



PERMANENT TECHNICAL
COMMITTEE

-
225th/226th Sessions

-
28 - 31 October 2019

Brussels, 23 September 2019.

Special Customs Zones/Free Zones

(Items IX.b and IX.c on the Agenda)

I. Introduction

1. The expansion of Special Customs Zones/Free Zones (FZs) has been mainly driven by political decisions closely affiliated with national economic development strategies. In some countries, Customs is the main governmental authority that regulates and governs FZs, while in others FZs are governed by other authorities, with less involvement from Customs.
2. Nevertheless it has been pointed out repeatedly by existing literature and by Members that FZs attract not only legitimate business but also illicit trade or other illicit activities that take advantage of the regulatory exemptions, including relaxed Customs procedures and controls of FZs.
3. To solve such serious situations, the issue of adequate and efficient Customs procedures/controls in FZs appeared on the WCO's agenda several years ago. With more Customs administrations ready for constructive and active dialogue in this challenging area, the WCO has included in the scope of the Economic Competitiveness Package Action Plan discussions on the possible development of a new instrument dealing with FZs by June 2020 in order to assist Members with this task and contribute to the healthy expansion of FZs.
4. The Permanent Technical Committee (PTC), at its 219th/220th sessions, the Enforcement Committee (EC) at its 37th Sessions, and the Policy Commission at its December 2018 Session, held intensive discussions on FZs and agreed to conduct an analysis of the current situation (including the economic benefit of FZs) and possible solutions through an online survey, field studies and workshops as well as the development of a study report and guidance materials.
5. In the course of conducting an analysis of the current situation and possible solutions relating to FZs, a WCO research paper No.47 titled "Extraterritoriality" of Free Zones: The Necessity for Enhanced Customs Involvement' (hereafter 'the research paper') has been

developed by the Secretariat. The research paper is appended as an Annex I to this document and can be also accessed by public at:http://www.wcoomd.org/-/media/wco/public/global/pdf/topics/research/research-paper-series/47_free_zones_customs_involvement_omi_en.pdf?la=en.

6. Similarly, the preliminary draft of the Guidance on Free Zones (hereafter “draft FZ Guidance”) was prepared by the Secretariat by compiling the national experiences shared during workshops and field studies, to follow the analysis and findings of the WCO research paper. The draft FZ Guidance is appended as Annex II to this document.

II. WCO research paper on Free Zones

7. The research paper, based on an analysis of existing literature, WCO workshops, field studies, the CEN data, and an online survey on free zones sent to WCO Members, addresses the following key objectives:
 - outlines the definitions, characteristics and economic benefits of FZs;
 - addresses the risks posed by FZs, which primarily concern illicit activities perpetrated by exploiting FZs, such as illicit trade or money laundering, and describes their global and interregional nature;
 - describes the perceived ‘Extraterritoriality’ of FZs, which is a misinterpretation of the definition under the Revised Kyoto Convention (RKC), and then outlines the resulting Customs’ limited involvement in operation of FZs and the insufficient authority; and
 - explains that, in the meaning of definition of FZs under the RKC, ‘goods’ located in FZs are considered being outside the Customs territory only for the purpose of applying duty/tax and that a FZ itself forms part of the Customs territory.
8. The research paper is expected to be presented to the December 2019 Policy Commission, after discussion at the 225th/226th Sessions of PTC.

III. Guidance on Free Zones

9. Bearing in mind that, depending on the institutional set-up, the scope and degree of Customs controls in FZs and the economic operations carried out there varies considerably from one FZ to another, the role and competence of Customs administrations diverge considerably in a variety of ways. On the other hand, many Members highlighted the need for sharing Members’ best practices and possible guidance derived from such practices, as well as launching fully-fledged Customs procedures/controls in FZs requiring high level of political dialogue among Ministries involved.
10. Thus, in order to support the Customs administrations’ efforts to enhance their Customs procedures/controls in a harmonized manner, but also taking into consideration their different contexts, the expected FZ Guidance could aim at providing national experiences and guidance derived from best practices in the following areas, emanating from the research paper’s findings:
 - Intra-territoriality of FZs;
 - Customs involvement in FZs;
 - Companies’ approval process and applying the concept of “Authorized Economic Operators (AEO)”;
 - Declaration and reporting requirements;

- Customs Audit;
- Use of IT system and data in FZs;
- Detection/seizure of illegal goods in FZs ;
- On-site check/inspection and use of technologies for inspection in FZs ; and
- Cooperation with the private sector and among Customs administrations.

11. The preliminary draft of the FZ Guidance is expected to be presented to the December 2019 Policy Commission, after discussions at this PTC meeting. Members are invited to provide any comments/suggestions and share additional national experiences to improve the draft FZ Guidance. The aim is to have it finalized and approved by the June 2020 Policy Commission/Council, after approval by the 227th/228th Sessions of PTC and by the 40th Session of the EC in early 2020, if appropriate.

12. Members wishing to contribute to the draft FZ Guidance are invited to send their national experiences and/or provide comments to the Secretariat by 7th January 2020, at the latest.

IV. Discussion points

13. Delegates will be invited to discuss the challenges and possible global solutions regarding FZs. The Secretariat suggests the following questions, related to the research paper, as a basis for the discussion:

- How can the Customs community work together to tackle the mis-interpretation of 'extraterritorial free-area', which denies the usual Customs controls resulting in reduced Customs' involvement in FZs?
- What are the main challenges faced by Members in implementing the adequate Customs surveillance and control over the movement and processing in FZs?
- What would be the possible awareness-raising activities directed at policy level, that could be carried out by the Customs community as a whole to ensure effective Customs procedures/control, while contributing to the economic benefits of FZs?
- What are the main factors at national level that result in less Customs involvement in FZs? How can FZ-related authorities, FZ operating bodies, tenant companies and Customs build mutual trust?
- How can FZs keep a good balance between trade facilitation and compliance? How can use of technologies/data resolve the issues?

V. Action required

14. The PTC is invited to:

- examine the analysis and findings outlined in the WCO research paper;
- discuss and provide guidance on the questions set out in paragraph 13 above with a view to enhancing the preliminary draft Guidance on Free Zones; and
- provide comments and share national experiences for inclusion in the draft FZ Guidance.

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