

THE WORLD CUSTOMS ORGANIZATION – A HISTORY OF 65 YEARS OF GROWTH AND ITS LEGAL MILESTONES

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Abstract

The World Customs Organization (WCO, Organization Mondiale des Douanes, OMD) is an intergovernmental organisation that was founded as European Customs Co-Operation Council in 1952 in Brussels/Belgium. It governs all Customs co-operation matters from tariff nomenclature, over universal Customs procedures, capacity building and integrity to trade facilitation. The WCO Membership has risen in different velocities up to an overall membership of 182 contracting parties in 2017. This paper gives an overview of its history and legal milestones in an update of 70 years of history of Customs co-operation and 65 years of the Customs Co-Operation Council in Europe and the World. It investigates the WCO history by help of WCO publications on its history, the accessions over 65 years and its list of legally binding instruments. The membership rise is investigated by help of a five year spaced membership accession overview. The ten most successful legally binding instruments are identified and ranked according to the amount of membership: the three most successful instruments are identified as the Harmonized System Convention, the Revised Kyoto Convention and the Istanbul Convention. In an annual overview the important historic developments of the WCO over the last 65 years are presented. The paper concludes that the membership has reached a mature phase and that the rise of membership in the legal instruments is still strong. A current development is that newly emerging states are also quickly receiving membership status (South Sudan, Palestine, Kosovo, all of which are not WTO Members). In contrast to the WTO membership (which has risen to 164 contracting parties) some states and economic territories which have previously had an independent status may have a different WCO membership status (Liechtenstein: WTO + / WCO -, Taiwan/Chinese Taipei: WTO + / WCO -, Hong Kong & Macao: WTO + / WCO +, Saint Kitts and Nevis: WTO + / WCO -, Saint Vincent and the Grenadines: WTO + / WCO -, Solomon Islands: WTO + / WCO -, Suriname: WTO + / WCO -).

Keywords: World Customs Organization, World Trade Organization, General Agreement on Tariffs and Trade, International Customs Law, Harmonized System, Customs history, capacity building, economic integration.

Introduction

The World Customs Organization (WCO)¹ is governing the legal and practical issues of the Customs administrations around the globe (and the trade system as a whole) as an International Organization. This paper tells a short history of seventy years of Customs co-operation in Europe and the world and 65 years of the Customs Co-Operation Council and the World Customs Organization.

¹ For a first short history of the WCO and its legal milestones as of 2009 see Weerth, 4 GTCJ 7/8 (2009), pp. 267-269

1. Foundation of the Customs Co-Operation Council (CCC) in Europe²

The history of the WCO began in 1947 when the thirteen European Governments represented in the Committee for European Economic Co-operation agreed to set up a Study Group. This Group examined the possibility of establishing one or more inter-European Customs Unions based on the principles of the General Agreement on Tariffs and Trade (GATT).

In 1948, the Study Group set up two committees – an Economic Committee and a Customs Committee. The Economic Committee was the predecessor of the Organization for Economic Co-operation and Development (OECD), the Customs Committee became the Customs Co-operation Council (CCC).

In 1952, the Convention formally establishing the CCC came into force. The Council is the governing body of the CCC and the inaugural Session of the Council was held in Brussels on 26 January 1953.

Representatives of seventeen European countries attended the first Council Session of the CCC. The seventeen European countries which founded the CCC were:³ Austria, Belgium, Denmark, France, Germany, Greece, Ireland, Italy, Luxembourg, Netherlands, Norway, Portugal, Spain, Sweden, Switzerland, Turkey and United Kingdom.

2. Foundation of the World Customs Organization (WCO)

After years of membership growth, in 1994 the Council adopted the working name World Customs Organization (WCO), to more clearly reflect its transition to a truly global intergovernmental institution. It is now the voice of 181 Customs administrations which operate on all continents and represent all stages of economic development (from mature economies to the least developed economies). Today, WCO Members are responsible for processing more than 98 % of all international trade.⁴

3. Continuous Growth of the World Customs Organization (WCO)

The membership of the CCC and the WCO has grown at different velocities and has culminated in an overall membership of 181 contracting parties. The European Union has a status akin to membership since July 2007 – the EU has had rights akin to those of a WCO Member for matters falling within its competency as an interim measure but is listed additionally on the list of members⁵ – therefore it is not counted as one of 181 contracting parties.⁶

The total membership has risen to 182 contracting parties (the newly emerging State of Kosovo as the newest contracting party in 2017 is not member of the UN but has been recognized by more than 130 states). Most new member countries acceded after the end of the soviet era (1990-1994) when many new states were founded in former USSR soviet republics and on the Balkan.⁷

4. Most successful legally binding instruments

The WCO creates legal instruments in either binding or non-binding ways: non-binding instruments comprise recommendations and declarations whereas the legally binding

² WCO, 2017a

³ WCO, 2017f

⁴ Wind, 2 GTCJ 2 (2007), pp. 79 – 86 and WCO, 2017e

⁵ WCO, The WCO in brief, Fact file, November 2009, <http://www.wcoomd.org/~media/wco/public/global/pdf/about-us/wco-in-brief/depl-omd-uk-a4.pdf?la=en> (last viewed on 25 April 2017)

⁶ Weerth (2016) in Bungenberg/Herrmann/Krajewski/Terhechte, EYIEL 7, Chapter 34, pp. 787-799, updated with data from the WCO (WCO 2017d)

⁷ Weerth (2016) in Bungenberg/Herrmann/Krajewski/Terhechte, EYIEL 7, Chapter 34, pp. 787-799

Table 1. WCO-Membership development in cohorts of five years from 1950 to 2017
(The rank shows cohorts with the largest growth)

Years	New members	Rank*	Membership (absolute)
1950-1954	17	4	17
1955-1959	7	11	24
1960-1964	17	4	41
1965-1969	18	3	59
1970-1974	14	6	73
1975-1979	19	2	92
1980-1984	7	11	99
1985-1989	10	10	109
1990-1994	35	1	144
1995-1999	13	7	157
2000-2004	13	7	170
2005-2009	12	9	182
2010-2014	3	14	180
2015-2017	3	14	182**

*The rank measures the membership rise in five year periods and ranks the results

**The total number of member countries does not add up because the split up of one former member can result in several new member countries: examples are Czechoslovak Republic into Czech Republic and Slovak Republic. This applies in particular for the USSR and for Yugoslavia but also (most recent) for Sudan and South Sudan.

instruments are WCO agreements and conventions. The legal instruments of the WCO are listed on its internet page in the rubric “About us → Legal Instruments”.⁸

The WCO is also displaying the state of the legal instruments for its member states – that is of importance because not all member states have signed every instrument. These two documents are the so called “summary of position as of 30 June 2016”⁹ and “synopsis of position as of 30 June 2016”.¹⁰

Its most successful binding legal instrument is the International Convention on the Harmonized Commodity Description and Coding System (HS).¹¹ In March 2017 the HS has 156 contracting parties.¹²

The second most successful binding legal instrument is the International Convention on the simplification and harmonization of Customs procedures (done at Kyoto on 18 May 1973, as amended on 26 June 1999, so called Revised Kyoto Convention, RKC). In May 2017 the RKC has 110 contracting parties.¹³

⁸ WCO, <http://www.wcoomd.org/en/about-us/legal-instruments.aspx> (last viewed on 25 April 2017)

⁹ WCO, <http://www.wcoomd.org/~media/wco/public/global/pdf/about-us/legal-instruments/conventions-and-agreements/revised-kyoto/sg0199e1.pdf?la=en> (last viewed on 25 April 2017)

¹⁰ WCO, <http://www.wcoomd.org/~media/wco/public/global/pdf/about-us/legal-instruments/conventions-and-agreements/revised-kyoto/sg0200e1.pdf?la=en> (last viewed on 25 April 2017)

¹¹ For the HS significance see Weerth, 3 GTCJ 3 (2008b), p. 61 and Wind 2 GTCJ 2 (2007), p. 80

¹² WCO press releases, WCO, 2017d

¹³ WCO press releases, WCO, 2017d

The third most successful legal binding convention is the Convention on Temporary Admission (Istanbul Convention), concluded on 26 June 1990 (entered into force on 27 November 1993) which had 69 contracting parties in May 2017.¹⁴

A list of the ten most successful WCO legally binding instruments is processed as table 2.

Table 2. Ten most successful WCO legally binding instruments in 2017¹⁵

Rank	Name	Membership
1	Convention on the Harmonized Commodity Description and Coding System - entered into force 1 January 1988, Harmonized System Convention (HS)	156
2	International Convention on the simplification and harmonization of Customs procedures, Revised Kyoto Convention (RKC) - entered into force 3 February 2006	110
3	Convention on Temporary Admission (Istanbul Convention) - entered into force 27 November 1993	69
4	Customs Convention on the ATA carnet for the temporary admission of goods (ATA Convention) - entered into force 30 July 1963	63
5	Customs Convention concerning facilities for the importation of goods for display or use at exhibitions, fairs, meetings or similar events - entered into force 13 July 1962	61
6	Customs Convention on the temporary importation of scientific equipment - entered into force 5 September 1969	56
7	Customs Convention on the temporary importation of professional equipment - entered into force 1 July 1962	55
8	International Convention on mutual administrative assistance for the prevention, investigation and repression of Customs offences (Nairobi Convention) - entered into force 21 May 1980	52 (2 further subject to ratification)
9	Customs Convention concerning welfare material for seafarers - entered into force 11 December 1965	42
10	Customs Convention on the temporary importation of packings - entered into force 15 March 1962	38

5. WCO historical and legal milestones

1947 – The General Agreement on Tariffs and Trade (GATT) was signed on 30 October by 23 nations. Thirteen Governments represented in the Committee for European Economic Co-operation set up a Study Group to examine the possibility of establishing one or more Customs unions between the various European countries, in accordance with GATT principles.

1948 – The GATT takes effect from 1 January. The Study Group decided to establish two Committees: an Economic Committee which later evolved into the Organisation for Economic Co-operation and Development (OECD), and a Customs Committee which later became the Customs Co-operation Council (CCC).

¹⁴ WCO press releases, WCO, 2017d

¹⁵ WCO, <http://www.wcoomd.org/~media/wco/public/global/pdf/about-us/legal-instruments/conventions-and-agreements/revised-kyoto/sg0199e1.pdf?la=en> (last viewed on 25 April 2017)

¹⁶ Conrad, Zollpraxis 1960, pp. 202, Weerth, 3 GTCJ 7/8 (2008a), pp. 275–278, Weerth, 3 GTCJ 2 (2008c), pp. 26 and Lux/Reiser, 1986, updated with data from WCO, 2017a, WCO, 2017b, WCO, 2017d

1950 – The Convention establishing the CCC was signed in Brussels on 15 December. The Convention on Nomenclature for the classification of goods in Customs tariffs (NCCC) was also signed on 15 December.

1952 – The Convention establishing the CCC enters into force on 4 November.

1953 – The inaugural session of the CCC Council was held in Brussels on 26 January in the presence of representatives of seventeen European countries. This date is now celebrated annually as International Customs Day. The Convention on the Valuation of Goods for Customs Purposes (BDV) enters into force on 28 July.

1955 – The Convention on Nomenclature for the classification of goods in Customs tariffs (NCCC) enters into force on 1 July.

1957 – The Customs Convention on ECS carnets for commercial samples enters into force on 3 October.

1959 – The Convention on Nomenclature for the classification of goods in Customs tariffs and Protocol of Amendment thereto enters into force on 11 September.

1962 – The Customs Convention on the temporary importation of packings enters into force on 15 March. The Customs Convention on the temporary importation of professional equipment enters into force on 1 July. The Customs Convention concerning facilities for the importation of goods for display or use at exhibitions, fairs, meetings or similar events enters into force on 13 July.

1963 – The Customs Convention on the ATA carnet for the temporary admission of goods (ATA Convention) enters into force on 30 July.

1965 – 1965 version of NCCC enters into force on 1 January. The Customs Convention concerning welfare material for seafarers entered into force on 11 December.

1969 – The Customs Convention on the temporary importation of scientific equipment enters into force on 5 September. The GATT Agreement on Valuation enters into force on 5 September and replaces the BDV.

1971 – The Customs Convention on the temporary importation of pedagogic material enters into force on 10 December.

1972 – 1972 version of NCCC enters into force on 1 January.

1974 – The International Convention on the Simplification and Harmonisation of Customs procedures (Kyoto Convention) enters into force on 25 September.

1975 – The Customs Convention on Containers enters into force on 6 December.

1978 – 1978 version of NCCC enters into force on 1 January.

1980 – The Convention on Mutual Administrative Assistance in the Prevention, Repression and Investigation of Customs Offences (Nairobi Convention) enters into force on 21 May.

1988 – The Convention on the Harmonized Commodity Description and Coding System (HS Convention) enters into force on 1 January and Replaces the NCCC.

1992 – 1992 version of Harmonized System enters into force on 1 January.

1993 – The Convention on Temporary Admission (Istanbul Convention) enters into force on 27 November. The WCO Council adopts the Arusha Declaration on Customs Integrity.

1994 – The WCO Council adopts the informal name “World Customs Organization”, in order to better reflect the world-wide nature of the Organization.

1995 – The World Trade Organization (WTO) has been founded on 1 January under the Marrakesh Agreement.

1996 – 1996 version of Harmonized System enters into force on 1 January.

1999 – The WCO Council adopts the revised International Convention on the Simplification and Harmonisation of Customs Procedures (Revised Kyoto Convention). The

WTO multilateral tariff reduction negotiation round fails in December in Seattle (Seattle Round).

2001 – WTO begins new multilateral tariff reduction negotiations (so called Doha Round) which have not come to an end in 2017.

2002 – The WCO celebrates its 50th anniversary and is honoured with a visit by HM King Albert II of Belgium accompanied by the Hon. Didier Reynders, the Belgian Deputy Prime Minister and Minister of Finance. The 2002 version of Harmonized System enters into force on 1 January.

2003 – The WCO Council adopts the Convention on Mutual Administrative Assistance in Customs Matters (Johannesburg Convention) in July but has not yet entered into force.¹⁷

2005 – The WCO Council adopts the Framework of Standards to Secure and Facilitate Global Trade (SAFE). This legal instrument was implemented as recommendation (and it is therefore non-binding). To date 168 member parties have agreed to implement the SAFE Framework and one non-member (Taiwan).¹⁸

2006 – The WCO launches the Columbus Programme, the largest ever Customs Capacity Building initiative committed to support implementation of the Framework Standards to Secure and Facilitate Global Trade. The revised Kyoto Convention on the Simplification and Harmonization of Customs Procedures enters into force on 3 February.

2007 – 2007 version of Harmonized System enters into force on 1 January.

2008 – In June the recommendation on the role of Customs in the 21st century was adopted.

2009 – In June the recommendation concerning the use of the WCO Data Model was adopted.

2011 – In June the resolution on the role of Customs in natural disaster relief was adopted and in December the resolution on air cargo security was adopted.

2012 – 2012 version of Harmonized System enters into force on 1 January. In June the Recommendation concerning the use of advance passenger information (API) and passenger name record (PNR) for efficient and effective Customs control was adopted.

2013 – In June the recommendation concerning Customs formalities in connection with the temporary admission of container security devices (CSDs) was adopted. On 7 December in Bali the Trade Facilitation Agreement (TFA) of the WTO has been signed as the first multi-lateral trade agreement since the founding of the WTO in 1995. The WCO plays an important role in the implementation of the TFA which is concerned with Customs simplifications. Therefore on 11 December the Dublin resolution on the conclusion of an agreement on trade facilitation by the World Trade Organization was adopted.

2014 – In June the MERCATOR Programme is launched by which the WCO ensures the uniform implementation of the WTO Trade Facilitation Agreement (TFA), using the WCO instruments and tools as most of the TFA provisions relate to Customs. 85 % of the WTO TFA must be implemented by the Customs administrations of the World.¹⁹

2015 – In June the second recommendation concerning the use of advance passenger information (API) and passenger name record (PNR) for efficient and effective Customs control was adopted. And also in June the recommendation on the guiding principles for data quality was also adopted. In December the Punta Cana resolution on the role of Customs in the security context was adopted.

¹⁷ It has not entered into force in 2016 and it can be questioned whether it is a new tool which is about to fail early, *see Weerth, 6 Customs Scientific Journal (CSJ) 2, pp. 35-46.*

¹⁸ Weerth, 21 *AW-Prax* 4, pp. 125-129

¹⁹ WCO, 2014 and WCO, 2017g

2016 – In July the resolution on the role of Customs in preventing illicit trafficking of cultural objects was adopted.

2017 – 2017 version of Harmonized System enters into force on 1 January. On 22 February the TFA has entered into force. The WCO consists out of 182 Member states and its three most successful legally binding instruments are the Harmonized System Convention which has 156 Member states, the Revised Kyoto Convention which has 110 contracting parties and the Istanbul Convention which has 69 member states.²⁰

Summary and concluding remarks

The WCO has risen from the European Customs Co-operation Council (CCC) which was founded in 1952 by 17 European states to a globally interconnected international economic organization that governs Customs co-operation matters from tariff nomenclature, over universal Customs procedures, capacity building and integrity to trade facilitation. In 1994 the CCC was renamed as World Customs Organization, in order to more clearly reflect its transition to a truly global intergovernmental institution.²¹

The history of Customs co-operation started five years earlier in 1947 when a study group was founded which was researching the possibility to found one or more European Customs Union(s) in order to foster the GATT principles. The membership grew continuously but with different velocities up to 182 contracting parties in 2017. The largest amount of new member accessions was in the years 1990-1994 with 35 before the years 1975-1979 with 19 accessions.

Current developments concerning the membership development show a very slow rise since 2010: the WCO membership rise is very slow (only 3 accessions until 2014) and again 3 accessions 2015-2017 which is evidence of a very mature membership structure (the WTO has 164 Member states). Another recent development is that newly emerging states are also receiving a quick WCO membership such as South Sudan (2012-07-18), Palestine (2015-03-24) and Kosovo (2017-01-25).²² All three newly emerging states are not WTO members yet and are currently not WTO observers.²³

The WCO creates legal instruments in either binding or non-binding ways: non-binding instruments comprise recommendations and declarations whereas the legally binding instruments are WCO agreements and conventions. Its three most successful legally binding instruments are the Harmonized System Convention (156 contracting parties), the Revised Kyoto Convention (110 contracting parties) and the Istanbul Convention (69 member states).²⁴

In contrast to the WTO membership (which has risen to 164 contracting parties²⁵) some states and economic territories which have previously had or still have an independent status may have a different WCO membership status (Liechtenstein: WTO + / WCO -, Taiwan/Chinese Taipei: WTO + / WCO -, Hong Kong & Macao: WTO + / WCO +, Saint Kitts and Nevis: WTO + / WCO -, Saint Vincent and the Grenadines: WTO + / WCO -, Solomon Islands: WTO + / WCO -, Suriname: WTO + / WCO -). This is particularly surprising since the WCO membership is much easier to receive and the WTO obligations (Most Favoured Nations Tariffs) are negotiated on the base of the HS nomenclature which is governed by the WCO.

²⁰ Weerth (2016) in Bungenberg/Herrmann/Krajewski/Terhechte, EYIEL 7, Chapter 34, pp. 787-799, updated with data from the WCO, WCO, 2017d

²¹ WCO, 2017a

²² WCO, 2017f

²³ WTO, 2017

²⁴ Weerth (2016) in Bungenberg/Herrmann/Krajewski/Terhechte, EYIEL 7, Chapter 34, pp. 787-799, updated with data from the WCO, WCO, 2017d

²⁵ WTO, 2017

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