



Permanent Technical Committee

PC0733Ea

-
241st/242nd Sessions

-
24 – 26 October 2023

Brussels, 1 September 2023.

E-COMMERCE

(Item VII on the Agenda)

SUMMARY

Purpose of document

The purpose of this document is to set the stage for discussions on the second four-year periodic review of the WCO E-Commerce Package, based on Members' experiences in implementing the Framework of Standards on Cross-Border E-Commerce (E-Commerce FoS) and to report on the progress of work in the area of cross-border e-commerce since the 239th/240th PTC sessions.

Action required of the Permanent Technical Committee

The Permanent Technical Committee is invited to:

- take note of the presentations by the United States (US), the European Union (EU), Norway and Indonesia on various aspects of implementation of the E-Commerce FoS;
- based on the presentations by Members, identify potential areas of the E-Commerce Package that might need to be amended during the second periodic review of the E-Commerce Package;
- take note of the progress made in the area of cross-border e-commerce;
- discuss the draft outline for a new WCO tool on the implications for Customs of the e-commerce fulfilment process; and
- provide guidance on the way forward.

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I. Introduction

1. At its June 2018 Sessions, the Council endorsed the Framework of Standards on Cross-Border E-Commerce (hereafter “E-Commerce FoS”) and the accompanying Council Resolution. Subsequently, in June 2019 and December 2020, the Council endorsed a number of tools that support the implementation of the E-Commerce FoS and form part of the E-Commerce Package. The current version of the E-Commerce Package can be consulted at <https://www.wcoomd.org/en/topics/facilitation/instrument-and-tools/frameworks-of-standards/ecommerce.aspx>.
2. In addition to endorsing the relevant e-commerce tools, in December 2020 the Council endorsed the E-Commerce FoS update/maintenance mechanism and took note of a broad capacity building action plan for e-commerce and the finalization by the Permanent Technical Committee (PTC) of key performance indicators (KPIs) for the possible monitoring and evaluation of the E-Commerce FoS implementation, as well as for capacity building purposes.
3. The 2020 version of the E-Commerce FoS update/maintenance mechanism specified a two-tier approach, which provided for an annual review of at least two documents forming part of the E-Commerce Package and a four-year periodic review of the entire E-Commerce Package. The first periodic review of the E-Commerce FoS and the tools supporting its implementation was completed in June 2022 with the endorsement by the Council of the 2022 edition of the E-Commerce FoS and the Technical Specifications (TS) to the Framework. In June 2023, the Council endorsed the outcome of the most recent annual review under the initial update/maintenance mechanism, thus introducing amendments to two annexes to the TS, namely Annex I, *E-Commerce Business Models*, and Annex VI, *E-Commerce Stakeholders: Roles and Responsibilities*.
4. Moreover, in October 2022, the PTC revised the mechanism for updating and maintaining the E-Commerce Package. It now involves a single tier, namely a four-year periodic review of the entire Package, with the sharing of Members’ experiences in implementing the E-Commerce FoS being an integral part of the periodic review process. The revised mechanism also provides the flexibility for the PTC to propose to the Policy Commission (PC) and Council that they endorse (an) amendment(s) to the E-Commerce Package before the expiry of the four-year periodic review cycle in situations that require immediate action by the WCO and its Members to address emerging issues in the e-commerce environment. The revised update/maintenance mechanism was approved by the Council in June 2023.
5. Furthermore, since 2021 the Secretariat has intensified its efforts to support the effective and harmonized implementation by Members of the E-Commerce FoS through capacity-building and awareness-raising activities. Regular progress reports are being submitted in that regard to the PTC, PC and Council.
6. The present document aims to set the stage for discussions on the second four-year periodic review of the WCO E-Commerce Package, which spans from 1 July 2022 to 30 June 2026. The document also provides a progress update on capacity-building activities, as well as on the development of a draft outline for a new WCO tool on the implications for Customs of the e-commerce fulfilment process.

II. Setting the stage for discussions on the second four-year periodic review of the E-Commerce Package

7. As reported in the introductory section of the present document, the second four-year periodic review of the E-Commerce Package encompasses the period from 1 July 2022 to 30 June 2026. This periodic review is being conducted as per the
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[revised update/maintenance mechanism for the E-Commerce Package](#) that was endorsed by the PTC in October 2022 and approved by the Council in June 2023. In line with the update/maintenance mechanism, the Secretariat has invited the US, EU, Norway and Indonesia to present, under sub-items a) to d), challenges and experiences in implementing the E-Commerce FoS. The discussions are intended to be structured around four of the key principles of the E-Commerce FoS, namely a) Advance Electronic Data and Risk Management; b) Facilitation and Simplification; c) Fair and Efficient Revenue Collection; and d) Partnerships. Based on the presentations by Members, the PTC will be invited to identify potential areas of the E-Commerce Package that might need to be amended during the current periodic review and provide guidance on the way forward.

8. To set the stage for discussions on the 2022-2026 periodic review of the E-Commerce Package, in the following paragraphs the Secretariat has outlined the main elements of the above-mentioned four key principles of the E-Commerce FoS, as well as the tools that provide guidance on the implementation of these principles by Members and stakeholders.

- **Advance Electronic Data and Risk Management**

9. Under the first key principle (Advance Electronic Data and Risk Management), the E-Commerce FoS contains five standards: Standard 1 *Legal Framework for Advance Electronic Data*; Standard 2 *Use of International Standards for Advance Electronic Data*; Standard 3 *Data Quality*; Standard 4 *Risk Management for Facilitation and Control*; and Standard 5 *Use of Non-Intrusive Inspection Technologies and Data Analytics*. The texts of the standards can be consulted on page 10 of the [E-Commerce FoS](#).
10. The TS to the E-Commerce FoS provide guidance for the implementation of the above standards. Thus, for Standard 1, the TS recommend that Customs administrations, in close co-operation with relevant parties involved in the E-Commerce supply chain, should regulate a data set required to conduct an appropriate risk assessment and to ensure the collection of duties and/or taxes. The TS also provide recommendations with regard to data privacy and protection. With regard to Standard 2, the TS provide guidance on the use of the WCO Data Model, as well as on the establishment of a data exchange mechanism, and the use of a centralized platform for the submission, exchange and processing of advance electronic data and the release of goods. With regard to Standard 3, the TS provide guidance on ensuring data quality, such as requiring the submission of data as early in the continuum as possible, and exploring the use of a wide range of sources of data. Under Standard 4 the TS advocate for the assessment of risks in a dynamic manner, and provide guidance with regard to data reconciliation, unknown trade parties, and the compiling of lists of offenders. With regard to Standard 5, the TS provide guidance on the use of Non-Intrusive Inspection (NII) Technologies and Data Analytics Technologies. For further details delegates can refer to pages 2 to 6 of the [Technical Specifications](#).
11. The annexes to the TS that can support the implementation of the above standards are Annex I *E-Commerce Business Models* that provides a description of the main e-commerce business models and of the e-commerce fulfilment process; Annex II *Reference Datasets for Cross-Border E-Commerce* that provides links to the distinct datasets of China, the EU and the US, as well as to the WCO reference data elements for cross-border e-commerce, which can serve as a guide to WCO Members and relevant stakeholders for possible pilots and implementation of the E-Commerce FoS; and Annex III *E-Commerce Flowcharts* that provides examples of process flows in the cross-border e-commerce environment. These three annexes are available on pages 21 to 50 of the [Technical Specifications](#).

12. In addition to the datasets of China, the EU and the US available in Annex II to the TS, these three Members have also submitted case studies for the [Compendium of Case Studies on E-Commerce](#). The [KPI](#) endorsed by the PTC in June 2020 can also assist Members in their efforts to implement the respective standards of the E-Commerce FoS.

- **Facilitation and Simplification**

13. Under the second key principle (Facilitation and Simplification), the E-Commerce FoS contains two standards: Standard 6 *Simplified Clearance Procedures* and Standard 7 *Expanding the Concept of Authorized Economic Operator (AEO) to Cross-Border E-Commerce*. The texts of the standards can be consulted on page 11 of the [E-Commerce FoS](#).
14. One of the recommendations included in the technical specifications for Standard 6 is for Customs administrations to apply the [WCO Immediate Release Guidelines](#). Furthermore, the technical specifications for this Standard provide guidance on the possible [revision of existing formalities and procedures](#) taking into account existing and evolving e-commerce business models and considering the needs of various e-commerce stakeholders, including Micro, Small & Medium-sized Enterprises (MSMEs). As a third element under Standard 6, the TS provide guidance for simplified [return and refund procedures](#). With regard to Standard 7, the TS provide guidance on the application of AEO programmes to e-commerce stakeholders. For further details delegates can refer to pages 6 to 8 of the [Technical Specifications](#).
15. Annex IV to the TS (page 51 of the TS) contains a Return Flow Chart and can support the implementation of Standard 6. Additionally, a case study on China's procedures for return goods is available in the [Compendium of Case Studies on e-Commerce](#). The [KPI](#) can also support Members' efforts to implement the respective standards of the E-Commerce FoS. The [Secretariat Note on expanding the concept of AEO to cross-border e-commerce](#) can also be consulted when considering the implementation of Standard 7.

- **Fair and Efficient Revenue Collection**

16. Under the third key principle (Fair and Efficient Revenue Collection), the E-Commerce FoS contains two standards: Standard 8 *Models of Revenue Collection* and Standard 9 *De Minimis*. The texts of the standards can be consulted on page 12 of the [E-Commerce FoS](#).
17. With regard to Standard 8, the TS identify alternative [collection models](#) (e.g. vendor-based collection, intermediary-based collection or consumer/buyer-based collection) with a view to moving away, as appropriate, from the current transaction-based duty/tax collection approach where duties and taxes are assessed and collected at the border, towards an automated account-based approach that may involve collection of duties and taxes prior to shipping or arrival of the goods. Moreover, the TS provides guidance on the need for a [legislative framework for revenue collection approaches, valuation, and on cooperation with tax authorities](#). With regard to Standard 9, the TS provide guidance on the [application of the de minimis](#), and on the various considerations Members need to take into account when [reviewing/adjusting de minimis thresholds](#). Details are available on pages 9 to 11 of the [Technical Specifications](#).
18. With a view to providing a better understanding of the existing options, Annex V (pages 52 to 55) of the TS provides a description of the various revenue collection models based on the Organisation for Economic Cooperation and Development (OECD) International VAT/GST Guidelines.

19. Section II of the 4th edition of the [Compendium of Case Studies on E-Commerce](#) contains case studies by 13 Members and the Eurasian Economic Union, as well as a reference table on revenue collection approaches. The [KPI](#) are another reference document when it comes to implementation of the respective standards, as well as the [Secretariat Note on effective and efficient revenue collection in cross-border e-commerce](#), which was made available to Members as an information document.

- **Partnerships**

20. Under the key principle of Partnerships, the E-Commerce FoS features two standards: Standard 12 *Public-Private Partnerships* and Standard 13 *International Cooperation*. They are outlined on page 13 of the [E-Commerce FoS](#).
21. The technical specifications for Standard 12 provide guidance on cooperation partnerships and the opportunities offered by reinforced partnerships with e-commerce stakeholders in terms of the electronic exchange of data. The technical specifications for Standard 13 provide guidance with regard to international agreements and cooperation arrangements and enhanced collaboration between Customs administrations for assistance and joint investigations. The [Compendium of Case Studies on E-Commerce](#) and the [KPI](#) can support the implementation of these standards as well.
22. The information to be shared during the 241st/242nd PTC Sessions by the US, EU, Norway and Indonesia might not necessarily fall strictly under one of the four key principles. In this regard, delegates are invited to consider the information provided by the presenters in a holistic manner, and, based on the presentations, identify potential areas of the E-Commerce Package that might need to be amended during the current periodic review. In addition to the presentations by Members that will be an integral part of the 2022-2026 periodic review of the E-Commerce Package, in May 2024 the Secretariat will send a letter inviting Members and stakeholders to submit specific proposals for the periodic review of the E-Commerce Package.

III. Intersessional progress

a. Capacity-building and awareness-raising activities to support the E-Commerce FoS implementation

23. Through document PC0719, the 239th/240th PTC Sessions were informed of the progress of delivery of capacity-building activities in the area of cross-border e-commerce as of 6 March 2023. Since that date, with the support of WCO accredited experts, the Secretariat has been working on the following sub-regional and national capacity-building workshops.

Workshop	Dates	Donor	Deployment of accredited experts
Sub-regional workshop for ASEAN Members	8-11 May 2023 (delivered)	The Customs Cooperation Fund (CCF) of Japan	1 expert from the Asia-Pacific (AP) region
National workshop for the State Customs Committee of the Republic of Azerbaijan	12-15 June 2023 (delivered)	CCF Germany	1 expert from the Europe (EUR) region 1 expert from the Americas and the Caribbean (AMS) region

Sub-regional workshop for Afghanistan, Bangladesh, Bhutan, India, Iran, Maldives, Nepal, Pakistan and Sri Lanka	23-26 October 2023 (ongoing preparations)	CCF China	1 expert from the EUR region 1 expert from the AP region
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24. In addition to the above workshops, the WCO Corporate Plan for financial year 2023/2024 contains 22 other requests for capacity-building support on e-commerce – one for a regional workshop, 20 for national workshops, and one for a study visit under the Global Trade Facilitation Programme of the WCO and the Swiss State Secretariat for Economic Affairs (SECO). Funding from various donors has been secured for seven out of the 22 requests. Thus, the Secretariat has started the planning for the delivery of one regional and five national workshops, as well as the above-mentioned study visit. The distribution of planned workshops per region is as follows: one regional and one national workshop for the East and Southern Africa (ESA) region, two national workshops for the West and Central Africa (WCA) region, one national workshop for the North of Africa, Near and Middle East (MENA) region, and one national workshop for the AP region.

25. In terms of awareness raising activities, on 23 October 2023, the WCO will hold a second symposium on E-Commerce and Customs Valuation to serve as a follow-up event to the symposium held on 15 February 2023.

b. Development of a new WCO tool on the implications for Customs of the e-commerce fulfilment process

26. At its 239th/240th Sessions in April 2023, the PTC heard a Secretariat report on the outcomes of the symposium on E-Commerce and Customs Valuation held on 15 February 2023 with the objective of discussing various challenges in determining the Customs value of e-commerce consignments. The Secretariat underlined the importance of a cross-directorate approach in view of developing guidelines in this area. Based on the discussions held at the symposium and the April 2023 PTC, the Secretariat prepared a draft outline for a new WCO tool on the implications for Customs of the e-commerce fulfilment process, which is outlined in the Annex to the present document. Under sub-item e), the PTC will be invited to discuss the draft outline and provide guidance, as appropriate.

IV. Action required

27. The PTC is invited to :

- take note of the presentations by the US, EU, Norway and Indonesia on various aspects of implementation of the E-Commerce FoS;
- based on the presentations by Members, identify potential areas of the E-Commerce Package that might need to be amended during the second periodic review of the E-Commerce Package;
- take note of the progress made in the area of cross-border e-commerce;
- discuss the draft outline for a new WCO tool on the implications for Customs of the e-commerce fulfilment process as outlined in the Annex hereto; and

- provide guidance on the way forward.

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DRAFT OUTLINE
Guidelines
E-Commerce Fulfilment: Implications for Customs

Draft outline of the tool:

1. Foreword by the Secretary General of the WCO
2. Introduction (including background, objective, scope and structure of the Guidelines; may include acronyms)
3. International legal framework and tools (providing descriptions of the WCO E-Commerce Framework of Standards and associated Package, the WTO Customs Valuation Agreement, relevant advisory opinions, commentaries, any other)
4. Description of the e-commerce fulfilment process (including the different types of fulfilment models and fulfilment centres; roles and responsibilities of the stakeholders involved)
5. Implications for Customs stemming from e-commerce fulfilment – case studies and guidelines:
 - Case study 1 Cross-border movement of stocks between manufacturing/warehousing facilities without a sale (description of the challenges for Customs valuation; specific guidelines on Customs valuation, cooperation with the stakeholders involved, record-keeping requirements for the stakeholders involved, data sharing, data quality, risk-based approach, post-clearance audits, etc.)
 - Case study 2 Transactions under a drop-shipping fulfilment model (description of the challenges – two transactions with different value – which is the value for Customs valuation purposes; specific guidelines on Customs valuation, cooperation with the stakeholders involved, data sharing, data quality, risk-based approach, post-clearance audits, etc.)
 - Case study 3 Transactions based on subscription (challenges in determining the Customs value in cases where goods are delivered under a subscription, for example annual subscription; specific guidelines on Customs valuation, cooperation with the stakeholders involved, data sharing, data quality, risk-based approach, post-clearance audits, etc.)
 - Case study 4 Customizing goods during the fulfilment process (challenges in determining the Customs value in business models involving white labelling, customizing of goods during the fulfilment process, etc.; specific guidelines on Customs valuation, cooperation with the stakeholders involved, data sharing, data quality, etc.)
 - Case study 5 Transactions involving return goods (challenges in determining the Customs value of returned goods (including goods returned for repairs under a warranty arrangement); specific guidelines on Customs valuation, cooperation with the stakeholders involved, data sharing, data quality, risk-based approach, post-clearance audits, etc.)
 - Case study 6 Transactions involving goods under cancelled orders (case where goods enter a country under the de minimis threshold, but then orders are cancelled and the goods are re-sold domestically in bulk which qualifies for the collection of duties and taxes; specific guidelines on Customs valuation, cooperation with the stakeholders involved, data sharing, data quality, risk-based approach, post-clearance audits, etc.)

- Case study 7 Transactions under DDP terms of sale (explanation of the DDP terms of sale and the challenges in determining the elements of the Customs value, such as insurance, freight and duty/tax, including challenges associated to exchange rates, etc.; specific guidelines on Customs valuation, cooperation with the stakeholders involved, data sharing, data quality, risk-based approach, post-clearance audits, etc.)
 - Guidance on how to ensure that e-commerce stakeholders comply with prohibitions and restrictions in the importing country.
 - Guidance on how to define a consignment (propose a definition and provide guidance on how to identify splitting of consignments (through data analytics, PCA, etc.).
6. Reference materials (list with links to access the tools and guidance materials)
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