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WCO

CROSS-BORDER E-COMMERCE FRAMEWORK OF STANDARDS



World Customs Organization

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Cross-Border E-Commerce Framework of Standards

Foreword by Secretary General World Customs Organization*

The growing trade in electronic commerce (E-Commerce) has generated enormous opportunities for the global economy, providing new growth engines, developing new trade modes, driving new consumption trends and creating new jobs. This unprecedented growth has revolutionized the way businesses and consumers market, sell, and purchase goods, providing wider choices, advance shipping, payment and delivery options. It has also opened up global economic opportunities to micro, small and medium enterprises (MSMEs) in terms of wider access to overseas markets by lowering entry barriers and reduced costs.

At the same time, E-Commerce, in particular Business-to-Consumer (B2C) and Consumer-to-Consumer (C2C) transactions, is presenting a number of new challenges to governments and businesses alike. This fast evolving trading environment require comprehensive and well-considered solutions from all stakeholders, including Customs authorities, to manage the unprecedented growth in volumes, to overcome the lack of global standards and guidelines, and to address associated border risks.

In this context, the World Customs Organization (WCO) has been working through a multi-stakeholder Working Group on E-Commerce (WGEC) comprising representatives from governments, the private sector, international organizations, E-Commerce operators/intermediaries, and academia, to develop collaborative solutions supporting needs and expectations of all stakeholders in the E-Commerce supply chain.

Working in the true spirit of collaboration, the WGEC has explored in detail, the main drivers of E-Commerce, examined existing business models, considered current and likely future trends, set out key principles supporting facilitation and controls, collated best practices, and developed scalable solutions, based on extensive research and consultation. The Working Group has also developed a set of global standards, associated guidelines and recommendations to facilitate cross-border E-Commerce in a way that meets the needs of industry, consumers and regulatory agencies alike.

The key to the effective and efficient management of cross-border E-Commerce is the use of timely and accurate information, ideally from its source, to allow the early risk assessment and clearance of legitimate transactions in an automated environment with minimum need for physical interventions. The growing volumes and expectations by consumers for rapid clearance and delivery also means that new models of revenue collection and border interventions are needed from Customs and other government agencies.

The international nature of cross-border E-Commerce requires a holistic and harmonized approach. It is imperative that industry and governments continue to work collaboratively to develop pragmatic, fair and innovative solutions that contribute to the global economy while ensuring the safety and security of people and the economy. A cornerstone of this approach is the development of a Framework of Standards that articulates a set of fundamental standards and guidelines along the key principles identified and adopted in the WCO Luxor Resolution on cross-border e-commerce. These Standards and Guidelines need to be supported by an implementation strategy and a robust capacity building mechanism to support the management of cross-border E-Commerce, irrespective of the value of the shipments involved. The Framework draws on the collective experience and knowledge of experts from Customs, other government agencies, industry, academia, and civil society and is keeping with the mandate of the World Customs Organization to contribute to the standardization and harmonization of border regulatory processes.

It gives me great pleasure, to present the WCO Cross-Border E-Commerce Framework of Standards to the international community.

I encourage all WCO Members and stakeholders to swiftly implement the standards contained in the Framework in a coordinated and harmonized manner. This will build the necessary momentum for further improving border management and enhancing trade facilitation.

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World Customs Organization

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I. Introduction

The growing trade in electronic commerce (E-Commerce) has generated enormous opportunities for the global economy, providing new growth engines, developing new trade modes, driving new consumption trends and creating new jobs. This unprecedented growth has revolutionized the way businesses and consumers market, sell, and purchase goods, providing wider choices, advance shipping, payment and delivery options. It has also opened up global economic opportunities to micro, small and medium enterprises (MSMEs) in terms of wider access to overseas markets by lowering entry barriers and reduced costs.

At the same time, E-Commerce, in particular Business-to-Consumer (B2C) and Consumer-to-Consumer (C2C) transactions, is presenting a number of new challenges to governments and businesses alike. This fast evolving trading environment requires comprehensive and well-considered solutions from all stakeholders, including Customs authorities, to manage growing volumes, to overcome the lack of global standards and guidelines, and to address associated risks.

The new and rapid expansion of cross-border E-commerce is impacting all countries and jurisdictions, so its management needs a globally innovative, inclusive, strategic and collaborative approach. It is imperative that governments and industry ensure that the potential benefits are realized by working in partnership to ensure the facilitation of legitimate E-Commerce trade, fair and efficient revenue collection and community protection.

The lack of global standards in cross-border E-Commerce for its effective management has an impact on trade facilitation, safety and security, and compliance. Therefore, global standards appear to be essential in better leveraging this new channel of trade as a new engine of global economic growth.

Customs and other border agencies play a crucial role in the flow of E-Commerce shipments/goods and as such, there is a need for a World Customs Organization (WCO) endorsed strategy to secure the legitimate movement of global E-Commerce trade with minimum intervention.

To this end, this Framework of Standards on cross-border E-Commerce is developed with the expectation that WCO Members will adopt the practices that are based on mutual trust, communication, collaboration and an understanding of the benefits for all stakeholders, bearing in mind that whilst accommodating this new trade, current business processes should not be overlooked. Facilitation should be provided for cross-border E-Commerce without compromising a level playing field with traditional trade.

The Framework of Standards will provide an overarching guidance for governments, Customs, industry and other stakeholders alike in meeting collective and individual goals.

1. Characteristics of Cross-Border E-Commerce

There are different approaches and perspectives to E-Commerce. However, the definitions used by some international organizations and countries include elements such as the use of information and communication technologies and the Internet as a means of communication, initiation of transactions, movement across borders from one economy to another, and electronic payment.

For the purpose of this Framework of Standards, cross-border E-Commerce is characterized as follows :

- Online ordering, sale, communication and, if applicable, payment,
- Cross-border transactions/shipments,
- Physical (tangible) goods, and
- Destined to consumer/buyer (commercial and non-commercial).

This Framework sets standards mainly for B2C and C2C transactions. However, Members are encouraged to apply the same principles and standards to Business-to-Business (B2B) transactions.

2. Current and emerging landscape

The digitalization of the international supply chain and cross-border E-Commerce is driving economic growth and contributing to economic prosperity on a global scale. The exponential growth in volumes of smaller consignments and their value has spurred the emergence of various business and trade models to capitalize on the economic potential presented by E-Commerce. The growing digital economy has revolutionized the retail industry resulting in a major shift in buying patterns, increasing demands from industry and consumers for rapid delivery of consignments while at the same time, addressing vulnerabilities in the E-Commerce supply chain.

Cross-border E-commerce serves as an engine of innovation and brings enormous opportunities for economic and social development by fostering innovation, introducing new trade models, creating job opportunities and leading new consumer trends.

The traditional and digital worlds are also becoming closely integrated, with omni-channel solutions and business models mixing offline, online and even virtual experiences with the advent of Virtual or Augmented Reality (VR)/ (AR).

Growing volumes of cross-border B2C and C2C E-Commerce shipments/parcels are presenting a number of challenges to Customs, other government agencies and private sector stakeholders in terms of ensuring rapid release and clearance while managing safety and security risks, efficient revenue collection and statistical analysis. Additionally, traditional challenges such as illicit trade, illicit financial flows, intellectual property rights infringement, counterfeit, piracy, and commercial fraud continue to exist.

The WCO is uniquely positioned to coordinate the global effort to facilitate legitimate cross-border E-Commerce. The organization has the membership and thus the participation of Customs and other government agencies representing over 99% of global trade. Customs administrations have important powers that exist nowhere else in government - the authority to inspect cargo and goods shipped into, through and out of a country. Customs also has the authority to expedite entry, refuse entry or exit, and allow re-export and refund of duties/taxes. Customs administrations require information about goods being imported, and often require information about goods being exported. They can, with appropriate legislation, require that information to be provided in advance and electronically by the various E-Commerce stakeholders, maintaining a level-playing field.

Given the unique authorities and oversight, Customs can and should play a central role in the cross-border management of E-Commerce, leveraging existing conventions, instruments and tools. A holistic and standardized approach is required to optimize the E-Commerce supply chain while ensuring appropriate risk identification and management.

At its meeting in Luxor in December 2017, the WCO Policy Commission endorsed a Resolution on cross-border E-Commerce (the Luxor Resolution), which outlined a number of key principles for the global management of cross-border E-Commerce. Based on these principles, the Framework endeavours to provide practical approaches to the implementation with working examples and good practices, in close cooperation with all relevant stakeholders.

II. Objectives, principles and legislation

The Framework of Standards is intended to provide global baseline standards to assist governments in developing E-Commerce strategic and operational frameworks supplemented by action plans and timelines. It will be equally useful for Members that are seeking to enhance existing frameworks in order to effectively meet the requirements of new and evolving business models.

The Framework provides the standards, technical specifications, and guidelines for the effective management of cross-border E-Commerce from both facilitation and control perspectives. Overall, the Framework:

- Establishes global standards to promote certainty, predictability, transparency, safety and security, and efficiency in the E-Commerce supply chain.
- Promotes a harmonised approach to risk assessment, clearance/release, revenue collection, and border cooperation in relation to cross-border E-Commerce.
- Establishes a standardized framework for advance electronic data exchange between E-Commerce stakeholders and Customs and other government agencies with the aim to facilitate legitimate shipments, providing a more level-playing field for various stakeholders.
- Strengthens co-operation between Customs administrations, other Government agencies and other stakeholders involved in cross-border E-Commerce.
- Provides an implementation strategy and supports capacity building mechanisms.

1. Eight Principles of the Cross-Border E-Commerce Framework

The Luxor Resolution outlines the eight guiding principles for cross-border E-Commerce:

- Advance Electronic Data and Risk Management,
- Facilitation and Simplification of Procedures,
- Safety and Security,
- Revenue Collection,
- Measurement and Analysis,
- Partnerships,
- Public Awareness, Outreach and Capacity Building, and
- Legislative Frameworks.

2. Standards of the Cross-Border E-Commerce Framework

The Framework sets out standards, technical specifications and guidelines that should be used by governments for harmonized implementation, bearing in mind the various business models and national specificities.

This Framework provides global standards to support cross-border E-Commerce that will contribute to national and global economic development, while at the same time ensuring appropriate controls to protect economies, societies and environments that include natural and production areas in both terrestrial and aquatic environments. It provides guidance on how border agencies should deal with high-risk consignments while expediting the clearance and release of low-risk goods, thus improving efficiency and predictability of the E-Commerce supply chain for traders and consumers and ensuring optimal utilisation of resources.

3. Legal and Regulatory Frameworks

The exponential growth in cross-border E-Commerce has, in some cases, outpaced the development and implementation of relevant laws to effectively regulate this trade. Some of the existing national/regional legal and regulatory provisions might not be in line with new business models in the context of exponentially growing cross-border E-Commerce.

The lack of systematic/harmonized legislation has highlighted significant vulnerabilities in the cross-border E-Commerce supply chain and it is imperative that governments work quickly to address gaps identified through robust diagnostics.

The legal framework should be founded on the principle of harmonization of international standards, meeting the new and emerging requirements, as well as balancing of the diverse interest of all stakeholders involved in cross-border E-Commerce.

Legal and regulatory frameworks should address, among others, how to enhance facilitation, safety and security, and control through the provision of advance data across various business models; how to define the legal status and respective roles and responsibilities of the economic stakeholders involved in cross-border E-Commerce; how to observe privacy and anti-trust laws and protect the personal information of consumers; how to take care of the interests of e-vendors and e-platforms, intermediaries and customers; and how to facilitate safe and secure cross-border E-Commerce in a fair and non-discriminatory manner.

Governments should enable harmonized legislative frameworks on Customs and other border regulatory procedures for cross border E-commerce, by leveraging, among others, existing WCO instruments/tools, all relevant WTO agreements, in particular the Trade Facilitation Agreement (TFA) and other international standards.

III. Implementation Strategy, Monitoring, Benefits, and Capacity Building

1. Implementation

It is understandable to expect that every Customs administration will not be able to implement the Framework immediately. Therefore, the implementation of this instrument will require a phased approach in accordance with each administration's priority, capacity, human and financial resources and internal procedures, and should be supported by capacity building.

Customs administrations in close coordination with other government agencies and other stakeholders should implement this Framework in an appropriate and flexible manner.

To further support Customs administrations with the implementation of the Framework, the WCO will be developing a high level implementation strategy based on some Members' experiences and case studies. The implementation strategy would provide a template for Members with key performance indicators and broad timelines with regard to the implementation of the Standards contained in this Framework.

2. Monitoring

The implementation strategy should include provisions for review and tracking of the progress on a continual basis, including by developing key performance indicators to measure the effectiveness of the implementation process. Customs administrations should periodically notify the WCO about the measures undertaken and progress made towards the implementation of the Framework.

The relevant WCO Bodies should be responsible for managing and updating the WCO Framework of Standards and monitor its implementation.

3. Capacity Building

Effective capacity building is an important element to ensure widespread adoption and implementation of the Framework of Standards. In order to ensure expeditious and harmonized implementation of the Standards, strategies are required to enhance the capacity building provided to Members.

Customs administrations should cooperate together and engage with the WCO and other international organizations to build and enhance their capacities related to effective and efficient risk management and Customs procedures on cross-border E-Commerce, leveraging the suite of relevant WCO tools and instruments.

WCO Members that notify their intention to implement the Framework should, based on their respective needs, receive assistance from the WCO in collaboration with other development partners.

IV. Managing Cross-Border E-Commerce: Key Principles and Standards

I. Advance Electronic Data and Risk Management

1. Introduction

This principle is cross-cutting and underpins trade facilitation, security and safety, revenue collection and measurement and analysis.

The E-Commerce chain is both data-driven and data-rich. The confluence of a data-rich information space or value chain on the Internet and smarter, more powerful computing capabilities has made it easier to access, aggregate, analyse and use data throughout the E-Commerce environment.

Advance electronic data should be exchanged between the relevant parties in the E-Commerce supply chain and Customs in a timely manner for effective risk management, which is critical in dealing with this rapidly growing new mode of trade.

The establishment and enhancement of an electronic interface and the exchange of information with existing and new E-Commerce stakeholders would be highly beneficial (including pre-arrival for general risk assessment and Customs clearance and pre-loading for security risk assessment) based on common messaging standards and a harmonized and standardized dataset.

Through the exchange of advance electronic data leading to efficient risk management, the efficiency of the supply chain can be improved while ensuring compliance with regulatory requirements, including revenue collection.

2. Standards

2.1. Standard 1: Legal Framework for Advance Electronic Data

A legal and regulatory framework should be established for requiring advance electronic exchange of data between relevant parties involved in the E-Commerce supply chain and Customs administrations and relevant government agencies to enhance facilitation and control measures, taking into account applicable laws, inter alia, those related to competition (anti-trust), and data security, privacy, protection, ownership.

2.2. Standard 2: Use of International Standards for Advance Electronic Data

Relevant WCO and other international standards and guidance should be implemented in accordance with national policy, in an effective and harmonized manner to facilitate the exchange of advance electronic data.

2.3. Standard 3: Risk Management for facilitation and control

Customs administrations should develop and apply dynamic risk management techniques that are specific to the E-Commerce context to identify shipments that present a risk.

2.4. Standard 4: Use of Non-Intrusive inspection technologies and Data Analytics

Customs administrations should use data analytics and screening methodologies in conjunction with non-intrusive inspection equipment, across all modes of transportation and operators, as part of risk management, with a view to facilitating cross-border E-Commerce flows and strengthening Customs controls.

II. Facilitation and Simplification

3. Introduction

In many countries, Customs administrations have made significant improvements to facilitate legitimate trade and simplify procedures. However, taking into account the rapid growth in cross-border E-Commerce volumes, short time frames for intervention and lack of timely and accurate data transmission in some business models, it is necessary to re-strategize how Customs administrations apply existing tools like the Revised Kyoto Convention, the SAFE Framework of Standards and the WCO Immediate Release Guidelines, and to identify modern and appropriate solutions that are more effective and efficient in responding to industry and consumers' expectations in terms of the safe, secure and fast movement and delivery of E-Commerce shipments across borders.

4. Standards

4.1 Standard 5: Simplified clearance procedures

Customs administrations, working in coordination with other relevant government agencies as appropriate, should establish and maintain simplified clearance formalities/procedures utilizing pre-arrival processing and risk assessment of cross-border E-Commerce shipments, and procedures for immediate release of low-risk shipments on arrival or departure. Simplified clearance formalities/procedures should include, as appropriate, an account-based system for collecting duties and/or taxes and handling return shipments.

4.2 Standard 6: Expanding the Concept of Authorized Economic Operator (AEO) to cross-border E-Commerce

Customs administrations should explore the possibilities of applying AEO Programmes and Mutual Recognition Arrangements/Agreements in the context of cross-border E-Commerce, including leveraging the role of intermediaries, to enable Micro, Small and Medium-sized Enterprises (MSMEs) and individuals to fully benefit from the opportunities of cross-border E-Commerce.

III. Fair and Efficient Revenue Collection

5. Introduction

In order to effectively deal with existing and emerging challenges with regard to revenue collection, particularly on a large number of relatively low-value and small cross-border E-Commerce parcels, Customs administrations should engage in close cooperation with Tax authorities as the responsible government body for tax regimes. In cooperation with Tax authorities alternative collection models should be considered (e.g. vendor model, intermediary or consumer/buyer collection model), to move 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.,

Customs administrations and revenue authorities at large must also consider related issues such as legal roles and responsibilities, jurisdiction/territory of Customs administration, cross-border cooperation, and implementation of post clearance audits and controls in the E-Commerce environment.

Such consideration for alternative models of revenue collection should examine opportunities and challenges for governments and various business models, as well as should duly take into account the cost to be borne by trade operators in complying with this collection regime with respect to its development and implementation, depending on their national situation and their exposure to imports of low-value and small shipments.

6. Standards

6.1 Standard 7: Models of Revenue Collection

Customs administrations, working with appropriate agencies or Ministries, should consider applying, as appropriate, various types of models of revenue collection (e.g., vendor, intermediary, buyer or consumer, etc.) for duties and/or taxes. In order to ensure the revenue collection, Customs administrations should offer electronic payment options, provide relevant information online, allow for flexible payment types and ensure fairness and transparency in its processes. Models that are applied should be effective, efficient, scalable, and flexible, supporting various business models and contributing to a level playing field for and among the various E-Commerce stakeholders.

6.2 Standard 8: *De minimis*

When reviewing/adjusting de minimis thresholds for duties and/or taxes, Governments should make fully informed decisions based on specific national circumstances.

IV. Safety and Security

7. Introduction

Given that there are diverse perspectives among Members concerning safety and security risks (including product safety), the characteristics of risk need to be established and applied by Customs administrations by involving other national authorities to identify high-risk shipments that pose safety and security threats in cross-border E-Commerce channels. With respect to general safety and security threats to society and the environment, Customs should, where appropriate, share with their counterparts' information related to these risks in order to improve their ability to determine risk indicators and analyse risks.

Customs administrations' cooperation with other agencies is particularly important for identifying and interdicting illicit and non-compliant goods moving through E-Commerce channels. Intelligence can allow Customs administrations to focus their efforts on the highest risk shipments and facilitate the rapid release of low-risk shipments. Customs administrations also should share relevant intelligence, where possible, with trusted E-Commerce stakeholders to ensure the most effective partnership between public and private sector targeting efforts.

8. Standards

8.1 Standard 9: Prevention of Fraud and Illicit Trade

Customs administrations should work with other relevant government agencies to establish procedures for analysis and investigations of illicit cross-border E-Commerce activities with a view to prevent and detect fraud, deter the misuse of E-Commerce channels and disrupt illicit flows.

8.2 Standard 10: Inter-agency cooperation and information sharing

Governments should establish cooperation frameworks between and among various national agencies through relevant electronic mechanisms including Single Window, as appropriate, in order to provide cohesive and coordinated response to safety and security risks stemming from cross-border E-Commerce, thus facilitating legitimate trade.

V. Partnerships

9. Introduction

The rapidly evolving E-Commerce environment requires strengthening existing cooperation and partnerships and forging new ones with emerging participants in the E-Commerce supply chain in order to better address the associated challenges in a collaborative manner.

10. Standards

10.1 Standard 11: Public-Private Partnerships

Customs administrations should establish and strengthen cooperation partnerships with E-Commerce stakeholders to develop and enhance communication, coordination and collaboration, with an aim to optimise compliance and facilitation.

10.2 Standard 12: International Cooperation

Customs administrations should expand Customs cooperation and partnerships to the cross-border E-Commerce environment in order to ensure compliance and facilitation.

VI. Public Awareness, Outreach and Capacity Building

11. Introduction

In the era of trade diffusion driven by E-Commerce where anyone and everyone could potentially be a trader - buyer or seller - and can seamlessly swap their roles, there is growing need for establishing mechanisms to create wider awareness, in particular among these new and emerging class traders to enable them better appreciate various regulatory requirements and comply with them. This should include, among others, robust advocacy and outreach activities together with training and capacity building.

12. Standards

12.1 Standard 13 : Communication, Public awareness and outreach

Customs administrations should make consumers, the public and other stakeholders aware of the regulatory requirements, risks and responsibilities associated with cross-border E-commerce through comprehensive awareness raising, communication, education and outreach programmes.

VII. Measurement and Analysis

13. Introduction

An accurate measurement of cross-border E-Commerce is the key for well-considered policy and business decisions. In addition, this could be useful for better risk management by identifying trend, patterns and emerging dynamics.

14. Standards

14.1 Standard 14: Mechanism of Measurement

Customs administrations should work with relevant government agencies in close cooperation with E-Commerce stakeholders to accurately capture, measure, analyse and publish cross-border E-Commerce statistics in accordance with international statistical standards and national policy, for informed decision making.

VIII. Leveraging transformative technologies

15. Introduction

The dynamic and global nature of E-Commerce requires Governments to be proactive and forward-thinking, leveraging future technologies to proffer solutions to emerging E-Commerce challenges. Ongoing innovation is needed including cooperation with private sector and academia.

16. Standards

16.1 Standard 15: Explore technological developments and innovation

Customs administrations in collaboration with other relevant government agencies, private sector and academia should explore innovative technological developments and consider whether these developments can contribute to more effective and efficient control and facilitation of cross-border E-Commerce.
