

WCO Counterfeiting and Piracy¹ (CAP) Group

Confirmed by the Council - June 2009

Updated: September 2019

November 2022

Established: 2009

Duration: Until superseded or revoked

Chairperson and Vice-Chairperson: Representative of a WCO Member

Elections: Members of the Group shall elect the Chairperson and the Vice-Chairperson for a one-year term.

1. Mandate

The Group shall constitute a dialogue mechanism on border measures on counterfeit trademark and pirated copyright goods. In its discussions, the Group will respect the national legal regimes of Members, as well as their respective levels of commitment to international agreements, such as TRIPS, to which Members are party.

The Group will discuss and endorse work programs aligned with the WCO Strategic Plan.

No recommendations, or tools or other guidance materials developed by this Group shall be construed as binding Members to any practices within or beyond their national law or international commitments.

2. Membership

Membership will be open to all WCO Members. The Secretary General of the WCO may invite parties with recognized WCO Observer status, partner organizations and representatives of the Private Sector Consultative Group, as well as other industry stakeholders, as he/she sees fit.

3. Purpose and Scope

Within the framework of its mandate, the purpose and scope of the Group is to exchange views, experiences, practices and initiatives of Customs administrations and discuss WCO capacity building activities for Members requesting assistance.

This may include developing relevant non-binding tools and other guidance material (e.g. training handbook, self-assessment tool) to respond to emerging risks and Members' needs to enhance their capacity in the fight against counterfeiting and piracy.

The Group may assist Rights Holders to recognize/appreciate the importance of partnering with Customs/national authorities to have their rights enforced.

4. Key Deliverables

The Group will deliver a Report² to the Permanent Technical Committee after each session.

Matters relating to the enforcement aspects of counterfeit trademark and pirated copyright goods within the context of these Terms of Reference shall be discussed during a closed

¹ "Counterfeiting and Piracy" means counterfeit trademark and pirated copyright goods.

² The Report will include items as outlined in the attached Annex.

session (Members and observer international organizations) and reported for the consideration of the Enforcement Committee.

5. Means of Operation

- The Group will meet under the leadership of its Chairperson, with membership being determined as specified above.
- The Group will hold open and closed sessions as and when required, subject to approval by the Permanent Technical Committee.
- Except when otherwise decided by the Secretary General and/or the Permanent Technical Committee, the Group will meet at least once a year.
- Normally, each session will last two days, depending on the number and complexity of items on the Agenda.
- Intersessional work may be carried out “virtually” via e-mail, telephone, video conferencing and the CLiKC! platform, as appropriate.

6. Extraordinary Means of Operation

- In circumstances where business continuity within the WCO is impacted and meetings cannot be held at WCO Headquarters, the Secretary General may convene a virtual meeting of the Group.
- Where virtual meetings are required, they will be held in English and French unless an alternative arrangement is made by the Chairperson, in consultation with Members registered for the Group.
- The provisions outlined above in Section 5 (“Means of Operation”) will apply equally to virtual meetings insofar as the following are concerned: convening a meeting 30 days in advance, conducting elections, Agenda setting, preparation of meeting papers, and producing a report after the meeting.
- All working documents will be available in English and French, as will all documents resulting from virtual meetings.

7. Resources Required

The general administrative arrangements and provision of support services shall be the responsibility of the Secretariat.

Annex to the Terms of Reference of the WCO Counterfeiting and Piracy Group

The Group will deliver a Report to the Permanent Technical Committee after each session, reflecting discussions on Agenda items and conclusions reached, that will include:

- An assessment of activities undertaken since the last meeting, including:
 - any non-binding tools and other guidance material developed;
 - any capacity building activity that was conducted and the benefits realized;
and
 - any engagement with Rights Holders.
 - A summary of requested capacity building activities and an assessment of priority activities.
 - Proposed development of non-binding tools and other guidance material (e.g. training handbook or self-assessment tool).
 - Proposed engagement with Rights Holders to recognize/appreciate the importance of partnering with Customs/national authorities.
 - An outline of proposed activities for the coming 12 months, including the proposed meeting schedule.
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