of another Member's view that Performance Indicators could be used for individual Member administration to evaluate its trade facilitation improvement annually. Further suggestion was made to introduce a discussion on Performance Indicator in the upcoming capacity building meeting.

- took note of the responses made by Deputy Director for Facilitation and Procedures Ms. Susanne Aigner that the WCO will continue to promote the SAFE AEO since it has been widely adopted and implemented by Members. She further commented that suggestions by Members will be followed up and agreed on the suggestion that the discussion of Performance Indicator will be addressed in the capacity building meeting.

**Item III – Postal Traffic:**

**a) Panel discussion on growth of E-commerce and its impact on Customs**

- took note of the panel discussion on the topic of E-commerce growth and its impact on Customs. The panel was consisted of representatives of the Australian Customs and Border Protection Service (ACBPS), Universal Postal Union (UPU), eBay and Belgium Post who presented the same topic from the different perspectives.
- took note of the need for Customs to work with the Posts and to take the necessary actions to adapt their procedures to the requirements of the trading environment which is significantly changing with the growth of e-commerce and internet purchases.

**b) Report of the 33rd Meeting of the WCO/UPU Contact Committee**

- endorsed the Report of the 33rd Meeting of the WCO/UPU Contact Committee.

**c) Issues arising from the WCO/UPU Contact Committee**

- endorsed the revised ToR. It further took note of the need to have a fair approach in the rotation of additional observers to the WCO/UPU Contact Committee (CC). It also took note of the interest of Netherlands to participate in its meetings and of the need for the African Members to be represented in the CC.
- endorsed the EMS version of the CN 23 Customs declaration.
- took note of the developments related to the RKC Chapter J.2 on Postal Traffic.
- took note of the objectives included under the first draft Work Programme of the CC.

**~~d) Preliminary results from the Virtual Working Group on Customs/post interface~~**

**e) Draft WCO/UPU Postal Customs Guide**

- provisionally endorsed the Joint WCO/UPU Postal Customs Guide to be submitted to the June 2014 Council Session, subject to its review by the Virtual Group established under the WCO/UPU Contact Committee in January this year and open to PTC Members.
- took note of the suggestions made by US for inclusion of additional text;

**f) Draft WCO/UPU MoU Guidelines**

- provisionally endorsed the Joint WCO/UPU MoU Guidelines to be submitted to the June 2014 Council Session, subject to its review by the Virtual Group established under the WCO/UPU Contact Committee in January this year and open to PTC Members.

**Item IV - Update and reports**

**a) Inter-sessional developments**

- took note of the inter-sessional developments other than those covered under other agenda items, especially on the outcomes of the WCO Origin Conference (January 2014) and the WCO event on Pre-shipment inspection and destination inspection companies (March 2014).

**b) Executive Summary of the 7th Meeting of the Technical Experts Group on Air Cargo Security**

**c) Outcomes of discussions under the SAFE Working Group sub-groups**

**d) Report from Data Quality Expert Group**

**e) Outcomes of discussions from the eATA Working Group Meeting**

**f) Report of the 12th Meeting of the RKC Management Committee**

**g) Report from 9th Meeting of the Counterfeiting and Piracy Group**

**i) Report of the IRG Correspondence Group**

- took note of all the reports of the different working bodies under the sub-items b) to g) and i).

**h) Situation Regarding Acceptances of WCO Recommendations**

- agreed with the suggestion made by the US to place the "Situation Regarding Acceptances of WCO Recommendations" (item IV.h)) on the agenda of the Joint PTC/EC Meeting.
- further agreed with the suggestion made by Japan to make the related document available on the WCO Members' web site.

**Item V - Economic Competitiveness Package**

**a) ECP progress report**

- took note of the progress report on the ECP Action Plan presented by the Secretariat.
- took note of comments on the Performance Indicators including concerns on the relationship with other existing tools of performance measurement or needs assessments. The updated Performance Indicators reflecting the comments will be discussed at the next PTC.

**b) Model Business Lens Checklist**

- noted comments from some delegates on the model Business Lens Checklist for Small and Medium sized Enterprises (SMEs) including proposals for new items such as quality assurance review, feedback from private sector and services standards. The PTC noted that the Business Lens Check List would link to but should not duplicate with the guidance on Customs and Business Consultation and Partnership;
- confirmed that the revised Model Business Lens Check list would be discussed at the next PTC.

**e) Transit**

- ~~System 'TIM' – The Central American transit information management system (tbc)~~

**d) Update of ECP Toolkit**

- took note of the revised ECP Toolkit. The PTC reaffirmed that the ECP Toolkit would be updated on a regular basis to reflect comments from participants and maintain the consistency with the analysis on the Agreement on Trade Facilitation.
- agreed to revise the ECP Action Plan. The Secretariat will draft the revised Action Plan and submit it to the next PTC.

**Item VI - Regional integration**

■ **The Role of Customs in Regional Economic Integration**

- the PTC was tasked by the Policy Commission to oversee the work on Customs roles in regional economic integration. The Policy Commission decided that this work should focus on the eight priorities identified by Members. During discussions, several Members suggested to add legal framework, free movement of people and audit for future work. Considering the importance and interest of Members, these items could be taken up afterwards, while focusing first on the eight priorities. Other Members took the floor to share their experiences with Coordinated Border Management, Single Window, risk management and AEO programs nationally but also in the context of regional integration. The PTC took note of the work so far undertaken regarding Customs roles on regional economic integration, and approved the future work on the eight priorities identified by Members. Kenya, Italy and Ivory Coast asked to address Regional Integration also at the next Capacity Building Committee. The Secretariat undertook to inform the Capacity Building Directorate accordingly.

## **Item VII - Customs-Business Partnership**

- a) Draft Guidance for Customs-Business Partnership**
- b) Break-out session**
- c) Plenary session**

- took note of the presentation made by the Secretariat on document PC0362 relating to the draft Customs – Business Partnership Guidance.
- discussed in two break-out groups the Draft Guidance for Customs-Business Partnership, having three parts: Part 1 – Guiding Principles, Part 2 – Phased approach on how to develop Customs- Business Consultation mechanisms and Part 3 – Customs-Business consultation/engagement/partnership initiatives/best practices and reported to the plenary. The PTC provided a strategic approach to the document by making a number of valuable suggestions/comments ranging from change of mindset and mutual respect to a more structured trust based regular consultative mechanism between Customs and Business.
- the key outcomes/suggestions included multi stakeholders engagements including SMEs, informal trade, sectoral approach wherever needed, engagements at different levels (strategic/policy, tactical and operational), identifying benefits for society, sharing of more experiences, lessons learnt and best practices and more importantly a simple and flexible multi-model approach with a regular review mechanism to keep it dynamic and relevant. Some changes in the overall structure of the Draft Guidance were also suggested. All the inputs received from the PTC will be fed into the drafting group, for suitably incorporating in the text, to further develop it. The Secretariat also informed the Members that they can make any further contributions including their experiences and best practices to the drafting group on CLiKC platform and/or the Secretariat.

## **Item VIII - Coordinated Border Management**

### **■ Draft Compendium on Coordinated Border Management**

- took note of the new chapter drafted for the Coordinated Border Management (CBM) Compendium and ongoing developments on the new e-learning package. Work on the CBM Compendium was on track and the first full draft would be available for PTC's review in the autumn session.
- took note of suggestions from delegates on possible areas of improvements, particularly in ensuring that the strategic concepts mentioned in Chapter 1 and 2 were linked to the new Chapter 5, as well as the possibility of introducing hyperlinks into the document, so that WCO tools and instruments referenced can be easily assessed.
- took note of interventions made by members on national experiences in CBM and asked members to get in touch with Secretariat if they would like to provide more information for the purpose of featuring their national experiences in the CBM compendium.

## **Item IX - Globally Networked Customs**

### **a) Developments in the proof-of-concept for GNC**

- took note of the paper presented by Secretariat, re-surfacing Annex F of the Final Report of the Ad Hoc working group for Globally Networked Customs (GNC), describing a proposed “Conformance and Certification process”, and outlining the steps that could be taken by the PTC to ensure that GNC progressed in an orderly fashion.
- took note of suggestions from the floor on the need to establish a more structured review process, as well as concerns that the process highlighted may be too onerous and risked exceeding the “light touch” mandate given to the PTC on the management of GNC.
- took note of views that the PTC will remain the forum in charge of managing GNC; Members developing GNC UBs would be able to direct the IMSC and the DMPT to provide technical inputs on GNC where appropriate but attention should be paid on not imposing additional burden on the regular work of the IMSC/DMPT; work done in regard to GNC should remain Member-driven, including as regards the potential development of a UB under Article 12 of the WTO ATF.

### **b) Presentations of proof-of-concept pilot projects and draft Utility Blocks**

#### **■ Presentation by EU and Switzerland**

- took note of the Control Mutual Agreement Utility Block which had been jointly developed by the EU and Switzerland.

## **Item X - Information Management**

### **a) Executive Summary of the 66th Meeting of the IMSC**

- took note of the executive summary of the 66th meeting of the Information Management Sub-Committee (IMSC).

### **b) Report from the 65th Meeting of the IMSC**

- adopted the draft report of the 65th Meeting of the IMSC;

### **c) Compendium Single Window on How to Build a Single Window Environment – Key areas to be covered in the update**

- took note of the proposal to update the WCO Compendium on How to Build a Single Window Environment, wherein the Secretariat highlighted the need for contribution from Members regarding the latest developments concerning Single Window. Took note of suggestions made by Members on national experiences in Single Window and invited Members to get in touch with Secretariat if they would like to provide more information for the purpose of featuring their national experiences in the proposed update to the Compendium.

## **Item XI – Advance Passenger Information/Passenger Name Record (API/PNR)**

### **a) Report of the 7th Meeting of the API Committee**

- endorsed the draft report of the 7<sup>th</sup> meeting WCO/IATA/ICAO API Contact Committee;

### **b) API Contact Committee - Update of the Terms of Reference**

- endorsed the proposed update to the Terms of Reference of the WCO/IATA/ICAO Contact Committee for Advance Passenger Information. As a consequence of this update, this Committee will be known as *The WCO/IATA/ICAO Contact Committee for Advance Passenger Information(API) and Passenger Name Record (PNR)*. The update includes changes to the mandate and scope of the Committee, covering reporting standards for API and PNR data.

### **c) Adoption of the updates to PNRGOV Guidelines & PNRGOV XML Specifications**

- endorsed the updates to the “*PNRGOV Principles Functional & Business Requirements, Version 13.1*”, and the “*EDIFACT Implementation Guide PNR Data Pushed to States or Other Authorities: PNRGOV Message Version 13.1*”
- endorsed the “*XML Implementation Guide for PNR Data Pushed to States or Other Authorities: PNRGOV Message Version 13.1*”.

## **Item XII – Rules of Origin**

### **■ Draft Guidelines on Certification of Origin developed under the Revenue Package Action Plan Phase II**

- adopted the Guidelines including the comments made by the delegates. The virtual drafting group might revise and confirm the comments after the PTC.
- the final version of the Guidelines incorporating the changes will be annexed to the report of the PTC. The Guidelines as adopted will be forwarded to the Council in June for endorsement.

## **Item XIII – PTC Management**

### **a) PTC Work Programme 2013-2016**

- agreed to include e-commerce and follow-up regarding RKC Correspondence Group into the Work Programme. For new suggested topics, the Secretariat suggested that discussion paper(s) be submitted to the PTC for consideration.
- took note of some of the priorities raised by Members such as data quality and exchange of information. It also took note of the need to review the implementation of the Work Programme on a regular basis.

- took note of the comment by US to change the deadline for completion of the Customs-Business Partnership Guidance to June 2014.

**b) Making publicly available history documents**

- agreed to refrain from making publicly available history documents, as it was agreed to be resource consuming for both the Members and the Secretariat and the added value was under question.
- agreed that the PTC delegates would be asked each time for approval to publish the list of PTC documents from the meeting, after the meeting has taken place. The Secretariat should also seek approval from bodies which are not sub-ordinate to the PTC regarding publishing their reports which have been placed on the PTC agenda. The same approval procedure should be practiced for publishing presentations by WCO Observers or external partners.

**c) Items on the agenda for the next meeting**

- agreed to have at the next PTC meeting the following topics: a panel and a strategic discussion on the Future of Customs; GNC and the legal framework; and data quality and compliance framework. It was also noted that the work on the Business Lens Checklist for SMEs should be completed at the next PTC, if not before.

**Item XIV – Other business**

■ **Update on upcoming events**

- Took note of the upcoming WCO events including: ICAO-WCO Air Cargo Security and Facilitation Conference (Bahrain, 16-17 April), 2nd Global AEO Conference (Madrid, 28-30 April), 2014 WCO IT Conference (Brisbane, 5-7 May), Revenue Conference (30 June-1 July), Knowledge Academy (2-11 July) and PICARD Conference (Mexico, 16-18 September).

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**Joint Session of the 203<sup>rd</sup> /204<sup>th</sup> Sessions of the Permanent Technical Committee (PTC) and the 33<sup>rd</sup> Session of the Enforcement Committee (EC)**

**on 20 March 2014**

**Item I – Opening of the Joint Session of the PTC and the EC**

- a) Opening remarks by Mr. Kunio Mikuriya Secretary General of the WCO**
- b) Keynote address by Dr. Haik Nikogosian, Head of the Convention Secretariat, WHO Framework Convention on Tobacco Control**

The Joint Session:

- Took note of the opening remarks by Mr. Kunio Mikuriya highlighting the importance of the WTO Agreement on Trade Facilitation (ATF) concluded in December 2013 and the role of Customs and the WCO in implementing the Agreement. The WCO has the necessary tools and has created a Working Group on the WTO ATF (WGATF) to support the implementation of the Agreement, also in terms of strengthening cooperation with other border agencies as well as exchange of information going beyond what is in the Agreement. He further stressed the importance of addressing numerous risks including public health and safety, wildlife and environmental crime, trafficking in cultural goods, security threats, and others, by implementing effective enforcement strategies.
- Noted the keynote address delivered by Dr. Haik Nikogosian who introduced the WHO Framework Convention on Tobacco Control (FCTC) focusing on the Protocol on Illicit trade in Tobacco adopted in November 2012. He recognized that, upon entry into force, this legally binding instrument would have a significant impact on Customs operations. He stressed the importance of inter-agency cooperation, particularly between Ministries of Health and Customs in ensuring the successful implementation of the Protocol. He highlighted the important role the WCO plays being a strategic partner in implementing the Protocol. He also encouraged the delegates to promote the accession to the Protocol in their respective countries.
- Welcomed the speakers' remarks and stressed the importance of exchange of information between Customs administrations and between Customs and Tax administrations as well as with other relevant government agencies, based on quality data coming from the source.
- Recognized the importance of combating illicit trade in tobacco, and recognized the WHO Protocol as a valuable instrument that will contribute to these objectives once in force. Concerns were expressed with regards to the potential practical implications of the on track-and-trace provisions included in the Protocol particularly in terms of costs. The issue of electronic cigarettes has been also addressed during the session, as an emerging risk in this area.

## **Item II – Adoption of the Agenda of the Joint PTC/EC Session**

The Committees adopted the Draft Agenda of the Joint Session (Doc. PC0346E1c/ Doc. EC0352E1c) subject to inclusion of the item from the 203<sup>rd</sup>/204<sup>th</sup> PTC agenda: “Situation Regarding Acceptances of WCO Recommendations” (Doc. PC0356).

## **Item III – Customs Cooperation and Globally Networked Customs**

### *Article 12 of the WTO Agreement on Trade Facilitation on Customs Cooperation*

The Joint Meeting:

- Took note of the presentation by the Secretariat on the analysis of Article 12 (Customs Cooperation) of the WTO ATF (Doc PC0371E).
- Discussed various ways and means on how WCO instruments and tools including Globally Networked Customs (GNC) and its legal toolbox could support the implementation of the provisions of Article 12 of the WTO ATF. One potential course to initiate implementation of the Article could be developing a tailor-made Utility Block for exchange of stipulated information under the enforcement track of GNC, by interested and willing Members. Referring to the keynote speech of the WHO representative, it might also be important to develop a Utility Block on exchanges under the WHO Framework Convention on Tobacco Control (FCTC).
- Underlined that existing WCO instruments and tools are comprehensive and cover Customs cooperation on a wide range of issues, including commodity smuggling, drug trafficking, IPR and CITES enforcement. Acknowledging the usefulness, as well as remit of Article 12, it was felt that Members may continue adopting a holistic approach towards Customs cooperation by using various tools and instruments of the WCO. The opportunity of examining all the relevant WCO tools and instruments to assess the potential need for their adaptation was mentioned.

## **Item IV – Product Safety**

The Joint Meeting:

- took note of the introductory remarks provided by the Deputy Directors of Compliance and Facilitation Directorate, who highlighted the cross cutting nature of Product Safety and the increasing involvement and future possibility of customs agencies in maintaining Product Safety legislation in cooperation and coordination with relevant other government agencies in cross-border trade.
- took note of the presentations delivered by EFTA, the EU and the Netherlands on their experience of dealing with Product Safety issues and by ICAO about Dangerous Goods in the context of air cargo. A delegate from RILO WE stressed the importance of Product Safety and introduced the RILO WE's 'Health and Safety Net', which is a CENComm based inter-agency information platform, with Product Safety as its second pillar, offering cooperation on the issue to other RILOs.

## **Item V – Free Zones: Ensuring transparency and promoting economic development**

The Joint Meeting:

- Took note of the panel discussion on the topic of Free Zones management, consisting of speakers from the Customs Administration of Morocco, Member of the Board of the US National Association of Free Trade Zones and the WCO Secretariat.
- Delegates engaged in active dialogue, in particular with regards to the promotion of the implementation of RKC's Specific Annex D, Chapter 2 on Free Zones. Attention was drawn to challenges on treatment of prohibited goods within the Free Zones, market distortion and unfair competition that could result from Free Zone operations and potential illegal financial flows as well as other forms of illegal trade that could take place in the Free Zones provided no adequate supervision and controls were enforced.

## **Item VI – Customs Compliance Framework including Voluntary Disclosure and Data Quality**

### **a) Customs Compliance Framework including Voluntary Disclosure and Data Quality**

- The Joint Session discussed and provided guidance for the first draft document regarding Customs Compliance Framework (Doc. PC0372E), including Voluntary Disclosure and Data Quality. Delegates welcomed the development of the document and suggested a number of amendments.

### **b) 2nd Phase of the Project on Smart and Secure Trade Lanes, presentation by China, European Commission and the Netherlands**

- The Committees took note of the presentation by China, the Netherlands and the European Commission on the Smart and Secure Trade Lanes Pilot project, which implements and tests the SAFE Framework standards as well as the Supply Chain Management Guidelines in view of testing end to end supply chain management. It was agreed that reports of the project could be shared with interested WCO Members.

## **Item VII – Holdings of PTC/EC Joint Meetings in the future**

*Possible solutions for holding Joint PTC/EC meetings*

- The Joint Meeting agreed with the option 1 outlined in Doc. PC0373 for holding Joint PTC/EC meetings, which meant that the current practice would continue only every second year. In the other years, the PTC and EC would not be held during the same week in spring. Delegates also agreed to consider holding the Joint Session on the last day of the week, i.e. when both PTC and EC meetings have been concluded.

**Item VIII - Other Business**

- The Committees noted the “Situation Regarding Acceptances of WCO Recommendations” as outlined in Doc. PC0356. Delegates were asked to notify the Secretariat if any update or amendments needed to be made.

**Item IX- Closing**

- The Chairperson closed the Joint Session of the 33<sup>rd</sup> EC and the 203<sup>rd</sup>/204<sup>th</sup> PTC.

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## **I. OPENING AND ADOPTION OF THE AGENDA**

### **a) Opening of the Meeting**

### **b) Introduction by Mr. Gaozhang ZHU, Director of Compliance and Facilitation**

1. Mr. P. Francois ABOUZI (Togo), Chairperson of the Permanent Technical Committee (PTC), opened the meeting and welcomed all delegates. The list of participants is set out at the Annex I hereto.
2. Mr. Gaozhang ZHU, Director of Compliance and Facilitation, also welcomed the delegates stressing that the PTC has invested special efforts to make this Committee's work more responsive to the requirements of the business and has been practicing enhanced transparency by making available to the public its recent reports and documents. A special welcome was in that respect communicated to the Observers and an invitation for their active participation and contribution to the meeting.
3. The Director stressed that the focus of the Meeting ahead will be the WTO Agreement on Trade Facilitation (ATF). Full implementation of the ATF will contribute to economic growth and recovery, improved revenue collection and alleviation of poverty.
4. The ATF was concluded in December 2013 after more than nine years of negotiations. This is an important step forward for the trade facilitation agenda which has been the key focus of the PTC. All those who have been in the previous meetings will remember the continuous discussions on WTO trade facilitation negotiations. Engagement of Customs in the negotiating process has ensured that the WTO Agreement is consistent with WCO tools and programmes on trade facilitation and compliance, which the Customs community has developed and implemented in the past years.
5. The Customs administration will play a key role in the implementation of the ATF. Furthermore, the ATF highlights the role of the WCO in implementation and administration of the Trade Facilitation Agreement. It is therefore essential that the WCO and its Membership collectively ensure smooth and effective implementation of the ATF.
6. The WCO Policy Commission which met in December 2013 welcomed the ATF by issuing the Dublin Resolution and decided to set up a Working Group on the ATF to take up the practical aspects of meeting the expectations arising from the ATF.
7. The purpose of the Working Group is to advise the Policy Commission, the Permanent Technical Committee, the Capacity Building Committee, and the Secretary General on the full range of issues concerning the ATF. Specific work will be carried out by the Group and brought forward to the appropriate committees for endorsement or further direction.
8. Even though most of the WCO working bodies will have a role to play in examining the implications of ATF articles, the PTC will play a key role in dealing with the technical aspects of trade facilitation provisions in Section I of the Agreement.

9. The Working Group on the ATF had its first meeting in the previous week and was very well attended by both Members and Observers. A significant number of Geneva based WTO negotiators also joined the meeting, which was very much welcomed. There were a number of key messages coming out of this meeting.
10. Firstly, delegates confirmed WCO's role in the implementation of the ATF, coming out of the strengths of the WCO, which include the standard setting activities resulting in relevant instruments and tools, the cooperation with other international organizations, the existing network of experts, the WCO's ATF communications strategy, as well as the expertise in technical assistance and capacity building.
11. During the meeting it was stressed that, having in mind the key role of the Customs administrations in the implementation process, that they should take the leading role in the National Trade Facilitation Committees which will be the national focal points for all matters relating to the ATF.
12. Furthermore, it was confirmed that the WCO should play an active role in the WTO Trade Facilitation Committee which will administer this Agreement. The importance of a multi-stakeholder approach was also underlined. It was recognized that the global Customs community was well organized, but that it was not always the case for other border agencies, and that the scope of the ATF needed clarification regarding other border agencies' responsibilities.
13. The ATF would also be addressed during the Joint Day when Article 12 on Customs Cooperation would be discussed. However, he invited the delegates to keep in mind the implications of the ATF in all discussions which relate to the ATF topics, such as Customs-Business partnership, Coordinated Border Management, Information Management including Single Window and others.
14. He also asked for delegates' active engagement and contribution to a number of guidance tools and topics such as e-commerce on Day II. E-commerce is considered to be one of the emerging issues for Customs which was especially stressed at the June 2013 Council. This is considered to be an area where Customs can make a significant impact in terms of supporting SMEs and contributing to economic growth.

**c) Adoption of the Draft Agenda and the Summary Document**

Document: PC0346 and PC0347

15. In line with the proposal put forward by the 199th/200th Sessions of the PTC, the Secretariat had, alongside with the Agenda, prepared a Summary Document, the objective of which is to provide the delegates with clear and concise information on the substance of agenda items and to provide guidance on the actions required from the PTC.
16. The PTC adopted the draft Agenda (Doc. PC0346E1c), and the PTC Summary Document (Doc. PC0347E1b).

## **II. WTO AGREEMENT ON TRADE FACILITATION (ATF)**

### **a) WTO Agreement on Trade Facilitation and its implications on Customs and the WCO, Panel discussion**

Document: PC\_WTO\_ATF

#### **Background**

17. The 70th Session of the WCO Policy Commission which was held in Dublin, Ireland, from 9 to 11 December 2013, discussed the outcomes of the WTO Bali Ministerial Conference, especially the Agreement on Trade Facilitation (ATF). The adoption of Dublin Resolution at the meeting welcomed the ATF and committed pragmatic support to Members in the implementation process.
18. The PTC has regularly monitored and was updated on the WTO trade facilitation since the launching of the negotiations. The Policy Commission decided to establish a WCO Working Group on the WTO ATF in responding to the new requirements and commitments stemming from the ATF, while technical matters, especially trade facilitation measures in Section I of the Agreement will be dealt with by the PTC and other technical committees and WCO bodies consistently.

#### **Discussion**

19. A panel discussion moderated by a representative from UK, joined by the representatives from China, EU, Philippine and International Chamber of Commerce discussed the newly concluded ATF and its implications related issues.
20. The panel discussed the leading role of Customs in the national trade facilitation committees which is required to be established by the WTO ATF. Panellists made a clear point that the rationale of the important role of Customs in coordinating the national implementation is its advantages in border management.
21. The issue of national needs assessments is crucial for WTO Members for developing their implementation plans. Regional Customs organizations and national Customs administrations should coordinate at different levels before efficient technical assistance and capacity building projects could be made. The advantage of WCO regional structure could be a useful base for the coordination and implementation of the WTO ATF.
22. Regarding the wide range of the WTO ATF, Customs should not work alone but coordinate with other government agencies like agriculture and SPS authorities aiming at the fulfilment of the different level provisional commitment of the Agreement.

#### **Conclusion**

23. PTC took note of the interactive debate and highlighted the important role of the WCO and its Member Customs Administrations for the implementation of the WTO Agreement on Trade Facilitation, the useful WCO guidance, instruments, tools, capacity building programs that the WCO provides to Members, and how the regional coordination in implementation of the Agreement affects the multilateral obligations.

**b) Working Group on WTO ATF**

Documents: PC0348 and PC0349

**Background**

24. The WCO Policy Commission Meeting in December 2013 decided to establish a WCO Working Group on WTO ATF (ATFWG). The purpose of the WGATF is to advise, as appropriate, the Policy Committee, the Permanent Technical Committee, the Capacity Building Committee and the Secretary General on the full range of issues concerning the WTO ATF. The first meeting of the Working Group on WTO ATF was held in Brussels from 11-12 of March 2014.

**Discussions**

25. The Chairperson of the Working Group, Ms. Gugu Treasure DLAMINI-ZWANE of Swaziland reported on the first meeting of the ATFWG. She stressed that participants have high expectations as regards the WCO involvement in the WTO Trade Facilitation Committee's (TFC) work at an early stage; she urged Member Customs Administrations to suggest observer status at the WTO TFC for the WCO to ensure proper contributions from the Customs community.
26. She suggested discussing the Draft ToR (PC0348) and WCO Roadmap (PC0349), which were considered as a good starting point for discussions and would be further amended based on the suggestions from Members in PTC.

**Conclusion**

27. PTC discussed the Draft ToR and WCO Roadmap. The Secretariat will work on the improvement of the texts upon Members suggestions and shall report back as soon as possible.

**c) Analysis of trade facilitation measures in Section I based on WTO TF Toolkit**

**■ Article 7.7 on Authorized Operators**

Document: PC0350 and PC0351

**Background**

28. The purpose of the Analysis of trade facilitation measures in Section I was developed to provide relevant information and guidance in terms of implementation of ATF provisions by using WCO instruments and tools, to ensure a harmonized approach by Customs administrations. The Analysis also contains remarks regarding Article 13 on institutional arrangements. It will serve as a starting point of WCO's activities in terms of supporting Customs administrations in implementing the ATF, as well as a basis for an interactive Implementation Guidance web tool, which the Secretariat is currently developing. It was discussed at the first WGATF meeting.



## Discussion

29. Participants were invited to comment and make suggestions on the Analysis. The current text was therefore discussed and Members considered it to be a good start. It is a living document as intensive study of the textual provisional of the WTO ATF was still ongoing.
30. One Member commented on the specific need for guidance to be given to Least Developed Countries as to how to implement the SAFE AEO.
31. The Secretariat responded that new WCO instruments are being developed to cater Member's needs for implementing the new binding provisions of WTO ATF.

## Conclusion

32. PTC took note of the briefing by the Secretariat that the Analysis serves as a starting point of WCO's activities in supporting its Member administrations in implementing the AFT. Proposals made by Members to update the Analysis will be considered and necessary updates to the text will be included in a revised version. Members' experiences and Best Practices would also be explored.
33. PTC took note of the comments and suggestions made by Members that further work was needed to clarify the difference between the concepts of "AO" and "AEO". One Member suggested that one way to help do so would be to divide the WCO AEO Compendium into two documents: an AO Compendium and an AEO Compendium. The Secretariat explained that the upcoming revised AEO Compendium would differentiate very clearly between AEO and Compliance programmes; once AO programmes would have been implemented the Compendium could differentiate indeed further. The Secretariat highlighted that in practice, it was likely that Members would use the criteria and conditions as laid down for the SAFE AEO for the implementation of Trusted Trade Partnership programmes, including under "AO" as laid down in Article 7.7.

### **d) Analysis of Section II - Technical assistance and capacity building**

Document: PC0352

## Background

34. It was the first time for the WTO Agreement that stimulates that its Member capability of implementation be secured by compulsory provisions of providing technical assistance, financial support for the developing countries before their acquisition of such capability. It reflected as the special and different treatment for WTO developing Member countries and LDCs in the second section of the Agreement on Trade Facilitation. Needs assessment would be conducted first to identify their needs and priority and then the different provisions will be categorized into different groups that required to implement immediately after entry into force of the Agreement, transitional period and technical assistance provided for enhancing the implementation.
35. The WCO Secretariat has already taken steps to support the needs assessment that are likely forthcoming, and is in dialogue with the donor community to identify possible funding sources for capacity building projects.

### **Discussion**

36. The representative of WCO Capacity Building Committee briefed the participants that the WCO has the Capacity Building methodology, standards, tools and practices in place to support Members in the implementation of the ATF.
37. It was recommended that the WCO needed to further promote the Project Map Database as a co-ordination tool for ongoing and envisaged Capacity Building projects. The WCO Members were encouraged to share information on Customs and TF-related projects with the WCO Secretariat and their respective ROCBs.
38. Suggestions were made for the involvement of private sectors in the future of work of ATFWG that it would be a positive factor for successful implementation.

### **Conclusion**

39. PTC took note of the necessary cooperation within the Secretariat in providing guidance relates to the results of the Analysis of Section II of the ATF with purpose of exploring the WCO approach and strategy for the technical assistance and capacity building.

- e) **Break-out session**
- f) **Plenary session**

### **Background**

40. Participants from Member administrations and WCO partners from private sector agreed that the ATF would be a “game changer”, not only to Customs but to all government agencies involved, in providing facilitation to international trade. Customs should take necessary and immediate approach to meet this challenge.

### **Discussions**

41. Participants discussed the potential revision of the Analysis of Section I of WTO ATF, Members’ expectations as regards WCO technical assistance and capacity building, sharing Best Practices and the way forward.
42. Members considered the Analysis of Section I Document to be a good starting point to assess the potential gaps between the WCO instruments and tools on the one hand, and the text of WTO Agreement on Trade Facilitation, on the other hand. Members stressed that the Analysis of Section I was a useful tool and a living document for fine tuning based on the ongoing legal work on ATF in the WTO.
43. Members made comments and suggestions on ATF Article 7.7 Authorized Operators, which the concerns raised specifically on the definition of different concepts and the possibility to harmonise the concept.
44. Suggestions made by Members that WCO TA/CB efforts should first be focused, because of the different level obligations in the WTO ATF, on the mandatory provisions for the developing countries to make sure that these provisions could efficiently be

implemented. Members also suggested that it is necessary to define the scope of "Member" in dealing with the situation of how the WCO can provide assistance to non-WCO members.

45. One Member indicated the importance of Performance Indicators which could be used for individual Member administration to evaluate its trade facilitation improvement annually. Further suggestion was made to introduce a discussion on Performance Indicator in the upcoming capacity building meeting.

### **Conclusion**

46. PTC Chairman welcomed Member contributions to improve the Committee's work and took note of the suggestion by Members that priority must be considered when utilizing the capacity training resources efficiently.
47. The Committee also took note of the responses made by Deputy Director for Facilitation and Procedures Ms. Susanne Aigner that the WCO will continue to promote the SAFE AEO since it's been widely in use by Members. She further commented that suggestions by Members will be follow up and agreed on the suggestion that the discussion of Performance Indicator will be addressed in the capacity building meeting.

## **III. POSTAL TRAFFIC**

### **a) Panel discussion on growth of E-commerce and its impact on Customs**

#### **Background**

48. Under this item, a panel was envisaged to discuss the implications of e-commerce growth on Customs, posts and the private sector. This is considered to be an emerging issue for Customs, which was stressed at the June 2013 Council Sessions after the keynote speech of the UPU Director General Mr. Bishar Hussein. It has also been dealt with in more detail at the last WCO/UPU Contact Committee meeting in November 2013.
49. Enhancing cooperation with the posts on national level is one step in facing the new challenge, but exchange of data between Customs and posts is another important step.
50. The panel discussion was set to provide an opportunity to raise awareness of these emerging issues and the new challenges. The PTC delegates were expected to contribute actively to this discussion and provide their experiences in terms of overcoming the obstacles especially in facilitating clearance of goods purchased through internet and at the same time reducing the risks of illegal activities.

#### **Discussion**

51. The panel was composed of the following speakers:
- Mr. Dean CHURCH, Counsellor, Australian Customs and Border Protection (ACBPS), Australian Embassy, Brussels (WCO Spokesperson in the WCO/UPU Contact Committee),

- Mr. Akhilesh MATHUR, Supply Chain Coordinator, UPU
  - Ms. Hanne MELIN, Policy Strategy Counsel for Europe, Middle East and Africa, eBay, and
  - Mr. Richard REVYN, Customs Expert, Belgium Post.
- and was moderated by Mr. Church.

52. The moderator and first speaker emphasized the growth of E-commerce in all parts of the world, both in developing and developed economies. He further underlined its support for the development of MSMEs. However, with the growth of internet sales and huge number of parcels, Customs was facing a number of challenges, especially having in mind that in the past years, the postal traffic was not always a priority for Customs administrations in terms of introducing automated and risk management systems.
53. After the Yemen incident in 2010, the security concerns have drawn attention to the potential risks in the postal supply chain. Ever since, the efforts of Customs, posts and aviation authorities have been growing in this area. Furthermore, the Customs has recognized the growing risks in terms of drug trafficking through postal traffic. Operation Skynet carried out in late 2012 had confirmed the extremely high level at which the postal chain was being abused for trafficking drugs and precursors.
54. It is however important to keep in mind the impact that can be achieved by facilitating cross-border movements of parcels and as such supporting trade and economic growth. The responsibility of Customs in that regard is important and cooperation with posts at national level should be encouraged.
55. A growing interest of WCO Members in matters regarding the postal supply chain has been observed in the last years, which is reflected in a growing attendance at the WCO/UPU Contact Committee. The Contact Committee has launched the MoU Guidelines to support cooperation between Customs and posts at national level. There is also a lot of effort invested into progressing electronic exchange of data between Customs and posts.
56. In presenting his Administration's experience, Mr. Church talked about the estimations for increase of e-commerce in the year to follow and the concerns which tremendous number of parcels pose for Customs controls, especially having in mind that information on goods in postal traffic was arriving only with the arrival of the goods, as opposed to sea and air traffic where pre-arrival information was being received 96 hours and 2-4 hours in advance of arrival of the goods.
57. He drew attention to some of the vulnerabilities of e-commerce such as large volumes of parcels, limited controls over the supply chain, absence of electronic reporting, increased access to restricted goods, increased trade in undeclared dutiable goods, etc. He presented a case study regarding detection of drugs in letter class mail which has increased dramatically in the last years. In terms of mitigating the mentioned vulnerabilities, cooperation has been intensified with the Australian post and discussions have taken place on considering electronic reporting for some categories of items.
58. Mr. Akhilesh stressed that e-commerce was growing by 20% per year. Increase in mobile usage and internet users has made this possible. Supporting MSMEs is a priority as they contribute greatly to the national economy. Trade facilitation and economic

development is one of UPU's key missions. MSMEs have global markets available and use the posts to ship their goods.

59. Some of the key challenges for posts in terms of e-commerce growth include: Customs/post interface, security, delivery costs, returns handling, etc. Some effective solutions entail: alternate delivery locations including via parcel lockers, SMS notification of arrivals, return solutions, end-to-end track and trace, various payment options, landed cost calculators, development of .post top-level domain etc. He further emphasized that posts Endeavour to support Customs work by publishing information on restricted and prohibited items, by introducing the Customs Declaration System (and integrating it with the ASYCUDA system) etc.
60. Ms. Melin talked about the changing trade conditions. An economic research program was initiated two years ago at eBay to look at MSMEs and how their trading through internet can be facilitated. Research showed that internet helps small business overcome the distance on global level. In some countries small businesses reach around 20 to 40 countries through internet. These numbers apply to developed, developing and emerging markets. In facilitating trade it is necessary to keep in mind the new trading patterns created by small businesses.
61. Mr. Revyn explained the Belgium postal clearance process and presented the ways in which further growth of e-commerce via post could be facilitated. He stressed the need to reduce clearance time by capturing electronic data at origin, by having e-tailers acknowledged by Customs and clearance and inspection based on pre-departure data. Single Window would have a positive impact on lead time. There was a growing need to increase transparency by applying the track and trace system. Delivery options could also be improved to increase potential customers.
62. The PTC appreciated the panel and confirmed the importance of e-commerce as a tremendous growth generator for all economies. The topic should be kept on the PTC agenda and best practices exchanged. E-commerce was changing the landscape of Customs, though it seemed that the Customs procedures in the postal traffic had not changed significantly in the past three or even more decades.
63. A delegate raised the issue of trade in expensive software through internet without disclosing information to Customs, which was making a great loss of revenue for governments.
64. A member (Canada) shared its experience in modernizing its postal operations, including automation and receiving advance information from vendors from five countries, allowing risk assessments to take place before arrival of goods. It offered to share more information on its work at the next PTC meeting.
65. Another delegate stressed that the current model in the postal stream could not work anymore with the growth of e-commerce. There was a need for Customs, posts, the express couriers and the internet industry to work together to increase the knowledge on cross border commerce of small businesses trading through internet.
66. An observer stressed that it should be kept in mind that e-commerce was taking place also outside the postal world. He emphasized that the WCO Immediate Release Guidelines (IRG) should receive more attention in that context. A delegate confirmed the

importance of the IRG and the need to ensure its wider and more consistent implementation by Members.

### **Conclusion**

67. The PTC took note of the panel discussion on the topic of E-commerce growth and its impact on Customs. It also took note of the need for Customs to work with the Posts and to take the necessary actions to adapt their procedures to the requirements of the trading environment which is significantly changing with the growth of e-commerce and internet purchases.

### **b) Report of the 33rd Meeting of the WCO/UPU Contact Committee**

Document: PU0098

### **Background**

68. The 33rd meeting of the WCO/UPU Contact Committee took place on 18 and 19 November 2013 in Bern, Switzerland. The PTC was invited to adopt the Report of this meeting (doc. PU0098). However, specific issues arising from this meeting were dealt with separately under sub-items III. c), III.e) and III.f).

### **Conclusion**

69. The PTC endorsed the Report of the 33rd Meeting of the WCO/UPU Contact Committee.

### **c) Issues arising from the WCO/UPU Contact Committee**

Document: PC0353

### **Background**

70. The WCO/UPU Contact Committee (CC) had its 33rd Meeting on 18 and 19 November 2013 in Bern. The outcomes of the meeting were contained in the Report of the meeting in doc. PU0098, which was made available to PTC delegates under item III. b) of the PTC Agenda.
71. The 33rd Meeting generated a lot of discussion on many of the topics on the agenda, a number of which required follow-up actions, i.e. endorsement and/or guidance from the PTC.

### **Discussion**

72. The PTC delegates were invited to:
- endorse the revised ToR and consider participation in the CC as Observers;
  - endorse the EMS version of the CN 23 Customs declaration;

- take note of the developments related to the RKC Chapter J.2 on Postal Traffic and consider participation in the Virtual Group on the RKC Guidelines;
- take note of the objectives included under the first draft Work Programme and provide guidance;
- consider participation in the Virtual Group on the interface between Customs and posts and provide guidance;
- share national experiences and provide guidance regarding issue of undelivered/unclaimed goods.

73. Two other important matters discussed in the 33rd Meeting of the Contact Committee were to separately cover under items III. e) Draft WCO/UPU Postal Customs Guide (doc. PC0354) and item III. f) Draft WCO/UPU MoU Guidelines (doc. PC0355).

74. The delegates were in favour of the revised ToR of the Contact Committee, especially in terms of increasing the number of observers to the CC. It was stressed that a balanced and fair approach was needed when inviting the Members (also to include the African regions currently not represented) and that international organizations and the private sector representatives should not have a permanent representation, but that there should be a rotation of the interested parties. A Member expressed an interest of taking part in the work of the CC.

75. A delegate supported the EMS version of the CN23 Customs declaration, while an Observer questioned the grounds on which the EMS was receiving the same privileges as other postal items.

### **Conclusion**

76. The PTC endorsed the revised ToR. It further took note of the need to have a fair approach in the rotation of additional observers to the WCO/UPU Contact Committee (CC). It also took note of the interest of a Member to participate in its meetings and of the need for the African Members to be represented in the CC. The PTC also endorsed the EMS version of the CN 23 Customs declaration.

77. The PTC took note of the developments related to the RKC Chapter J.2 on Postal Traffic and of the objectives included under the first draft Work Programme of the CC.

- ~~d) Preliminary results from the Virtual Working Group on Customs/post interface~~  
**e) Draft WCO/UPU Postal Customs Guide**

Document: PC0354

### **Background**

78. In view of a pressing need for a mechanism to allow the UPU to keep informed its Members and designated operators about Customs-related issues in an effective and efficient manner, the UPU International Bureau recommended, to lead countries of the

UPU Customs Group, the establishment of a Postal Customs Guide that would be developed in collaboration with the World Customs Organization.

79. The WCO Secretariat fully welcomed the development of the Joint WCO/UPU Customs Postal Guide (Guide) to be managed by the WCO/UPU Contact Committee. The Contact Committee at its meeting in November 2013 fully supported the draft Guide.

### **Discussion**

80. The PTC was now invited to examine the draft Guide and provisionally endorse it, subject to its review by the Virtual Group established in January 2014 on the Click and working under the WCO/UPU Contact Committee in the intersession (group "Postal Traffic", sub-group "Review of the MoU guidelines and Postal Customs Guide").
81. The PTC delegates were encouraged to take part in this Virtual Group in order to progress the work on finalizing the Guide for submission to the Council in June 2014.
82. The UPU Secretariat presented the background of the draft Guide, which was initiated with the as a result of a growing interaction between Customs and posts, especially in the light of growth of e-commerce. One of the objectives of the Guide would be to have it used by the Customs and post training centers. It is considered to be a living document and to be updated continuously.
83. The PTC and supported the development of the Guide. A Member suggested an additional text be inserted into the Guide.

### **Conclusion**

84. The PTC provisionally endorsed the Joint WCO/UPU Postal Customs Guide to be submitted to the June 2014 Council Session, subject to its review by the Virtual Group established under the WCO/UPU Contact Committee in January this year and open to PTC Members. It also took note of the suggestions made by a Member for inclusion of additional text.

### **e) Draft WCO/UPU MoU Guidelines**

Document: PC0355

### **Background**

85. Arrangements between Customs administrations and designated postal operators on national level are often informal in nature rather than being established under a Memorandum of Understanding (MoU). It is desirable for Customs administrations and postal operators to consider formalizing these arrangements in a more business-oriented manner.
86. The drafting of an MOU would help Customs administrations and designated operators (DOs) examine and clarify their practical obligations and responsibilities as regards the Customs clearance of postal items, ensuring more efficient procedures and timely delivery of postal items.



## Discussion

87. The PTC was invited to examine the draft WCO/UPU MoU Guidelines and provisionally endorse them, subject to their review by a Virtual Group established on the Click in January 2014 and working under the WCO/UPU Contact Committee in the intersession (group "Postal Traffic", sub-group "Review of the MoU guidelines and Postal Customs Guide").
88. The PTC delegates were encouraged to take part in this Virtual Group in order to progress the work on finalizing the Guidelines for submission to the Council in June 2014.
89. The PTC appreciated the development of this useful document. It was stressed by a Member that both this tool and the Postal Customs Guide will address some of the concerns which were raised in terms of capacity building in a regional Customs/Postal Workshop held in Johannesburg in August 2013.
90. An Observer stressed that increasingly EMS items were treated as a matter of course in the same manner as postal items covered under the UPU Convention. EMS was an optional (and competitive) service and as such not covered by the universal service obligation. He questioned whether other competitors could also benefit from this privileged treatment.

## Conclusion

91. The PTC provisionally endorsed the Joint WCO/UPU MoU Guidelines to be submitted to the June 2014 Council Session, subject to its review by the Virtual Group established under the WCO/UPU Contact Committee in January this year and open to PTC Members.

## IV. UPDATE AND REPORTS

- a) **Intersessional developments**  
Oral report
- b) **Executive Summary of the 7<sup>th</sup> Meeting of the Technical Experts Group on Air Cargo Security**  
Document: PC\_TEGACS\_Executive\_Summary\_E.pdf
- c) **Outcomes of discussions under the SAFE Working Group sub-groups**  
Document: PC\_SAFE\_subgroups\_E.pdf
- d) **Report from Data Quality Expert Group**  
Document: PC\_Data\_Quality\_EG\_E.pdf
- e) **Outcomes of discussions from the eATA Working Group Meeting**  
Document: PC\_eATA\_E.pdf
- f) **Report of the 12th Meeting of the RKC Management Committee**  
Document: PO0069
- g) **Report from 9<sup>th</sup> Meeting of the Counterfeiting and Piracy Group**  
Document: TR0029
- h) **Situation Regarding Acceptances of WCO Recommendations**  
Document: PC0356
- i) **Report of the IRG Correspondence Group**  
Document: PC0357

## **Background**

92. In line with the suggestion made at the 199th/200th Sessions of the PTC to reduce the time allocated to report back items in order to allow more time for discussions on key technical issues, a new approach has been taken at the November 2013 PTC meeting, and in line with the suggestions put forward by the Correspondence Group on the Future of the PTC. The same practice was now continued.
93. Report back items include discussions of the work of the various sub-groups and committees reporting to PTC, as well as on work undertaken by the Secretariat. The discussion on these items is intended to be a short process. The agenda items are supported by the respective papers of the various sub-committees, committees and working groups of the PTC, as well as papers produced by the Secretariat or oral reports. Members were expected to have read through the papers and would be given an opportunity to pose any questions or to launch a relevant discussion.

## **Discussion**

94. Under IV. a), the WCO Secretariat provided more information on some of the discussions of the Policy Commission in December 2013, including discussions on emerging issues, Customs Cooperation under the ATF, Globally Networked Customs and how tax evasion and avoidance could be tackled through exchange of information. Other issues which were raised include the growth of e-commerce, and how new technologies and API/PNR can facilitate the movement of travellers.
95. The Secretariat provided more information on WCO Origin Conference (January 2014) and the WCO event on Pre-shipment inspection and destination inspection companies (March 2014). It also mentioned that the Revised Kyoto Convention now had 92 contracting parties, with Papua New Guinea acceding in January 2014.
96. In relation to item IV. h) and the Situation Regarding Acceptances of WCO Recommendations, a delegate suggested that having in mind that the document included recommendations relating to enforcement, that it should be discussed at the Enforcement Committee and at the Joint PTC/EC Meeting.
97. Another Member thanked the Secretariat for preparing the table of acceptances of recommendations and expressed its belief that it will encourage Members to accept more recommendations. This Member suggested that the table be updated periodically and published on the Members' web site.

## **Conclusion**

98. The PTC took note of the inter-sessional developments other than those covered under other agenda items, especially on the outcomes of the WCO Origin Conference (January 2014) and the WCO event on Pre-shipment inspection and destination inspection companies (March 2014).
99. It also took note of all the reports of the different working bodies under the sub-items b) to g) and i).

100. The PTC agreed with the suggestion made by a Member to place the “Situation Regarding Acceptances of WCO Recommendations” (item IV.h)) on the agenda of the Joint PTC/EC Meeting. It further agreed with the suggestion made by another Member to make the related document available on the WCO Members’ web site.

## **V. ECONOMIC COMPETITIVENESS PACKAGE**

### **e) ECP progress report**

#### **Background**

101. The ECP Action Plan had been endorsed at the Policy Commission’s 68th Session in December 2012. It set out 21 Actions, indicating deadlines where appropriate, and the bodies responsible for the specific actions, and required the Secretariat to make a report to the PTC regularly.
102. The Secretariat had produced a table to show the progress made in 2013 in respect of each Action, such as regional workshops, publication of useful materials, collection of innovative practices and development of new tools and instruments. The PTC was invited to take note of the progress made in the implementation of the ECP Action Plan.

#### **Discussion**

103. Regarding the Performance Indicators, one Member asked that it be noted that the Johannesburg Convention had not come into effect.
104. One delegate stated that some of the WCO Recommendations referred to in the Performance Indicators had not been accepted by any of the Members. The Secretariat replied that the WCO Recommendations had been adopted at the WCO Council as desirable practices, and that Members were encouraged to accept them.
105. The Secretariat stressed that the Performance Indicators aimed to help Members’ self-assessment, and therefore that Members did not have to use all of the Indicators.
106. One delegate stated that it would be difficult to collect necessary information or data for several Performance Indicators. Several delegates were of the opinion that the objective of the Performance Indicators should be clearly defined because the WTO published a needs-assessment tool for the implementation of the Agreement on Trade Facilitation (ATF), and other international organizations also developed tools for performance measurement. The Secretariat explained that the objective of the Performance Indicators was to help Members to conduct a quick self-assessment of their readiness to implement the ATF so that there would not be any conflicts with tools developed by other organizations. He also added that Members did not have to use all of the Indicators if the data was not available.
107. Taking “Advance Rulings” and “Penalty Disciplines” as examples, an observer pointed out that more detailed quantitative indicators should be developed to measure the performance of Customs administrations. He also said a mechanism was needed to reflect Members’ views in the Performance Indicators.

## **Conclusion**

108. The PTC took note of the Progress Report on the ECP Action Plan presented by the Secretariat and the comments on the Performance Indicators, including concerns about the relationship with other existing tools for performance measurement or needs assessment.
109. The updated Performance Indicators reflecting the comments would be discussed at the next PTC sessions.

## **f) Model Business Lens Checklist**

### **Background**

110. At the last PTC sessions, the development of a Model Business Lens Checklist for Small and Medium-sized Enterprises (SMEs) had been proposed, and the Delegate of Canada had given a presentation to share its experiences in this regard.
111. The Model Business Lens Checklist for SMEs was a tool that assisted Members to develop their own business lens checklist, which might allow more input from SMEs in the process of designing, modifying and reviewing policies and procedures.
112. Based on the contribution from Canada and discussions at the PTC, a first draft Model Business Lens Checklist for SMEs had been developed. Members were invited to examine the first draft of the Model Business Lens Checklist for SMEs and to make any relevant comments with a view to improving it.

### **Discussion**

113. The Secretariat gave a brief explanation on the first draft of the Model Business Lens Checklist for SMEs and stressed that the creation of a universal definition of SMEs at the WCO was not feasible. It was also confirmed that the Model would not have any binding legal effect.
114. A delegate suggested taking into consideration three different levels in Customs administrations: management level, senior-officer level and the operational level, based on experiences from the ASEM meeting. He emphasized the importance of training for Customs officers to enhance communication with stakeholders. A Member stated that it should be ensured that SMEs would benefit from the simplification, including as regards possible regulatory costs. She considered impact assessment and trade dialogues to be an effective way of taking account of the concerns of SMEs. It was pointed out that the Model Business Lens would potentially link to the development of a Customs-Business Partnership Guideline.
115. The Delegate of Canada recalled that the Business Lens Checklist aimed to ensure that policymakers considered the perspectives of SMEs when designing Customs procedures, and that it had been developed with the private sector with the aim of reducing its burden. The Delegate of Canada suggested that "quality insurance" be included in the "compliance" category, and that a "Service standards" section be added to the Model.

116. One delegate recommended updating the text to explicitly state that this Checklist should be consulted when a new or amended policy or programme was first under consideration. She also pointed out that consultation and communication should be ongoing during the review of policy and the implementation of new or amended policy. Other recommendations on the Model from the delegate would be provided on paper after the meeting. Another delegate suggested adding a private sector feedback step as point 2.7 of the Model.
117. Several delegates expressed their concerns about the accuracy of data defining SMEs by number of employees. The Secretariat replied that more detailed information on the data was available on the International Finance Corporation (IFC) Web site.

### **Conclusion**

118. The PTC noted comments from a number of delegates on the Model Business Lens Checklist for SMEs, including proposals for new items such as quality assurance review, feedback from the private sector, and service standards. The PTC noted that the Business Lens Check List would link to, but should not duplicate, the guidance on Customs and Business Consultation and Partnership.
119. The PTC confirmed that the revised Model Business Lens Check list would be discussed at the next PTC.

### **g) Update of ECP Toolkit**

#### **Background**

120. Based on the ECP Action Plan, the Secretariat had developed the ECP Toolkit with the objective of raising awareness of the links in trade facilitation measures between the WCO instruments/tools and the proposed WTO TF Articles. The June 2013 Policy Commission had concluded that the PTC would be invited to review and improve the ECP and WTO Trade Facilitation Toolkits.
121. At the last PTC sessions in November 2013, Members had welcomed the development of the ECP toolkit and reaffirmed that it should be revised in order to correspond to the ATF. The update might help Customs administrations to contribute to their countries' economic competitiveness as well as implement the ATF adequately, based on the existing WCO tools and instruments. The following major changes had been incorporated into the updated ECP Toolkit.
- a) The WTO TF negotiating text had been replaced by Articles of the ATF.
  - b) The Customs Laboratory Guide had been listed as a tool for Test Procedures.
  - c) The Johannesburg Convention had been listed as a tool for Customs Cooperation.
122. Members were invited to review and improve the revised ECP Toolkit.

### **Discussion**

123. One delegate said that, as a living document, regular updates of the ECP toolkit were necessary, and welcomed the progress in implementing the ECP Action Plan. He asked the Secretariat to draft the revised ECP Action Plan for the next PTC sessions. If the revised Action Plan was approved at the PTC, it would be sent to the Policy Commission for endorsement.
124. An observer said that Chapter 4 of the General Annex to the Revised Kyoto Convention might be added as a tool for expedited shipment. A Member asked that links be provided to Members' best practices in order to find the information easily.

### **Conclusion**

125. The PTC took note of the revised ECP Toolkit. The PTC reaffirmed that the ECP Toolkit would be updated on a regular basis to reflect comments from participants and maintain consistency with the analysis of the ATF.
126. The PTC agreed to revise the ECP Action Plan. The Secretariat would draft the revised Action Plan and submit it to the next PTC sessions.

## **VI. REGIONAL INTEGRATION**

### **o The Role of Customs in Regional Economic Integration**

Document: PC0361

### **Background**

127. The Chair introduced the work so far undertaken regarding Customs roles on regional economic integration in accordance with the document SP0361E1a. This agenda item had been discussed at the Policy Commission since 2012. The PTC was tasked by the Policy Commission in December 2013 to oversee the work on Customs roles in regional economic integration. The Policy Commission decided that this work should focus on the eight priorities identified by Members. The eight priorities are: origin certification and verification for preferential tariff treatment; Coordinated Border Management involving other governmental agencies; regional risk management, regional AEO systems; regional Single Window; trade facilitation measures (general); free zones, and Customs dispute settlement.

### **Discussion**

128. During discussions, several Members suggested adding legal framework, free movement of people and audit for future work. Considering the importance and interest of Members, these items could be taken up afterwards, while focusing first on the eight priorities. One Member was interested in regional AEO systems, and another Member stressed the importance of capacity building and infrastructure for the Members' implementation on the priorities. The United States took the floor to share its experiences with Coordinated Border Management, Single Window, and risk management, and

Uruguay introduced its AEO program nationally but also in the context of regional integration.

### **Conclusion**

129. The PTC took note of the work so far undertaken regarding Customs roles on regional economic integration, and approved the future work on the eight priorities.
130. A number of Members asked to address Regional Integration also at the next Capacity Building Committee. The Secretariat undertook to inform the Capacity Building Directorate accordingly.

## **VII. CUSTOMS-BUSINESS PARTNERSHIP**

### **a) Draft Guidance for Customs-Business Partnership**

Document: PC0362E

- b) Break-out session**  
**c) Plenary session**

### **Background**

131. At the 121st/122nd Sessions of the WCO Council held in Brussels from 27 to 29 June 2013, the Council endorsed the proposal that the WCO should develop guidance to assist Members with the development of a process for regular consultation of and robust partnership with trade, with the objective of strengthening Customs-Private Sector engagement. The 201st/202nd Sessions of the PTC held in November 2013 has endorsed the outline of the contents.
132. A virtual sub-group of interested Members from Customs and PSCG was formed on CLiKC platform, which along with Secretariat prepared a draft text (Annex to the doc. PC0362).

### **Discussion**

133. The Chair introduced the agenda item with a remark that this is a very important file, as the WTO ATF also covers closer cooperation with as well as consultation of and partnership with private sector stakeholders, and all relevant facets of consultation, cooperation and partnership need to be taken into consideration when developing a guidance tool.
134. The Secretariat provided the background to the document (Doc. PC0362), especially the discussions held at the Policy Commission in December 2013 and invited the PTC to review and discuss the draft text in two break-out sessions and provide feedback and comments on the content of the document, as well as further guidance on how to develop the Guidance based on the experiences and examples shared by Members and private sector.

135. The PTC discussed in two break-out groups the Draft Guidance for Customs-Business Partnership, having three parts: Part 1 – Guiding Principles, Part 2 – Phased approach on how to develop Customs- Business Consultation mechanisms and Part 3 – Customs- Business consultation/engagement/partnership initiatives/best practices and reported to the plenary.
136. The delegates shared their best practices in developing consultations/partnership with business and emphasized that political will is must for developing and sustaining a robust consultative mechanism.
137. The key suggestions coming of the discussions included multi stakeholders engagements including SMEs, informal trade, sectoral approach wherever needed, engagements at different levels (strategic/policy, tactical and operational), identifying benefits for society, sharing of more experiences, lessons learnt and best practices and more importantly a simple and flexible multi-model approach with a larger industry wide outreach and regular review mechanism to keep it dynamic and relevant. Some changes in the overall structure of the Draft Guidance were also suggested.
138. The delegates felt that the rationale of the Guidance document is purely to provide a reference or guideline to Customs Administrations in how to address the establishment of their C2B model and how they could commence the process. The document does not endeavor to provide a single model. Each administration would come up with their own methodology and process, keeping in view their specific circumstances and peculiarities.

### **Conclusion**

139. The PTC acknowledged and appreciated the initiative of developing Customs – Business Partnership Guidance.
140. The PTC provided a strategic approach to the document by making a number of valuable suggestions/comments ranging from change of mindset and mutual respect to a more structured trust based regular consultative mechanism between Customs and Business.
141. All the inputs received from the PTC will be fed into the drafting group, for suitably incorporating in the text, to further develop it. During the intersession, the virtual sub-group will continue working on the text with to improvise it. The Members can make any further contributions including their experiences and best practices to the drafting group on CLiKC platform and/or the Secretariat.

## **VIII. COORDINATED BORDER MANAGEMENT**

### **o Draft Compendium on Coordinated Border Management**

Document: PC0363

### **Background**

142. The first draft of chapters 1 and 2 of the proposed CBM Compendium was tabled at the November 2013 PTC. In the intersession, the Secretariat commenced work on



Chapter 5 (Other WCO Tools & Instruments) of the Compendium, while Chapter 3 (Planning & Implementing CBM) and 4 (the RKC and CBM) were held in abeyance.

143. This was done due to the need to divert resources to take advance of ongoing developments, namely, the availability of funding from the World Bank to develop an e-learning module on CBM, as well as the anticipated need for materials to support capacity building across all trade-facilitation subjects in view of the anticipated conclusion of the WTO ATF.
144. Chapter 5 was chosen to be developed first because the issues can create synergies in bringing awareness to CBM, as well as relevant WCO tools and instruments through the e-learning module, and because this chapter was least likely to be affected by substantive changes as it was mainly a compilation of existing tools and instruments.

### **Discussion**

145. Secretariat also updated that the fictional narrative proposed during the last PTC had been used in the e-learning and provided a varied and engaging way to present key CBM concepts to learners from member administrations. The PTC expressed satisfaction with the progress of the Compendium, particularly in how Chapters 1 and 2 had communicated a strong conceptual vision that showed great potential. However, it was suggested that the organization for Chapter 5 could be improved by positioning the “value preservation role of CBRAs” as the overall objective while “CBRA regulations” and “information alignment” as strategies to achieve this objective, while WCO tools and instruments were “mechanisms” to bring about the objective. The use of WCO instruments and tools to achieve CBM should also be reiterated in the concluding paragraphs of the chapter to bring about a neater closing to the chapter. It was also suggested that the document should also include web-links to the key WCO tools and instruments, so that readers could easily navigate between the Compendium and other online resources.
146. Members also raised potential difficulties in undertaking CBM domestically, as Customs was not always the lead agency and there were issues were strictly under the purview of other agencies that Customs could not easily influence. The Secretariat agreed with this observation, noting that the Compendium ultimately aimed to serve as a useful reference that contains information and guidance for members to undertake CBM, both as the lead-agency, if called upon to do so, or as a valued participant, as the case may be.

### **Conclusion**

147. The PTC took note of the new chapter drafted for the Coordinated Border Management (CBM) Compendium and ongoing developments on the new e-learning package, noting that work on the CBM Compendium was on track and the first full draft would be available for PTC’s review in the autumn session.
148. It also took note of suggestions from delegates on possible areas of improvements, particularly in ensuring that the strategic concepts mentioned in Chapter 1 and 2 were linked to the new Chapter 5, as well as the possibility of introducing hyperlinks into the document, so that WCO tools and instruments referenced can be easily assessed. The PTC further took note of interventions made by members on national experiences in CBM and asked members to get in touch with Secretariat if they would like to provide more

information for the purpose of featuring their national experiences in the CBM compendium.

## **IX. GLOBALLY NETWORKED CUSTOMS**

### **a) Developments in the proof-of-concept for GNC**

Document: PC0364

#### **Background**

149. The PTC had been designated as the forum for discussion on all technical matters associated with GNC while Members would work bilaterally, multilaterally or regionally on the design of new Utility Blocks (UBs) and/or Proof-of-Concept Projects, and update the PTC when they are ready. Over the last few PTCs, several UBs had been surfaced and Secretariat noted that there was a need to revisit the issue of the GNC Compliance and Certification Process that was raised in the Final Report of the Ad Hoc Working Group on GNC, so that the GNC can be progressed and matured in an orderly manner.

150. Members were asked to review the proposed process outlined in the document and considers if the mechanisms proposed were adequate to enable PTC to provide the guidance necessary to steer the development trajectory of GNC, as well as whether it would like to direct other working bodies that reports to the PTC, namely, the IMSC and DMPT to take on a more defined role in supporting the technical aspects of GNC.

#### **Discussion**

151. Diverse comments were received from members, who were split between sentiments that the proposed measures were consistent with the “light-touch” mandate set by the Policy Commission and Council for the governance of GNC, and more cautious views that the measures proposed appeared “heavy” and resource intensive, particularly since Annex F of the “Final Report of the Ad Hoc Working Group for GNC”, which the current proposals were based on, pre-dated the “light-touch” mandate decided by the Policy Commission and Council.

152. A member raised the need to have a structured and inclusive review process to allow members to provide questions and comments, as well as for administrations that were developing the UB to provide responses and clarifications within a designated time-frame. It was also raised that the 3 certification processes proposed, namely, (i) UB certification, (ii) legal certification and (iii) proof of concept certification, should be kept separate and should not be dependent on each other. It was also noted that based on the experience of members, the UB phase and the proof-of-concept phase were typically parallel, rather than consecutive processes. This allowed both processes to interact and enriched each other.

153. It was also noted that no administration had yet submitted its legal agreements for Secretariat to review for conformance with the GNC legal toolkit and this pointed to a possible need for review.

154. Members noted that it could be useful to involve other WCO working bodies, such as the IMSC and DMPT, or even the SAFE Working Group, so as to receive technical inputs and to enhance harmonization of UBs between different WCO tools and instruments. It was cautioned however, that the extensive workload of other working bodies should be considered and discussions on GNC should not come at the expense of other Groups' extensive agenda items and that the PTC would direct such discussions to take place, where appropriate.

155. A member also suggested that in view of the recent conclusion of the WTO ATF, an "Article 12 Utility Block" looked to be the most useful way to implement the provision on Customs Cooperation. While some members agreed that this was a good idea, the meeting agreed that the development of Utility Blocks should be members' driven.

### **Conclusion**

156. The PTC took note of the views raised by members on the Secretariat's proposals. The Secretariat would undertake consultation with members in the inter-session to gain a better understanding of concerns raised so that mechanisms for ensuring that GNC was progressed in an orderly fashion would be in line with the "light-touch" approach.

#### **b) Presentations of proof-of-concept pilot projects and draft Utility Blocks**

- ***Presentation by EU and Switzerland***

157. The PTC took note of the EU's presentation of the Control Mutual Agreement Utility Block which had been jointly developed by the EU and Switzerland.

158. The Utility Block for Control Mutual Recognition would be made available to the Secretariat and published online in the WCO Members' website after translation. The Secretariat will leverage on the discussion forum functionality of the WCO CLIKC Website to receive inputs and generate discussions on the Utility Block. Details will be made available to PTC delegates subsequently.

## **X. INFORMATION TECHNOLOGY**

#### **a) Executive Summary of the 66th Meeting of the IMSC**

Document: PC\_Executive\_Summary\_IMSC66

#### **b) Report from the 65th Meeting of the IMSC**

Document: PM0340

**c) Compendium Single Window on How to Build a Single Window Environment – Key areas to be covered in the update**

Document: PC0365

**Background**

159. The Secretariat provided a brief overview of the background to the update of the Compendium on 'How to build a Single Window Environment'. The update is largely based on feedback and contribution by Members. Since the last publication of the Compendium in 2011, a significant number of Members have embarked upon projects to implement Single Window systems which have produced a wide range of information about good practices on different aspects of a Single Window facility. Besides, a number of other instruments and guides have been developed by other international organizations, which point to recent developments in the enabling legal environment and technology. Members would prefer to see more examples in the documentation. The Secretariat has collected several examples and was preparing to introduce them in the update of the Compendium. The Secretariat would however seek to receive confirmation from the concerned Members before using them in the update of the Compendium.

**Discussion**

160. The PTC welcomed the effort made by the Secretariat to update the Compendium. Some delegates offered to submit contributions. A Delegate sought clarification on whether the Secretariat had considered the possibility of overlap between the Compendiums dealing with Single Window and Coordinated border management. The Secretariat informed that care was being taken to ensure that there are no overlaps in content between the two documents. The Delegate advised against making large-scale changes since the two volumes of the Compendium already provided considerable material. The Secretariat looked forward to receiving contributions from Members regarding examples of best practice in Single Window and case stories.

**Conclusion**

161. The PTC took note of the executive summary of the 66th meeting of the Information Management Sub-Committee(IMSC). The PTC adopted the draft report of the 65th Meeting of the IMSC.
162. The PTC took note of the proposal to update the WCO Compendium on How to Build a Single Window Environment, wherein the Secretariat highlighted the need for contribution from Members regarding the latest developments concerning Single Window. The PTC took note of suggestions made by Members on national experiences in Single Window and invited Members to get in touch with Secretariat if they would like to provide more information for the purpose of featuring their national experiences in the proposed update to the Compendium.

## **XI. ADVANCE PASSENGER INFORMATION/PASSENGER NAME RECORD**

### **a) Report of the 7th Meeting of the API Committee**

Document PS0039

163. The Chairperson briefly recalled the role of Advance Passenger Information (API) and Passenger Name Record (PNR) data in improving facilitation and the overall security of international air transport. The WCO IATA ICAO Contact Committee is concerned with the electronic means of reporting API and PNR Data. The highlights of the 7th meeting of the Contact Committee were reported in the 201st -202nd sessions of the PTC. The draft report of the 7th meeting of the Contact Committee (document PS0039) is placed before the Committee for its endorsement. There were no comments from the floor.

#### **Conclusion**

164. The PTC endorsed the report of the 7th meeting of the API Contact Committee.

### **b) API Contact Committee - Update of the Terms of Reference**

Document PC0366

#### **Background**

165. The Chairperson invited the Secretariat to introduce Document PC0366 containing a proposal to update the Terms of Reference of the WCO/IATA/ICAO Contact Committee. This proposal arose from guidance received by the Secretariat from the 201st -202nd PTC to examine the possibility of renaming the API Contact Committee to API/PNR Contact Committee. Introducing the proposed changes to the Terms of Reference of the Contact Committee, the Secretariat explained that the Contact Committee has been deliberating on issues related to PNR since the 2010 and has already been mandated by the PTC to work towards the maintenance of the PNRGOV message.

#### **Discussion**

166. The Chairperson in his introductory remarks had stated that the proposed changes to the Terms of Reference were along the lines agreed at an earlier meeting of the PTC, and sought views from the floor on the proposal. Delegates supported the proposed changes. There were no further suggestions from the floor to the Secretariat's proposal. Although the Terms of Reference allow up to four WCO Members to participate in the meeting of the Contact Committee, IATA and ICAO have welcomed the participation of additional Members in the meetings of the Contact Committee. Therefore, Members who are interested in participating in the meeting of the API Contact Committee may contact the Secretariat for receiving further information.

#### **Conclusion**

167. The PTC endorsed the proposed update to the Terms of Reference of the WCO/IATA/ICAO Contact Committee for Advance Passenger Information. As a consequence of this update, this Committee will be known as The WCO/IATA/ICAO Contact Committee for Advance Passenger Information(API) and Passenger Name

Record (PNR). The update includes changes to the mandate and scope of the Committee, covering reporting standards for API and PNR data.

**c) Adoption of the updates to PNRGOV Guidelines & PNRGOV XML Specifications**

Document PC 0367 (along with PC\_367\_AnnexI, PC\_367\_AnnexII and PC\_367\_AnnexIII)

168. The API Contact Committee is responsible for the updating the information exchange standards for the reporting of Passenger Name Record by carriers to governments. The Chairperson invited Secretariat to introduce document PS0367 and its Annexes. The Secretariat recalled that last year, the PTC had endorsed the 'PNRGOV' standards and these standards have been published jointly by the WCO IATA and ICAO. Based on feedback received from participating Members and airlines, these standards have been updated. The update has not resulted in any change to the message structures but has improved the notes for implementers.
169. Likewise, at its 7th meeting, the API Contact Committee endorsed a new draft XML specification for PNRGOV, which was developed by the PNRGOV Working Group (an IATA body). The Secretariat however stated that these drafts were developed in anticipation of a demand for XML based reporting of PNR data. The availability of PNRGOV XML standards would greatly facilitate users seeking XML based solutions, especially for the stakeholders belonging to the general and commercial aviation sectors.. The Secretariat briefly outlined the contents of the two annexes. Delegates welcomed the proposed changes to the PNRGOV EDIFACT standards and the development of the XML specifications for PNRGOV.

**Conclusion**

170. The PTC endorsed the updates to the "PNRGOV Principles Functional & Business Requirements, Version 13.1", and the "EDIFACT Implementation Guide PNR Data Pushed to States or Other Authorities: PNRGOV Message Version 13.1". (PC\_367\_AnnexI, PC\_367\_AnnexII)
171. The PTC also endorsed the "XML Implementation Guide for PNR Data Pushed to States or Other Authorities: PNRGOV Message Version 13.1". (PC\_367\_AnnexIII)

**XII. RULES OF ORIGIN**

- **Draft Guidelines on Certification of Origin developed under the Revenue Package Action Plan Phase II**

Document: PC0368

**Background**

172. The Chairperson recalled that the Council at its session in June 2013 endorsed the Phase II of Revenue Package Action Plan which includes a task to develop a new guidance material on origin certification by June 2014. The virtual drafting group, formed

at the last PTC session in November 2013, prepared a draft of the Guidelines on Certification of Origin which appears as the Annex II to this document.

173. The Secretariat (Origin Sub-Directorate) briefly presented Document PC0368 on the draft Guidelines on Certification of Origin. The guidelines refer to origin certification in both preferential and non-preferential origin areas. One of the key features is that the document does not only provide the guidelines but also comprehensive explanations to support each guideline, so that anyone can read and capture the related practical information on why each guideline is of importance. What the Guidelines aim for is not to make a standard set of procedures but to introduce more fundamental principles to be honored by the stakeholders when putting the requirements into practice.

### Discussion

174. A Member commended the work of the virtual drafting group and stressed the importance of the development of the Guidelines, which would contribute to trade facilitation and appropriate collection of revenue. It had participated in the virtual drafting group and submitted a number of inputs and comments through the drafting process, and was therefore basically satisfied with the current draft. However, since there were some changes from the last version distributed to the virtual drafting group, this Member would like to submit further comments for increased accuracy.

175. Another Member indicated that it had also participated in the virtual group, however, had a proposal to add the following guideline just after the Guidelines 18:

*“Where it is necessary to provide evidence on the non-preferential origin of the goods to the customs authority of the importing country, it should preferably be provided by other means than the presentation of a certificate of origin.”*

176. She emphasized that it was derived as a logical consequence of the last paragraph leading into the guideline, which begins with “With a result of this asymmetry, ...”.

177. One delegate asked for clarification with regard to the definitions provided in Guideline 1. The question was on the difference between “certification of origin”/“self-certification of origin” described in Guideline 1 (a)/(b) and “certificate of origin”/“self-certificate of origin” in Guideline 1 (c) (i)/(ii). The Secretariat explained that certification of origin and self-certification of origin referred to a series of procedures for proving the origin of goods to the Customs authority of the importing country. On the other hand, a certificate of origin and self-certificate of origin both referred to a documentary evidence. The former was a wider concept which covered a sequence of actions but the latter meant a document.

### Conclusion

178. The PTC adopted the Guidelines including the comments made by the delegates. The virtual drafting group would review and confirm the comments after the PTC. As the development of the Guidelines is a part of the Revenue Package Action Plan, the Guidelines as adopted will be forwarded to the Policy Commission and Council in June for endorsement.

### **XIII. PTC MANAGEMENT**

#### **a) PTC Work Programme 2013-2016**

Document: PC0369

#### **Background**

179. On the occasion of its 201st/202nd Sessions of the PTC held in November 2013, the PTC discussed the Work Programme and agreed that the Correspondence Group would continue to work in the intersession to draft the performance indicators and timelines to the topics and activities included. The updated Work Programme would then be submitted to the March 2014 PTC meeting for adoption.

#### **Discussion**

180. The PTC was now invited to examine the PTC Work Programme 2013-2016 updated by the Correspondence Group in the intersession and to suggest further improvements with a view to adopting it.
181. The PTC delegates supported the PTC Work Programme. It was considered that the Work Programme has many actions for implementation and that some priorities needed to be identified. In that context a number of Members flagged the topics which they considered to be of high priority: exchange of information in the context of Customs Cooperation as defined under the ATF, security issues, data quality, compliance and enforcement policy and framework, strategic exports, e-commerce. Regarding some of the topics which were suggested for inclusion in the Work Programme, the Secretariat recommended that discussion papers be put forward to the PTC and for the Joint PTC/EC meeting for issues which were considered as cross-cutting, such as instance export controls.
182. A Member suggested that the PTC should consider how the Customs should look like in the future, having in mind the implications of new innovations and technologies, such as 3D printing, for example. There was general agreement that the PTC should try to articulate the vision of the Customs in the Future. A suggestion was put forward to have a panel discussion on this topic at the next PTC meeting, which was also supported by the Secretariat.
183. A Member suggested a change to the deadline for completion of the Customs-Business Partnership Guidance to June 2014.
184. Regarding the introduction to the Work Programme, an Observer had made suggestions for changes in terms of the priorities of the PTC. It was however explained that this text had been taken from the ToR of the PTC and that if it was felt that this needed to be changed, the PTC Correspondence Group could be mobilized for this discussion.



## Conclusion

185. The PTC agreed to include e-commerce and follow-up regarding RKC Correspondence Group into the Work Programme. For new suggested topics, the Secretariat suggested that discussion paper(s) be submitted to the PTC for consideration.
186. The PTC took note of some of the priorities raised by Members such as data quality and exchange of information. It also took note of the need to review the implementation of the Work Programme on a regular basis.

### b) Making publicly available history documents

Document: PC0370

## Background

187. Making publicly available PTC documents has been examined by this Committee at a number of sessions, and it forms part of the WCO policy of transparency and accountability.
188. Members were now invited to consider the proposal of making publicly available documents from previous meetings of the PTC, i.e. from the 197th/198th and 199th/200th Sessions of the PTC, as described in paragraph 7 of doc. PC0370. The Secretariat made a proposal that this practice be continued in the future to gradually increase the number documents available to the public.

## Discussion

189. The Members firstly supported Secretariat's initiative in relation to this proposal. However, after extensive discussions on the manner in which history documents should be made publicly available, Members raised the question of the benefits of this exercise which would entail a lot of attention from both the Members/Observers and the Secretariat. Concerns and questions raised were around the following points: providing permission from Observers and other external stakeholders for making their presentations publicly available, providing permission of other WCO bodies for making publicly available their reports which had been placed under the PTC agenda, checking documents for sensitive data, etc.
190. It was stressed by a number of delegates that it was necessary to look into the future and make publicly available the documents of the future meetings.

## Conclusion

191. The PTC agreed to refrain from making publicly available history documents, as it was agreed to be resource consuming for both the Members and the Secretariat and the added value was under question.
192. The PTC agreed that the PTC delegates would be asked each time for approval to publish the list of PTC documents from the meeting, after the meeting has taken place. The Secretariat should also seek approval from bodies which are not sub-ordinate to the

PTC regarding publishing their reports which have been placed on the PTC agenda. The same approval procedure should be practiced for publishing presentations by WCO Observers or external partners.

**c) Items on the agenda for the next meeting**

**Background**

193. At the 199th/200th Sessions of the PTC in March 2013, during the discussions on its future, it was concluded that the Members will be given more opportunity to contribute to the shaping of the agenda.

194. The PTC was invited to propose items for the next meeting of the PTC.

**Conclusion**

195. The PTC agreed to have at the next PTC meeting the following topics: a panel and a strategic discussion on the Future of Customs; GNC and the legal framework; and data quality and compliance framework. It was also noted that the work on the Business Lens Checklist for SMEs should be completed at the next PTC, if not before.

**XIV. OTHER BUSINESS**

o **Update on upcoming events**

196. The WCO Secretariat updated the PTC on the upcoming WCO events including: ICAO-WCO Air Cargo Security and Facilitation Conference (Bahrain, 16-17 April), 2nd Global AEO Conference (Madrid, 28-30 April), 2014 WCO IT Conference (Brisbane, 5-7 May), Revenue Conference (30 June-1 July), Knowledge Academy (2-11 July) and PICARD Conference (Mexico, 16-18 September).

197. The PTC took note.

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**Joint Session of the 199th/200th Sessions of the Permanent Technical Committee (PTC)  
and the 32<sup>nd</sup> Session of the Enforcement Committee (EC)**

**on 21 March 2014**

**I OPENING OF THE JOINT SESSION OF THE PTC AND EC**

- a) Opening remarks by Mr. Kunio Mikuriya Secretary General of the WCO**
- b) Keynote address by Dr. Haik Nikogosian, Head of the Convention Secretariat, WHO Framework Convention on Tobacco Control**

198. Mr. P. Francois ABOUZI (Togo), Chairperson of the Permanent Technical Committee (PTC), presided the morning session of the meeting. He formally opened the Joint Session and welcomed all delegates.
199. The WCO Secretary General Mr. Kunio MIKURIYA also welcomed the delegates stressing that last year's Council adopted the new Strategic Plan based on the four pillars: supply chain facilitation and security supported by the Economic Competitiveness Package (ECP), fair and efficient revenue collection supported by the Revenue Package (RP), protection of society supported by the Compliance and Enforcement Package (CEP) and institutional and capacity building supported by the Organizational and Development Package (ODP). The four packages remind us of how the different Customs missions are interlinked.
200. The WTO Ministerial Conference held in Bali in December 2013 adopted the Agreement on Trade Facilitation (ATF) which will have a significant impact on Customs' work and cast light on its important role. He described the adoption of the ATF as a golden opportunity to intensify our activities in contributing to economic and social development of our countries. The Secretary General also stressed the central role the Customs was playing increasingly in the national trade facilitation committees.
201. The WCO established a Working Group on the ATF (ATFWG) and held its first meeting in the previous week which also brought together international organizations responsible for sanitary and phyto-sanitary agencies. Namely, implementation of the ATF is not only a Customs matter and there is a growing need for more cooperation and collaboration with other border agencies. Coordinated Border Management is of interest to both the PTC and the EC and will help improve the efficiency of the global supply chain.
202. The Secretary General recalled the meeting with the WTO Director General Mr. Roberto Azevedo who emphasized the important role of the WCO and its instruments and tools in implementing the ATF. It was crucial to seize this opportunity of having Customs and trade work closely to achieve their common goal.
203. Mr. Mikuriya underlined that apart from facilitation, it was important to keep in mind the other side of the coin, and that he will be emphasizing more in the future the control and regulation function. The June 2013 Council adopted the CEP which provides more guidance for managing risks at the borders including public health and safety, wildlife and environmental crime, trafficking in cultural goods, security threats, and others.

204. All risks need to be addressed by both the PTC and the EC and Customs cooperation on the agenda now is crucial in that respect, meaning more exchange of information. We have many bilateral and multilateral tools and now are in the GNC pilot phase. In the tax area, G8 and G20 have agreed on intensified exchange of tax information. Customs has a mechanism in place for this type of information exchange.
205. The Secretary General concluded by drawing attention to the challenges Customs are facing with the growth of e-commerce, whether they are coming through the post or express couriers. He also emphasized the other topics that were to be discussed by the Joint Session, such as free trade zones, product safety, data quality and customs compliance.
206. The Chairperson then invited Dr. Haik Nikogosian, Head of the Convention Secretariat of the WHO Framework Convention on Tobacco Control to deliver his keynote address.
207. Dr. Nikogosian, drew delegates attention to the severe impacts of illicit trade in tobacco on tobacco control policies and government revenues. He introduced the WHO Framework Convention on Tobacco Control (FCTC) focusing on the Protocol on Illicit trade in Tobacco adopted in November 2012, which aims, above all, to control the supply chain of tobacco products.
208. A global tracking and tracing regime would be the backbone of controlling the supply chain. However, the Protocol contains also other measures to prevent illegal trade, such licensing, due diligence and record-keeping requirements, all legally binding obligations. It also provides for extensive international cooperation, such as the exchange of enforcement information and collaboration in the investigation and prosecution of offences.
209. He recognized that, upon entry into force, this legally binding instrument would have a significant impact on Customs operations and would provide governments with a legal tool to combat illicit tobacco trade more effectively both at the national and international level. He stressed the importance of inter-agency cooperation, particularly between Ministries of Health and Customs in ensuring the successful implementation of the Protocol. Dr. Nikogosian further highlighted the important role the WCO plays being a strategic partner for the implementation of the Protocol and expressed his appreciation for the collaboration provided to date.
210. He indicated that the Protocol required 40 ratifications for its entry into force and therefore encouraged the delegates to promote the accession to the Protocol in their respective countries.
211. Several delegates expressed concerns with regards to the potential practical implications of the track-and-trace provisions included in the Protocol particularly in terms of costs. A delegate inquired on the latent impacts of electronic cigarettes as an emerging risk in this area. Another delegate commented on the co-relation between price differences in tobacco and illicit trade.
212. A delegate welcomed Mr. Mikuriya's focus on exchange of information which he considered to be crucial. The tax administrations were moving towards automated

exchange of information and Customs was falling behind facing many difficulties. He stressed that the Customs should, in order to be more effective in its work in the future, be going towards automatic advance exchange of information based on quality data coming from the source.

213. In responding to the inquiry on the increased presences of electronic cigarettes, Dr. Nikogosian expressed that estimations already indicate the exponential growth of the e-cigarettes market in the coming years and research was still underway to determine of health impacts of this emerging product to address concerns of the public health community. Indicated that no conclusion had been reached with regards to the classification or not of e-cigarettes as a tobacco product and therefore they are not currently covered under the Protocol. With regards to the co-relation between price differences in tobacco and illicit trade, he recognized that it does play a role but is not a key factor.
214. The Secretary General confirmed the importance of exchange of information. The Policy Commission discussed this topic in a break-out session in Dublin in December 2013 and concluded that apart from Customs-to-Customs exchange, we needed to keep in mind the importance of information exchange between Customs and tax administrations. He expressed his expectations that the technical bodies will be providing more input on the practical implications and providing guidance on the way forward.

## **II. ADOPTION OF THE AGENDA OF THE JOINT PTC/EC SESSION**

215. The Committees adopted the Draft Agenda of the Joint Session (Doc. PC0346E1c/ Doc. EC0352E1c) subject to inclusion of the item from the 203<sup>rd</sup>/204<sup>th</sup> PTC agenda: "Situation Regarding Acceptances of WCO Recommendations" (Doc. PC0356).

## **III. CUSTOMS COOPERATION AND GLOBALLY NETWORKED CUSTOMS**

- **Article 12. of the WTO Agreement on Trade Facilitation on Customs Cooperation**

Document PC0371E

216. Article 12 of the WTO Agreement on Trade Facilitation (ATF) on Customs Cooperation sets out the terms and requirements for Member States to share information in order to ensure effective customs control, while respecting the confidentiality of the exchanged information. Significantly, the Article encourages Member States to develop and implement programmes of voluntary compliance that would allow importers to self-correct without inviting penalties. Such programmes would also involve with stronger measures against non-compliant traders.
217. The Article allows flexibility to Member States in terms of establishing the legal basis for information exchange. Member States may enter into or maintain bilateral, plurilateral or regional agreements for sharing or exchanging customs information and data including advance information.

218. The Chair introduced the agenda item mentioning that the WCO instruments and tools, including the Globally Networked Customs (GNC), fully support implementation of Article 12. The Feasibility study carried out by the WCO for a 'Globally Networked Customs (GNC)' recognised that through 'GNC', there could be a systematic approach to exchange information between Members based upon protocols, standards and guidelines.
219. The WCO Secretariat presented the working document along with Annex (PC0371E), analysing various provisions of the Article 12 along with its ambit. It was highlighted that the WCO instruments and tools including GNC which provide wider framework for comprehensive Customs cooperation, can support the successful implementation of the Article. The Joint meeting of the Permanent Technical Committee and Enforcement Committee was invited to take note of the developments concerning the WTO Agreement on Trade Facilitation, and provide further guidance and strategic direction on the issues raised in the document as well as on the existing WCO instruments and tools and their roles.
220. The Committee discussed various ways and means on how WCO instruments and tools including Globally Networked Customs (GNC) and its legal toolbox could support the implementation of the provisions of Article 12 of the WTO ATF. Some delegates felt that in order to have a globally harmonized approach one potential course to initiate the implementation of the Article could be developing a tailor-made Utility Block for exchange of stipulated information under the enforcement track of GNC, by interested and willing Members. A delegate mentioned that there is need to monitor the implementation to avoid any fragmentation.
221. Referring to the keynote speech of the WHO representative, some delegates felt that it might also be important to develop a Utility Block on exchanges under the WHO Framework Convention on Tobacco Control (FCTC).
222. The opportunity of examining all the relevant WCO tools and instruments including GNC tool box to assess the potential need for their updating was also mentioned.
223. The PTC/EC acknowledged the latest developments and the presentation by the Secretariat on the analysis of Article 12 (Customs Cooperation) of the WTO ATF.
224. The PTC/EC underlined that the existing WCO instruments and tools are comprehensive and cover Customs cooperation on a wide range of issues, including commodity smuggling, drug trafficking, IPR and CITES enforcement. Acknowledging the usefulness, as well as remit of Article 12, it was felt that Members may continue adopting a holistic approach towards Customs cooperation by using various tools and instruments of the WCO, while implementing the provisions of Article 12.

#### **IV. PRODUCT SAFETY**

- a) Introduction of the topic by the Deputy Directors of Compliance and Facilitation Directorate**
  - b) Product Safety introductory, presentation by EFTA**
  - c) Latest discussion Product Safety, presentation by EU**
  - d) Product Safety national practice, presentation by the Netherlands**
  - e) Dangerous goods, presentation by ICAO**
225. Product Safety is not a recent concern. Some countries have Product Safety legislation dating back to the 1950s. Unsafe products create huge risks for consumers, especially children, and other areas such as the environment.
226. In the transition from a revenue collecting agency to an agency that offers protection and security to citizens in global trade, Customs administrations have become involved in maintaining Product Safety legislation in cross-border trade. In some countries, Customs play a significant role in protecting the health and safety of consumers. Indeed, its importance is increasing because more and more consumer goods are manufactured elsewhere before being imported.
227. Product Safety is an area where Market Surveillance Authorities and Customs can cooperate and coordinate their actions to protect societies. In addition, the private sector has a important role to play as well.
228. The Deputy Directors of Compliance and Facilitation Directorate highlighted the cross cutting nature of Product Safety and the increasing involvement and future possibility of customs agencies in maintaining Product Safety legislation in cooperation and coordination with relevant other government agencies in cross-border trade.
229. The European Free Trade Association (EFTA) presented introductory issues concerning non-food consumer product safety with a particular emphasis on complementary roles of Customs and Market Surveillance Agencies in the collection and sharing of information and on establishing a culture and awareness within Customs to further promote the consumer protection
230. The EU presented their latest achievements and ongoing/future activities, specially focusing on an EU wide project on import controls in the area of product safety and compliance in 2009 which aimed to bring together Customs and Market Surveillance Authorities (MSAs), as well as EU wide project and Guidelines for import controls in the area of product safety and compliance, which is available since 2011. The Market Surveillance Agency of the Netherlands informed the Joint Session of the complementary roles of Customs and Market Surveillance Agency in the Netherlands based on mutual agreement, the efforts to share personnel, knowledge, use of databases and laboratories, with emphasis on the importance of efficient data sharing and introduction of practical legislation.
231. ICAO gave a presentation about Dangerous Goods in the context of air cargo safety, which raised particular interest by showing visual example of past cases.

232. A delegate from RILO WE stressed the importance of Product Safety and introduced the RILO WE's 'Health and Safety Net', which is a CENComm based inter-agency information platform, with Product Safety as its second pillar, offering cooperation on the issue to other RILOs.
233. The Joint Session of the PTC and EC took note of the introductory remarks provided by the Deputy Directors of Compliance and Facilitation Directorate, who highlighted the cross cutting nature of Product Safety and the increasing involvement and future possibility of customs agencies in maintaining Product Safety legislation in cooperation and coordination with relevant other government agencies in cross-border trade.
234. Delegates also took note of the presentations delivered by EFTA, the EU and the Netherlands on their experience of dealing with Product Safety issues and by ICAO about Dangerous Goods in the context of air cargo. A delegate from RILO WE stressed the importance of Product Safety and introduced the RILO WE's 'Health and Safety Net', which is a CENComm based inter-agency information platform, with Product Safety as its second pillar, offering cooperation on the issue to other RILOs.

#### **V. FREE ZONES: ENSURING TRANSPARENCY AND PROMOTING ECONOMIC DEVELOPMENT**

- a) **Customs perspective - Morocco**
  - b) **Free Zone Operator – Representative of the US National Association of the Free Zones (NAFTZ)**
  - c) **WCO's Perspective**
235. The meeting continued under the chairmanship of Mr. James DINKINS (United States), Chairperson of the Enforcement Committee (EC). He also welcomed the participants and announced that the meeting would continue with a panel discussion of free zones.
236. The panel session on free zones consisted of speakers from the Customs Administration of Morocco, a Member of the Board of the US National Association of Free Trade Zones and the WCO Secretariat. The topic was discussed from the perspective of the Customs Administration, Free Zone operators and the WCO.
237. Mr. Fethallah Hajar from the Moroccan Customs provided the audience with an overview of the free zones development in Morocco and the role of Customs in the free zones. In particular, he gave a detailed account of the Tanger Med free zone from the procedural and enforcement perspectives. He underlined the role of the public-private partnerships as the building block for the logistics competitiveness.
238. The representative of the US National Association of Free Trade Zones, Amie Ahanchian, provided an overview of the US Foreign Trade Zone Programme, particularly, its regulatory framework, checks and controls as well as Free Zones statistics.
239. The representative of the Secretariat delivered a presentation on the WCO perspective on Free Zones that included the discussion of the major threats to both governments and Free Zone operators and WCO instruments aimed at reducing these threats.



240. Opening the discussions, the representative of the United States underlined that the US government was supportive of the Free Zones concept and encouraged other countries to adopt the RKC Annex D on Free Zones in particular, to be able to exercise strategic trade controls.
241. Other delegates raised the issue of treatment of prohibited goods within the free zones to the attention of the audience. Formalities and procedures in this regard were discussed by speakers. The representative of ICC pointed out that trade in counterfeit goods touches upon a wider variety of goods that include fast-moving consumer goods (FMCG) and present a real challenge for health and safety, as well as security. A delegate also raised the issue of market distortion and unfair competition that could result from Free Zone operations and asked for input and guidance from other countries in this regard.
242. In concluding, the Secretariat raised the issue of illegal financial flows as well as illegal trade and underscored the crucial importance of cooperation between the zone operators and regulatory authorities to ensure an adequate supervision and the level of controls are in place.
243. *The Joint Session took note of the presentation and discussions on free zones.*

## **VI. CUSTOMS COMPLIANCE FRAMEWORK INCLUDING VOLUNTARY DISCLOSURE AND DATA QUALITY**

### **a) Customs Compliance Framework including Voluntary Disclosure and Data Quality**

Document: PC0372E

244. At the 201st/202nd Sessions of the PTC in November 2013, the strategic importance of voluntary disclosure in a compliance strategy was discussed and Members agreed to develop a tool that provided general principles and guidelines as well as insight on voluntary disclosure. A delegate remarked that voluntary disclosure had to be seen in the context of a voluntary compliance framework.
245. Article 12 of the WTO Agreement on Trade Facilitation (ATF) stresses the importance of ensuring that traders are aware of their compliance obligations, encouraging voluntary compliance to allow importers to self-correct without penalty in appropriate circumstances. Especially, Article 6 of the WTO Agreement has provision on voluntary disclosure in relation to penalty disciplines.
246. Increasing automation of Customs processes leads to Customs administrations' reliance on good quality data to perform their tasks correctly. Revenue collection, risk management, security controls, admissibility checks, coordinated border management decisions are based on data received from traders. A compliance strategy will also support Customs administrations' efforts to improve data quality.
247. The Joint Session discussed and provided guidance for the first draft document on Customs Compliance Framework (Doc. PC0372E), including Voluntary Disclosure and Data Quality.

248. The Chair mentioned that the 'Voluntary Compliance Framework' (VCF) will be a useful tool for customs administrations to implement the relevant provisions of ATF and also support customs administrations' efforts to improve data quality.

249. Delegates welcomed the development of the document. During the discussions, several Members suggested adding more incentives for voluntary compliant clients and more practices regarding voluntary disclosure to the document. In accordance with this suggestion, the WCO Secretariat encouraged the Members to share experiences and best practices.

250. The Joint Session supported the Customs Compliance Framework and decided to develop the document further.

**b) 2nd Phase of the Project on Smart and Secure Trade Lanes (SSTL), presentation by China, European Commission and the Netherlands**

251. China, The Netherlands and the European Commission presented the 2nd Phase of the Smart and Secure Trade Lanes Pilot Project. The SSTL Pilot Project was developed to test the customs-to-customs pillar of the WCO's SAFE Framework of Standards. The objective of SSTL is to strengthen end-to-end supply chain security based on multi-layered risk management. Controls performed at export are based on joint risk rules, allowing Customs to better target dangerous traffic at the beginning of the supply chain. Thus safe consignments can be identified and trade facilitation benefits can be provided to legitimate trade. SSTL is also highly valuable for the future development of the SAFE Framework and Globally Networked Customs (GNC).

252. The PTC/EC took note of the presentation by China, the Netherlands and the European Commission on the SSTL Pilot project, which implements and tests the SAFE Framework standards as well as the Supply Chain Management Guidelines in view of testing end to end supply chain management. It was agreed that reports of the project could be shared with interested WCO Members.

**VII. HOLDINGS OF PTC/EC JOINT MEETINGS IN THE FUTURE**

o **Possible solutions for holding Joint PTC/EC meetings**

Document: PC0373

253. On the occasion of the 200th Session of the Permanent Technical Committee in March 2013, a panel on the future of the PTC was held. During the discussions a question was raised whether there was a different way of maintaining the opportunity to hold joint sessions of the PTC and EC, without having the meetings take place at the same time. Namely, this poses difficulties in particular to a number of Members whose Brussels-based attachés are expected to cover both meetings. This concern was echoed by a number of other delegates.

254. The Joint PTC/EC Meeting was invited to consider the three possible solutions provided in Doc. PC0373 for holding the Joint PTC/EC meetings in the future and to recommend the way forward, taking account of the disadvantages indicated.

255. The delegates confirmed the value of the Joint Session of the PTC and EC, but recognized the difficulties this was causing. A large number of delegates supported the option recommended by the WCO Secretariat and suggested that the Joint Meeting be held on the last day in order not to interrupt the flow of the two Committees.
256. The Joint Meeting agreed with option 1 as outlined in Doc. PC0373 for holding Joint PTC/EC meetings, which meant that the current practice would continue only every second year. In the other years, the PTC and EC would not be held during the same week in spring. Delegates also agreed to consider holding the Joint Session on the last day of the week, i.e. when both PTC and EC meetings have been concluded.

### **VIII. OTHER BUSINESS**

257. The Committees noted the "Situation Regarding Acceptances of WCO Recommendations" as outlined in Doc. PC0356. Delegates were asked to notify the Secretariat if any update or amendments needed to be made.

### **IX. CLOSING**

258. The Chairperson closed the Joint Session of the 33<sup>rd</sup> EC and the 203<sup>rd</sup>/204<sup>th</sup> PTC.

**End of the Joint Session of the 203<sup>rd</sup> /204<sup>th</sup> Sessions of the PTC and the  
33<sup>rd</sup> Session EC**

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**203<sup>rd</sup>/204<sup>th</sup> SESSION OF THE PERMANENT TECHNICAL COMMITTEE**  
**203<sup>ème</sup>/204<sup>ème</sup> SESSION DU COMITÉ TECHNIQUE PERMANENT**  
**17-21/03/2014**

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WORLD CUSTOMS ORGANIZATION  
ORGANISATION MONDIALE DES DOUANES

# Guidelines on Certification of Origin

(Draft)

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## I. INTRODUCTION

The origin of goods is one of the crucial elements for international trade. Recognizing the various purposes in which the origin of goods plays a vital role, the Customs administrations around the world must implement rules of origin in an effective and efficient manner.

The WCO Guidelines on Certification of Origin (hereinafter referred to as the Guidelines) offer practical explanations. The Guidelines aim to provide useful guidance for the Members to design, develop and achieve robust management of origin-related procedures.

Section I provides general background and definitions to be used throughout the Guidelines. Section II deals with the certification of origin with regard to preferential rules of origin, which is used to determine whether a preferential tariff rate is applicable under respective preferential schemes. Section III covers the certification procedures for non-preferential rules of origin, of which the scope is stipulated in the WTO Agreement on Rules of Origin.

The Guidelines are non-binding and do not intend to challenge any existing agreement or legislation of any Member.

### 1 What is certification of origin?

A set of comprehensive rules of origin is generally comprised of origin criteria to determine the country of origin / originating status of a product and also procedural requirements to support a claim that the product satisfies the applicable origin criteria. Certification of origin constitutes the primary part of such procedural requirements.

On the other hand, currently there are no clear and effective international standards on the definition of a proof of origin and related procedures. The WTO Agreement on Rules of Origin is silent on procedural aspects. Even though the Revised Kyoto Convention provides certain definitions in Chapter 2 of Specific Annex K which refers to “Documentary evidence of origin”, the provisions do not recognize the increase of free trade agreements (FTAs) in the recent decades and the various concepts of procedural requirements included in these agreements. In the case of preferential trade, FTAs or legislations on Generalized System of Preferences (GSP) set out the respective procedural requirements.

Therefore, the following definitions are provided to set the basis of terms to be used throughout these Guidelines.

#### **Guideline:**

##### (DEFINITIONS)

#### 1. For the purpose of these Guidelines:

- a. “**certification of origin**” means a series of procedures to establish the originating status of the goods through the presentation of a proof of origin;
- b. “**self-certification of origin**” means a type of certification of origin which utilises a declaration of origin or a self-issued certificate of origin as a means to declare or affirm the originating status of goods;

- c. “**proof of origin**” means a document or statement (either in paper or electronic format) which serves as a *prima facie* evidence to support that the goods to which it relates satisfy the origin criteria under applicable rules of origin. It includes a certificate of origin, a self-issued certificate of origin, or a declaration of origin;
- i. “**certificate of origin**” means a specific form, whether on paper or electronic, in which the government authority or body empowered to issue it expressly certifies that the goods to which the certificate relates are considered originating according to the applicable rules of origin;
  - ii. “**self-issued certificate of origin**” means a specific form in which the producer, manufacturer, exporter or importer expressly certifies that the goods to which the certificate relates are considered originating according to the applicable rules of origin;
  - iii. “**declaration of origin**” means a statement as to the originating status of goods made by the producer, manufacturer, exporter or importer on the commercial invoice or any other document relating to the goods;
- d. “**indication of origin**” means a simple manifestation of the name of the country of origin or the corresponding code on a Customs declaration or any other document relating to the goods;
- e. “**origin criteria**” means conditions regarding the production of goods which must be fulfilled for the goods to be considered as originating under applicable rules of origin;
- f. “**consignment criteria**” means requirements the goods have to fulfil in order to claim preferential tariff treatment on importation, such as the condition of direct transport from exporting to importing country, or the procedure showing that the goods have not undergone any manipulation affecting its origin in an intermediate country;
- g. “**GSP**” or Generalised System of Preferences means the scheme of autonomous trade preferences accorded by some preference-giving Members to developing countries;
- h. “**FTA**” or free trade agreement means an international trade agreement involving two or more contracting parties which set forth the reciprocal granting of preferential tariff treatment among the contracting parties.

## 2 Who are the key players involved?

### 2.1 Who needs a proof of origin?

First and foremost, the Customs in the importing country may require a proof of origin in order to determine whether or not to apply certain trade measures at the border. If there



are any trade measures applicable for export, then the Customs in the exporting country would need it as well.

Secondly, the importer may need a proof of origin. In relation with the Customs in the importing country, the importer bears the responsibility to provide what the Customs requires for the appropriate processing of imports. Thus, if a proof of origin is required by the Customs authority of the importing country for a claim of preferential tariff treatment or for a non-preferential origin purpose, the importer needs a proof of origin.

Thirdly, the exporter may need a proof of origin to provide it to the importer who will submit it to the Customs authority of the importing country, when requested by that authority. The exporter may also need a proof of origin if the Customs authority in the exporting country requires it.

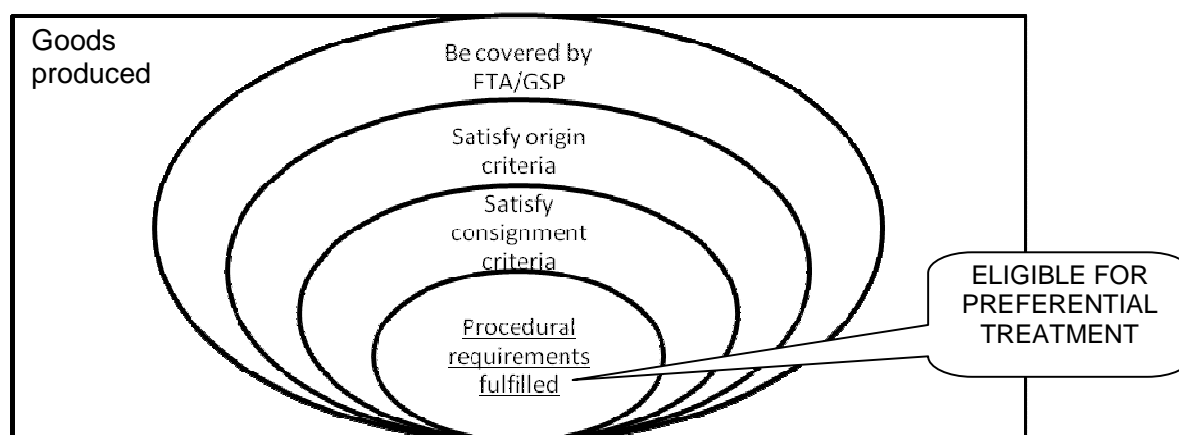
## 2.2 Who issues a proof of origin?

The issuer of a proof of origin varies depending on the type of procedures applicable. As identified in the definitions, a certificate of origin is issued by a competent authority of the exporting country. Self-issued certificates of origin and declarations of origin may be issued by the producer, manufacturer, exporter or importer.

## PREFERENTIAL ORIGIN

### 3 When is a proof of origin needed for preferential purposes?

In order to be eligible for preferential tariff treatment, a product shall not only satisfy the applicable origin criteria and consignment criteria, but also the procedural requirements stipulated under the respective preferential schemes.



In general, a claim for preferential tariff treatment under a certain FTA or GSP is required to be supported by a proof of origin, which must be presented to the Customs authority of the importing country upon request. However, in many FTAs, the requirement to present a proof of origin is exempted under a certain threshold. In addition, some agreements provide exemptions for travellers' luggage and small packages.

#### 4 Issuer of proof of origin for preferential purposes

The issuer of proofs of origin is stipulated in each FTA or GSP legislation. Some FTAs do not expressly state the name of the competent authority in the text of the agreement, even if a certificate of origin issued by a competent authority of the exporting country is used as the only type of proof of origin. In such cases an FTA normally requires the parties to the agreement to notify each other of the details of the competent authority for the purpose of issuing certificate of origin under the particular FTA. Under the GSP provisions, the beneficiary countries are required to designate a competent authority and inform the GSP-granting country.

#### 5 Characteristics of different systems for certification of origin

There are various systems for the issuance of a proof of origin, including the certification of origin by a competent authority of the exporting country and the systems of self-certification of origin by an approved exporter, by a registered exporter, by any exporter, and the importer-based system.

Regardless of the system applicable, advance rulings provided by the Customs authority on origin matters would play an important trade facilitation role that enhances the certainty and predictability of Customs treatment on origin claims for the holder of such an advance ruling. However, the holder of an advance ruling on origin is not exempted from providing the necessary proof of origin. The WCO Technical Guidelines on Binding Origin Information provides further information in this regard.

WCO Members' Website: <http://www.wcoomd.org/en/topics/origin/instrument-and-tools.aspx>

##### 5.1 Certification of origin involving the competent authority of the exporting country

In order to have a certificate of origin issued by a competent authority, the exporter must submit an application for the issuance of a certificate of origin along with the necessary information to substantiate the originating status of the goods. Then, in principle, the competent authority verifies the information to check if the goods actually satisfy the origin criteria of the applicable rules of origin. This may include a visit to the premises of the production.

A certificate of origin issued by a competent authority has been the most traditional and commonly utilized type of proof of origin. The GSP schemes from the early 1970s and many FTAs that are currently in force require this type of procedure.

The advantage of a certificate of origin issued by a competent authority is that the quality of the certificate of origin is deemed to be assured, if the competent authority verified the originating status of the goods before issuing the certificate of origin. As the certificate of origin is issued by a competent authority which is considered as a trusted entity, in principle the content of the proof can be regarded as trustworthy.

On the other hand, this conventional method is disadvantaged from an economic perspective, compared to the self-certification of origin. The issuance of a certificate of

origin may be subject to certain fees, which will increase the cost of doing business. Also, it requires time to apply and to pass by the office of the competent authority in order to have a certificate of origin issued.

Furthermore, the increase in trade volume is worth noting. The increase of world's trade volume in general coupled with an increased number of FTAs in force has led to an increase in the issuance of certificates of origin worldwide. In this context, the capacity of the competent authority to maintain the quality relating to the issuance of the certificate of origin may have become questionable. If there is a lack of capacity observed for the issuance, it can also be considered doubtful that the competent authority is able to appropriately respond to verification requests.

With a view to ensure that a certificate of origin issued by a competent authority of the exporting country maintains its advantages and continues to be considered as a useful and trustworthy type of proof of origin, the following guideline is provided.

**Guideline:**

(SCRUTINY BY THE COMPETENT AUTHORITY IN ISSUING A PREFERENTIAL CERTIFICATE OF ORIGIN)

2. The competent authority in the exporting country shall appropriately examine the originating status of the goods before issuing a preferential certificate of origin. This includes collecting necessary information from the producer, manufacturer or exporter in order to examine whether the applicable origin criteria is satisfied, such as the list of materials with HS codes, calculation of value-added percentage and/or the specific production process of the goods in question. Where appropriate, the competent authority may also conduct a visit to the production sites to confirm the information provided before issuing a certificate of origin.
3. The competent authority in the exporting country shall keep the record of information used for the determination of originating status for a certain period of time in accordance with applicable laws and regulations.

## 5.2 Self-certification of origin

The number of FTAs in force continues to increase. Evolving from the conventional system for the issuance of a proof of origin involving the competent authority of the exporting country, various types of self-certification of origin have been introduced in the FTAs around the world.

In line with the spirit of the Revised Kyoto Convention, facilitation measures should be encouraged while ensuring compliance with the necessary requirements for Customs purpose.

Self-certification should be recognized as a primary concept for facilitating the origin related procedures. In this context, the following guideline is therefore suggested.

**Guideline:**

(FOSTERING THE USE OF SELF-CERTIFICATION OF ORIGIN)

4. Considering the increasing volume of preferential trade and recognizing the need for the facilitation of origin-related procedures, self-certification of origin by a producer, manufacturer, exporter and/or importer shall be utilized to the maximum extent possible while recognizing the specificities of domestic business environment.

#### 5.2.1 Approved exporter system

Under the approved exporter system, an exporter approved by the competent authority will be able to make out a declaration of origin on an invoice or other commercial document. In a vast majority of the FTAs using such system, the principal proof of origin is a certificate of origin issued by the competent authority of the exporting country.

The approved exporter status is provided as an exception or special privilege for an exporter that has gone through an approval process with the competent authority. The exporter that wishes to be granted the approved exporter status must provide sufficient information to the competent authority in order to ascertain that he knows the rules and procedures and is actually in a position to determine the origin of the goods. The information on the exporters granted approved exporter status may be shared among the parties to the FTA.

Due to the fact that it requires prior scrutiny by the competent authority, the approved exporter system can be considered as a less liberal procedure compared to the other systems of self-certification.

#### 5.2.2 Registered exporter system

The registered exporter system goes a step further in facilitation compared to the approved exporter system. In order to become a registered exporter, an exporter would only be required to provide certain prescribed information. Basically the registration process is a mere manifestation of the required information and there is no evaluation of the information at the time of registration. The information on the registered exporter will be shared with the Customs of the importing country who will use the information for risk assessment process.

#### 5.2.3 Fully exporter-based system

Certain FTAs allow a proof of origin to be issued by the exporter/producer. Authorities are not at all involved in the issuance of proofs of origin under such a system, and therefore no authorities in the exporting country have supervision over proofs of origin issued. In this connection, it is generally understood to be coupled with a verification system which allows for a direct enquiry by the Customs authority of the importing country to the exporter/producer who issued the proof of origin.

#### 5.2.4 Importer-based system

The most liberalized procedure for certification of origin is the importer-based system. Under this particular system, importers are allowed to make origin declarations or merely give an indication of the origin based on their own knowledge about the imported goods when claiming for a preferential tariff treatment.

In order to highlight this ultimately liberal procedure, the following guideline is provided.

**Guideline:**

(IMPORTER WITH SUFFICIENT KNOWLEDGE)

5. An indication of origin may be regarded as sufficient by the Customs authority of the importing country for the claim of a preferential tariff treatment, if the importer has sufficient knowledge as to the originating status of the imported goods according to the applicable preferential rules of origin. In such cases, the responsibilities of the importers and the related persons involved in the transaction shall be clearly defined.

#### 6 Requirement to issue proofs of origin

The goods for which a preferential treatment is claimed must fulfil not only the production process but also the procedural requirements provided in the respective preferential rules of origin. The following subparagraphs review the typical characteristics of various requirements to be fulfilled.

##### 6.1 Substantive requirement – fulfilment of origin criteria

Preferential rules of origin are provided in the respective FTAs or in the domestic laws and regulations of a GSP granting country. The goods must satisfy the origin criteria set forth in the applicable preferential rules of origin in order to have a proof of origin issued.

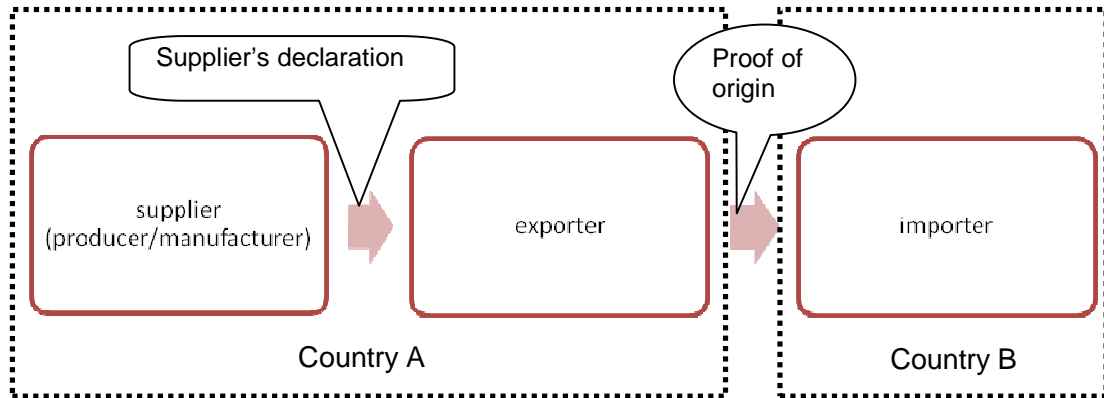
The WCO Origin Database provides related information on the preferential rules of origin around the world.

WCO Online Bookshop: <http://wcoomdpublishings.org/rules-of-origin/origin-db.html>  
WCO Origin Database log-in page: <http://origindb.wcoomdpublishings.org/Login.aspx>

##### 6.2 Formality requirement to issue proofs of origin

###### 6.2.1 Supplier's declaration

The exporter is not always the producer of the exported goods. Often the exported goods or inputs used in the production of the final goods are supplied from a local producer. In such cases, an exporter would need to obtain information from the supplier, which is generally referred to as a supplier's declaration, so that it would be possible to ascertain whether or not the goods satisfy the applicable origin criteria.



Recognizing the need for the origin procedures to be correctly applied and utilized, the following guideline is provided.

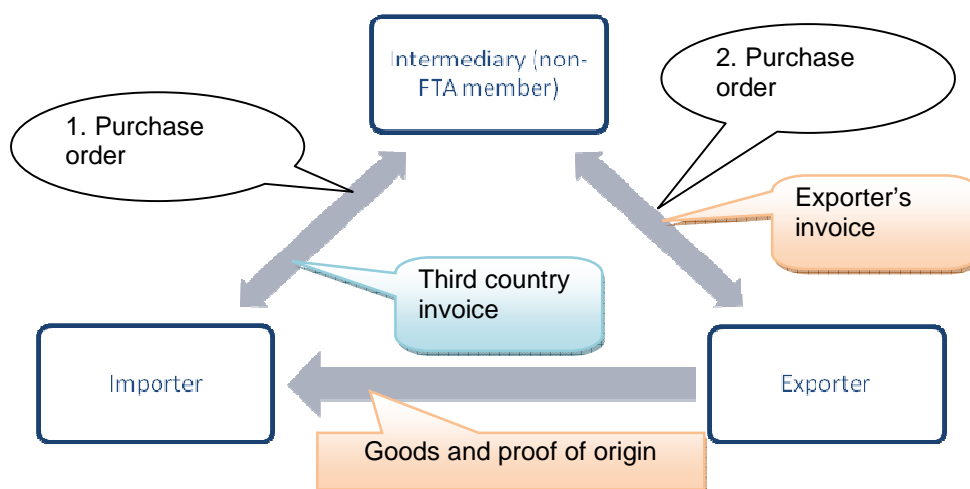
**Guideline:**

**(PROOF OF ORIGIN USED BY NON-PRODUCING EXPORTER)**

6. Where a competent authority of the exporting country issues a certificate of origin, exporters who are not the producer of the goods shall be allowed to apply for the issuance of a certificate of origin to the competent authority, provided that the non-producing exporter is in possession of or has access to the necessary information to substantiate that the origin criteria are satisfied.
7. When a producer or manufacturer is allowed to use self-certification under the applicable preferential scheme, exporters who are not the producer of the goods shall be equally allowed to make self-certification, provided that the non-producing exporter is in possession of or has access to the necessary information to substantiate that the origin criteria are satisfied.

**6.2.2 Third country invoice (intermediary trade)**

It is a common practice in today's international trade to involve an intermediary between the importer and the exporter. This practice must be recognized and the related procedures must be in place. In trade involving an intermediary residing in a third country, the invoice issued in the third country (a third country invoice) would be submitted to the Customs of the importing country to support the import declaration.



In the case where third country invoicing is involved, the following guidelines are provided to ensure the appropriate processing of intermediary trade.

**Guideline:**

**(INTERMEDIARY TRADE)**

8. Recognizing the current practices of trade, a proof of origin issued in the country of origin should be accepted in cases where the commercial invoice is issued in a third country, as long as it is discernible that the goods referred to in the proof of origin and the invoice corresponds to each other and that the goods satisfy the applicable rules of origin.
9. When a declaration of origin is issued by an approved exporter for goods which are traded via an intermediary business based in a third country, the declaration of origin should be made out on a commercial document other than an invoice<sup>1</sup> which the approved exporter issues on his/her own responsibility and which clearly identified the goods it accompanies.

7 What are the obligations and the liability of the players?

Many players involved in the flow of preferential trade could be accountable for the originating status of goods. The following subparagraphs explain the obligations and liability of these players.

7.1 Importer

No matter what system is applicable for the issuance of a proof of origin, the importer bears the general responsibility to be accountable for the imported goods, since the

<sup>1</sup> It does not preclude such commercial documents which may be referred to as a “special purpose invoice” issued by the approved exporter and used for the purpose of identifying the shipment of goods from the exporter to the importer.

preferential origin of goods constitutes an element for determining the amount of Customs duty payable and it is the importer who claims the preferential tariff treatment in the importing country. Therefore, the importer shall faithfully respond to the queries from the Customs authority of the importing country to the maximum extent possible. This may include providing appropriate supporting documents to the Customs authority of the importing country regarding the originating status of the goods in question. However, under the verification process laid down in certain FTAs only the exporter has the obligation to provide appropriate supporting documents regarding the originating status of the goods.

When an importer-based system is applicable, the accountability for the originating status of goods shall be the obligation of the importer.

In this context, the following guideline is provided.

**Guideline:**

(IMPORTER'S RESPONSIBILITY UNDER IMPORTER-BASED SYSTEM)

10. When a proof of origin is allowed to be issued by an importer, the importer shall bear full responsibility to provide appropriate evidence substantiating the originating status of the goods in question, if requested by the Customs authority of the importing country.

## 7.2 Exporter

The responsibility of the exporter may vary depending on the system for the issuance of a proof of origin. When a certificate of origin is issued by a competent authority, the exporter would be liable for the accuracy of the information provided to the competent authority when applying for the issuance of a certificate of origin. If there is a change in the information initially submitted, the exporter has to notify the new facts regarding the production to the competent authority. In a similar manner, when the exporter notices that the initial application for the issuance of certificate of origin contained incorrect information, the exporter is required to faithfully inform the competent authority. With regard to a verification requested subsequently by the Customs authority of the importing country, the first contact point may be the competent authority that issued the certificate of origin. Thus, the exporter's responsibility may be regarded as relatively limited once the certificate of origin had been issued<sup>2</sup>.

The approved exporter system is based on the authorisation by a competent authority. Thus, the responsibility of the exporter is very similar. An approved exporter will be held accountable for the accuracy of the information provided in the application to become an approved exporter. Also there will be an obligation of record-keeping of such information.

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<sup>2</sup> Depending on the particular FTAs, the exporter may still be fully involved in the verification process despite the certificate of origin is issued by a competent authority.



When any exporter is allowed to issue a certificate of origin on his/her own under a FTA, the exporter using such FTA and providing the self-issued certificate of origin or declaration of origin would have to bear the responsibility on the content stated in the document. In case of verification in such a system, it is often allowed for the Customs in the importing country to send a questionnaire directly to the exporter. The exporter shall respond to such verification request sent directly by the Customs authority of the importing country. There are also Agreements where the verification request needs to be sent to the Customs authority or competent authority of the country in which the exporter is located.

### 7.3 Competent authority

The competent authority plays an important role in a system utilizing a certificate of origin issued by a competent authority as well as in an approved exporter system. It is commonly accepted that the issuer of a certificate of origin being a competent authority has the responsibility to establish and disseminate the related information.

The following guidelines are provided in this context.

**Guideline:**

(AVAILABILITY OF INFORMATION)

11. Customs and/or the competent authority shall establish detailed requirements and procedures for the issuance of a preferential proof of origin for respective preferential schemes, where appropriate and if such requirements and procedures do not already exist under the applicable legislative framework. Information on such requirements and procedures shall be made easily accessible to the public, preferably by electronic means, including via internet.
12. When self-certification is only allowed for approved exporters, the relevant authority shall develop and disclose the detailed procedures and requirements for the approval as well as the responsibilities imposed on the approved exporters.
13. If self-certification is open to any producer, manufacturer, exporter and/or importer, the responsibilities of making out the self-certification shall be clearly defined and made available to the public.

The competent authority plays an important role for verification as well. In the majority of the existing trade agreements where a certificate of origin is issued by a competent authority, the competent authority is the contact point to receive the verification request from the importing country. The recommended code of conduct in such origin verification procedures utilizing administrative cooperation is detailed in the WCO Guidelines on Preferential Origin Verification which can be retrieved from the WCO Members' Website.

WCO Members' Website: <http://www.wcoomd.org/en/topics/origin/instrument-and-tools.aspx>

## **NON-PREFERENTIAL ORIGIN**

### 8 When is a proof of origin needed for non-preferential purposes?

The scope of non-preferential origin includes different commercial policy instruments. Article 1(2) of the WTO Agreement on Rules of Origin refers to the following as the possible coverage of non-preferential rules of origin: most-favoured-nation (MFN) treatment, anti-dumping and countervailing duties, safeguard measures, origin marking, quantitative restrictions, tariff quotas, government procurement and trade statistics.

In principle, a non-discriminatory measure shall not require a proof of origin. For example, between the WTO Members the MFN rate is applicable in situations where the origin of good, as defined by the importing Member's non-preferential rules of origin, lies within another WTO Member. Of course this also applies to cases where a WTO Member grants the MFN rate to countries who are not Members of the WTO and vice versa. When consideration is needed to substantiate the origin of goods, it should not be unnecessarily burdensome unless there is a specific need to make a distinction between MFN applicable countries and non-MFN applicable countries.

The other measures mentioned in Article 1(2) of the WTO Agreement on Rules of Origin are applied, in most cases, to specified goods depending on the policy objectives. Thus, possession or presentation of proof of origin is generally only required when the Customs authority of the importing country requires it, for instance, for origin marking purposes. It is therefore recommended to only require a non-preferential proof of origin when deemed necessary, on a case-by-case basis, by the Customs authorities of the importing country and when no other – more trade facilitative – method is available.

In addition, through a survey conducted by the WCO, it has been revealed that some countries require the presentation of a non-preferential proof of origin for the purpose of determining the Customs value. However, the Customs value shall be determined primarily on the basis of the transaction value, which is defined under the WTO Customs Valuation Agreements as the "price actually paid or payable" for merchandise when sold for exportation to the importing country. A non-preferential proof of origin does not provide any assurance on the "price actually paid or payable", thus it should not be required by the Customs authority of an importing country for this particular purpose.

In light of the above, the following guidelines are provided.

#### **Guideline:**

##### **(REQUIREMENT OF PROOF OF ORIGIN FOR NON-PREFERENTIAL PURPOSES)**

14. As a general rule, non-preferential proofs of origin should not be required for the importation of goods on which no specific trade policy measures are applicable.
15. A non-preferential proof of origin may be required only for the measures provided for in Article 1(2) of the WTO Agreement on Rules of Origin.
16. A proof of origin shall not be required solely for the purpose of determining the Customs value of the goods.

17. Where the origin is indicated in the Customs declaration of goods for which trade policy measures referred to in Article 1(2) of the WTO Agreement on Rules of Origin apply, a proof of the origin shall only be required where the origin of the goods needs to be determined with increased certainty.

## 9 Framework for issuance of proof of origin for non-preferential purposes

There are no internationally recognized standards stipulating who shall issue a proof of origin for non-preferential purposes. In light of that fact, the issuer of a non-preferential proof of origin varies from country to country, and in a like manner, a proof of origin recognized by the Customs of the importing country also varies in each country.

## 10 Requirement to issue non-preferential proofs of origin

Non-preferential rules of origin are generally prescribed in domestic laws and regulations. During the transition period until the Harmonization Work Programme (HWP) under the WTO Agreement on Rules of Origin is completed, the rules have to be consistent with the basic principles provided in the WTO Agreement on Rules of Origin for the period. When the HWP is finalized, then WTO Members shall apply the Harmonized Non-preferential Rules of Origin for all non-preferential origin purposes.

In this context, until the HWP is completed, the non-preferential rules of origin in the exporting country and the destination country may vary. This means that there is asymmetry between the exporting and importing sides in the determination of country of origin. Therefore, during the transition period, a proof of origin issued in the exporting country based on the non-preferential rules of origin of the exporting country may not ensure that the goods are treated as originating in the same manner by the Customs authority of the importing country. Generally speaking, a non-preferential proof of origin can merely serve as an indication on the origin of the goods according to the rules applicable in the exporting country.

It may be presumed that the problem arising from such asymmetry was not recognized when non-preferential certificates of origin began to appear in international trade. It can be assumed that at that point in time most goods traded were raw materials wholly obtained in a country or even in the case of manufactured goods the materials used in the production of the final goods were sourced within the country. Such cases do not need much attention regarding the origin of the goods. The simple fact that the businesses were physically situated in the local area and were manufacturing the product in question might have been regarded as sufficient to prove the non-preferential origin. However, in today's globalized world, the situation is completely different.

As a result of this asymmetry, it is not likely that a proof of origin issued in the country of exportation is sufficient in order to establish the non-preferential origin for the purpose of applying trade policy measures by the country of importation. The evidence of the non-preferential origin of the goods should therefore be provided by other means than a certificate of origin. Such other evidence should be preferably based on concrete information provided by the manufacturer on the exact processing operations having taken place on imported materials, as well as the description, tariff classification, value and origin of those materials. In comparison with the classification and value of the finished product,

this should allow the Customs authorities in the importing country to ascertain whether its own non-preferential rules of origin have been fulfilled.

However, it should be noted that a considerable number of WTO Members have not yet notified their non-preferential rules of origin to the WTO Secretariat, and not all WTO Members have established non-preferential rules of origin in their domestic laws and regulations. Under the circumstances, the issuer may not always be able to issue a proof of origin which would satisfy the requirements of the importing country.

Considering the asymmetry during the transition period, the following guideline is provided.

**Guideline:**

(NON-PREFERENTIAL RULES OF ORIGIN IN DESTINATION COUNTRIES)

18. Where it is necessary to provide evidence on the non-preferential origin of the goods to the customs authority of the importing country, it should preferably be provided by other means than the presentation of a certificate of origin.
19. When a non-preferential proof of origin is required by the Customs authority of the importing country, the issuer shall endeavour to apply the non-preferential rules of origin of the destination countries during the transition period until the Harmonization Work Programme under the WTO Agreement on Rules of Origin is completed.

11 Responsibility of the issuing authorities of non-preferential certificates of origin

It is commonly accepted that the issuer of certificates of origin being a competent authority has the responsibility to establish and disseminate the related information.

The following guidelines are provided in this context.

**Guideline:**

(AVAILABILITY OF INFORMATION)

20. Customs and/or the competent authority shall establish and make available to the public the detailed requirements and procedures regarding the issuance of a proof of origin for non-preferential trade, both for import and export purposes.
21. The issuer of non-preferential certificates of origin shall endeavour to provide necessary advice to the applicant.