



**COUNCIL OF  
THE EUROPEAN UNION**

**Brussels, 22 April 2008**

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**NOTE**

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from : General Secretariat  
to : Working Party on Customs Union (Customs Legislation and Policy)  
Subject : EC Membership in the World Customs Organization  
– Ensuring Community Coordination

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1. On 25 June 2007, the Council adopted a Decision on the exercise of rights and obligations akin to membership *ad interim* by the European Community in the World Customs Organization (WCO).
2. On 30 June 2007, the Council of the World Customs Organization decided to accept the request by the European Community to join the WCO as of 1 July 2007.
3. EC membership of the WCO requires an intensified, more efficient cooperation between the Member States and the Commission, making it necessary to establish guidelines for a better Community coordination at WCO level.
4. The Working Party on Customs Union (Customs Legislation and Policy) discussed such guidelines and reached agreement on the text in the Annex at its meeting on 15 April 2008.

## **WCO MEMBERSHIP: ENSURING COMMUNITY COORDINATION**

### **GUIDELINES**

#### **I. Background**

1. On 30 June 2007, the Council of the World Customs Organization (WCO) decided to accept the request by the European Community to join the WCO as of 1<sup>st</sup> July 2007. This decision grants to the European Community on an interim basis, rights and obligations akin to those enjoyed by WCO Members. Full accession will be possible once an amendment to the Convention establishing a Customs Co-operation Council, allowing economic and customs unions to join, is ratified by the 172 current Members of the Organization.
2. The WCO plays an important role in promoting international customs co-operation and addressing new challenges for customs and trade. It is deeply involved in designing and implementing policies worldwide that integrate measures which help ensure supply chain security, combat counterfeiting and promote trade and development, as well as guarantee efficient collection of customs revenues. Membership of the WCO highlights and confirms the central role and competence of the Community in international discussions on customs issues, including customs reform.
3. Community involvement in the WCO will focus in particular on the following areas:
  - Nomenclature and classification in the framework of the Harmonised System;
  - Origin of goods;
  - Customs value;
  - Simplification and harmonisation of customs procedures and trade facilitation, including e-customs;
  - Development of supply chain security standards;
  - Development of standards, procedures and best practices to protect Intellectual Property Rights (IPR);

- Capacity building for customs modernisation and reforms, including in the context of development cooperation;
  - Mutual Administrative Assistance in customs matters;
  - Drug precursors;
  - Development of IT structures.
4. The EC is a contracting party to several WCO Conventions, and contributes to the work of this organisation, *inter alia*, by ensuring its presence and by coordinating with the Member States in defining and representing Community or common positions in the relevant bodies administering these conventions.
5. Membership in the WCO will further increase the need for coordination in particular in the above areas, in order to enable
- the Community to fully exercise its rights and fulfil its obligations in all WCO bodies;
  - the Commission and the Presidency to duly represent the interests of the Community and its Member States.

## **II. Coordination procedure**

### **A. Principles**

6. Participation in the WCO by the Community and its Member States requires close coordination in order to ensure unity of international representation. The principles below are intended to set out the coordination procedure that applies to the WCO and its subsidiary bodies.

7. In accordance with existing procedures resulting from the EC Treaty, a Community position will be established on matters falling within exclusive Community competence<sup>1</sup> (hereinafter "Community position").
8. For matters containing elements both of Member States' competence and of Community competence (hereinafter "shared competence"), the Member States and the Community will co-operate in order to adopt a common position that preserves the unity of external representation of the Community and its Member States (hereinafter "common position").
9. For matters of exclusive Member State competence, including on organisational and institutional matters, close coordination could be carried out, where appropriate in order to ensure the highest possible degree of transparency as well as compliance with the definition of competences.
10. In order to provide unity of external representation, the Commission expresses Community positions; Member States may also speak in order to support and/or develop the Community position.
11. In areas of shared competence, depending on the thrust of the matter, either the Presidency (or a Member State) or the Commission expresses the common position. Member States may also speak in order to support and/or develop the common position.

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<sup>1</sup> Defined in the "Declaration of competence by the European Community in matters covered by the Convention establishing a Customs Cooperation Council" (Annex to Council Decision 2007/668/EC of 25 June 2007 on the exercise of rights and obligations akin to membership *ad interim* by the European Community in the World Customs Organization).

12. Where, for matters of exclusive Community competence or of shared competence, the Commission and the Member States agree that there is no need to prepare a Community or common position, and where time allows, Member States are encouraged to circulate their draft written submissions or responses to the other Member States and the Commission before presenting it to the WCO, in order to promote consistency between the respective positions of the Community and individual Member States.
13. Where time allows, in the event that the Commission and the Member States cannot agree on a Community position or a common position, including for reasons of disagreement on the attribution of competence, the matter may be referred to the Permanent Representatives Committee.
14. Where an agenda item deals with matters of shared competence and the Commission and the Member States have not been able to agree a common position as referred to in point 8, Member States may speak and vote on matters falling clearly within their competence. The Commission may speak and vote on matters falling clearly within Community competence and for which a Community position has been adopted.

## **B. Implementation**

15. Coordination on matters of a political nature is carried out within the Working Party on Customs Union (Customs Legislation and Policy).

16. Coordination of the Harmonised System and of the Customs valuation and Origin matters<sup>2</sup> is carried out within the relevant Sections of the Customs Code Committee. Coordination of certain other technical issues<sup>3</sup> may also be carried out in the relevant Sections of the Customs Code Committee or other competent Committees.
17. Where necessary, the Presidency, in close cooperation with the Council Secretariat and the Commission, or the Commission in the case of the issues referred to in point 16, may call "on the spot" coordination meetings, in particular when a position needs to be coordinated during a meeting at the WCO. In exceptional cases, notably for reasons of urgency, coordination may be carried out through the use of a written format (procedure not to be applied once the meeting in question is in session).
18. Community or common positions are usually agreed upon in the form of a negotiating position, a statement or an outline of a statement.
19. The Commission will send draft Community or common positions to the Council Secretariat for circulation to the Working Party on Customs Union (Customs Legislation and Policy) or, where appropriate, to the relevant section of the Customs Code Committee at the earliest possible moment.
20. Draft Community or common positions contain:
  - the agenda items and issues on which a Community or common position should be established;

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<sup>2</sup> An indicative list of the managing bodies under the WCO conventions for which positions will be coordinated by the relevant Sections of the Customs Code Committee will be found in Annex (A).

<sup>3</sup> An indicative list of the managing bodies under the WCO conventions for which positions may be coordinated by the relevant Sections of the Customs Code Committee or other competent Committees will be found in Annex (B).

- whether this position should be established on behalf of the Community or on behalf of the Community and its Member States;
  - the position presented by the Commission;
  - on items which require a decision by consensus or by a vote in a WCO meeting, a suggestion as to whether the Community or its Member States should vote;
  - a suggestion as to who should express the common position.
21. The final Community or common position reflecting the outcome of the coordination will be circulated through the Council Secretariat or, where appropriate, to the relevant section of the Customs Code Committee, as soon as possible.
  22. When the Commission informs the Working Party on Customs Union (Customs Legislation and Policy), the Customs Code Committee or other competent Committees that a matter requires the establishment of a Community or common position, no final positions will be communicated directly by the Commission or the Member States to the WCO. Member States will communicate to the Commission their specific concerns or comments.
  23. Once the Community or common position is agreed, it is sent to the Secretariat of the WCO or communicated to the relevant WCO body at their meetings.
  24. The Commission and the Member States may hold broader exchange of views and strategic discussions on WCO issues. Such discussions may take place in the Working Party on Customs Union (Customs Legislation and Policy), the Customs Policy Group, the relevant Section of the Customs Code Committee or other competent Committees.

25. The Commission maintains close contacts with the WCO Secretariat in order to guarantee that the Community or common position of the Community and its Member States can be properly expressed and taken into account.
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A)

- Harmonised System Committee
- HS Review Sub-Committee
- Scientific Sub-Committee
- HS Review Sub-Committee Working Group
- High-Level Working Group on HS Matters
- High-Level Ad Hoc Group on HS Matters
- Technical Committee on Customs Valuation
- Technical Committee on Rules of Origin

B)

- Administrative Committee on the Istanbul Convention
- Contracting Parties to the ATA Convention
- Administrative Committee for the Customs Convention on Containers, 1972
- Working Party to the Permanent Technical Committee
- Information Management Sub-Committee
- API Contact Committee
- UPU Contact Committee
- UCR Correspondence Group
- Electronic Commerce Advisory Group
- WCO/CITES WG