'CROSS-BORDER ELECTRONIC COMMERCE'[1]:
CHALLENGES FOR CUSTOMS ADMINISTRATIONS
AND THE WAY FORWARD

The purpose of this article is to analyse the challenges posed by cross-border e-commerce to customs administrations and to propose measures for further improving customs operations in this area.Since the global cross-border e-commerce landscape is expanding exponentially therefore it is creating serious challenges for customs administrations regarding enforcement, compliance and trade facilitation due to limited available resources for managing such trade. This article gauges the volume of cross-border e-commerce and identifies the challenges faced by customs administrations regarding enforcement, compliance and trade facilitation. Itanalyses the genesis and evolution of the international legal framework for cross-border e-commerce and describes how the implementation of this framework empowers customs administrations to deal with this phenomenon of international trade in a more effective and efficient manner. The article underscores the need for reviewing the de minimis values. It highlights the weaknesses of the current revenue collection model for handlingcross-border e-commerceand discusses the pros and cons of alternative revenue collection models proposed by the Organization for Economic Development and Cooperation (OECD). It explains how Australia has implemented vendor collection model for the collection of the General Sales Tax (GST) on e-commerce consignments. The article underlines the need to use the various instruments and tools developed by the World Customs Organization (WCO) and the provisions of the Trade Facilitation Agreement (TFA) of the World Trade Organisation (WTO) for better management ofcross-border e-commerce by customs administrations. The article explains how enforcement can be improved by using blockchain technology, data analytics, Single Window environment, and advance sharing of electronic data. The article stresses the need for deeper engagement with the private partners involved in the supply chain of cross-border e-commerce for improving compliance and reducing the cost of compliance. The article describes how facilitation can be improved for e-commerce trade by taking certain measures as introduced by the Dutch Customs, Belgium Customs, and Finnish Customs. The outcome of this analysis has led to the overall conclusions of this article.

Key words: compliance, cross-border e-commerce, customs administrations,enforcement, Organization for Economic Development and Cooperation (OECD), trade facilitation, World Customs Organization (WCO), World Tarde Organization (WTO)

JEL Classification: L81.

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Introduction

The digital transformation of the economy is one of the key drivers in the global trade environment. According to the World Customs Organization (WCO), "E-commerce has become a game changer in the international trade arena

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[1] Cross-border electronic commerce: 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 (WCO, 2018d, p. 7, para. 8).

(WCO, n.d.a, para. 1)". It is affecting the international trading environment tremendously due to its fast pace and the changing trade landscape. Customs administrations, who are at the forefront of international trade, are facing enormous challenges regarding enforcement, compliance and trade facilitationdue to the exponential growth in e-commerce. They not only need to keep pace with the changes, which e-commerce is bringing to the trade environment but also to provide innovative solutions to effectively deal with these developments. These challenges are novel and multifarious in nature. In order to efficiently clear and deliver these small and low-value packages, customs administrations need to engage with all relevant stakeholders to develop and adopt an effective approach for better enforcement, compliance and trade facilitation (WCO, n.d.a, para. 1).

In view of the above backdrop, this article has focused on the common issues which customs administrations are facing regarding cross-border e-commerce and suggested measures for further improvement in this area of international trade.

1. Global cross-border e-commerce landscape

Cross-border e-commerce is one of the fastest growing segments of global trade. By the end of 2016, it had grown to an estimated US$1.92 trillion in the two decades from practically zero level. The Asia-Pacific region has witnessed the fastest growth in cross-border e-commerce followed by Western Europe and North America. For instance, in 2016, Business-to-Consumer (B2C) cross-border e-commerce sales reached US$144 billion in the Asia-Pacific region which was 35.9% of the global sales. This volume is estimated to reach US$476 billion and 47.9% of global sales in 2020 (APEC, 2017, p. 2, para. 3).

The global B2C e-commerce is expected to grow by about 25% annually until 2020 which is approximately twice the growth rate of domestic e-commerce. In 2020, it will account for about 22% share of the global e-commerce market (UNCTAD, 2018, para. 3).

2. Challenges faced by customs administrations

2.1. Enforcement challenges

Customs administrations are required to manage huge trade volumes with limited available resources. Not only the traditional trade volume is increasing but there is also an exponential growth in cross-border e-commerce. According to WCO, "A substantial share of trade that was previously captured *via* the traditional trade process is now being diverted through e-commerce (WCO, 2018a, p. 3, para. 2)". The growth in the import of small packages has surpassed the traditional trade and it is creating difficulties for customs administrations to manage these high volumes of small shipments with limited resources. For instance, Figure 1 depicts the trade volumes and personnel available with Japan Customs for the period from 2005 to 2015. During this period all cargo import increased by 43% whereas the import of small packages increased by 89%. On the other hand, the number of personnel increased only by 5% (World Bank Group, 2017, p. 8). Almost all customs administrations are facing a similar situation. This is creating a big challenge for customs administrations to effectively deal with the tsunami of small packages for finding out the risky consignments - a needle in a haystack- with the limited resources.

The enforcement challenges faced by customs administrations are multifarious in nature.The increasing volume of consignments with the deficient advance information containing limited knowledge on importers and supply chain coupled with poor data quality which lacks accuracy and adequacy poses challenges to timely and accurate risk profiling and risk management for small packages. The misuse of *de minimis* values by split and under-invoicing, misdeclaration of value, classification and origin create a challenging environment for the collection of duty

and taxes and negatively impact the domestic retailers. The illicit trade and smuggling, drug trafficking, counterfeited and pirated goods, illicit financial flows and money laundering are posing serious challenges to customs administrations to fulfil their responsibilities regarding enforcement and control (Hinojosa, 2018, p. 5).
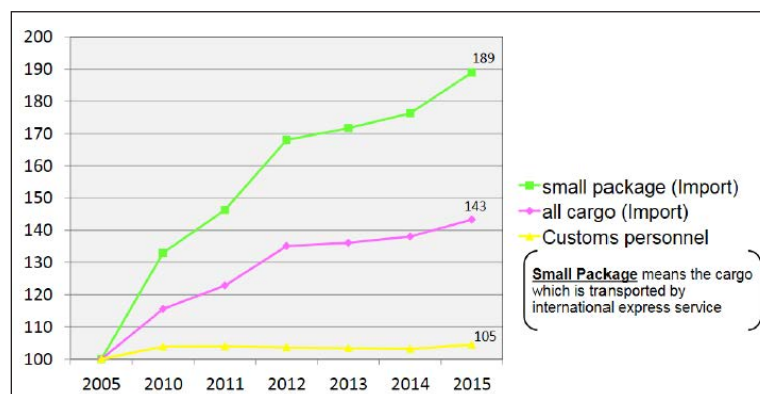

Fig. 1. Japan Customs Workload and its Personnel
Note: Figures for the Year 2005 taken as a baseline (100)
Source: (World Bank Group, 2017, p. 8)

This expansion of cross-border e-commerce has also led to the development of 'dark web' which was used by unscrupulous elements to establish drug marketplaces such as *Silk Road²*. Australian Customs and Border Protection seized a significant amount of cocaine and ecstasy drugs which were purchased through *Silk Road* website and imported in Australia through mail parcels (ABF, 2012, para. 3).

Likewise, the US Customs and Border Protection (CBP) conducted a special operation for 'small packages' in early 2017 at the international mail facility in New York and seized more than five pounds of illicit fentanyl, almost 1,300 other non-compliant imports such as counterfeit goods and controlled substances. Moreover, in 2010, CBP disrupted a terrorist plot that involved ink cartridges which were placed in small packages on express cargo planes and were set to detonate over the United States. This indicates how important it is for customs administrations to receive qualitative data about low-value shipments to identify such risks regarding safety and security (CBP, 2018, p. 4, para. 2).

2.2. Compliance challenges

Since customs administrations have limited resources to ensure regulatory compliance³, therefore, they strive to increase the level of self-compliance and focus on the risky areas for handling the non-compliance. The non-compliance can be unintentional due to the lack of awareness of the law and procedure, or intentional involving criminal intent. Since in cross-border e-commerce anyone can become a trader, therefore, the non-compliance in such situation

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² *Silk Road* was an illicit e-commerce website which was used by thousands of drug dealers during the period from 2011-2013 to sell narcotics and contrabands worth more than US$200 million to more than 100,000 buyers and to launder hundreds of millions of US dollars derived from these illicit transactions (United States Department of Justice, 2018, para. 1).

³ In the Customs context, compliance means conforming to customs laws and regulations.

can be the result of the failure to understand the law or unintentional error in compiling and lodging a declaration, or errors caused through reckless disregard to requirements. However, on the other side of the spectrum can be the deliberate fraud or criminal intent giving rise to non-compliance. The sky-rocketing cross-border e-commerce is creating a big challenge for customs administrations as to how to increase the level of self-compliance for this large number of actors involved in this phenomenon of trade.

2.3. Trade facilitation challenges

The rising volumes of low-value shipments are posing several challenges to customs administrations regarding trade facilitation. Firstly, there is a lack of harmonised and standardized procedures to facilitate transactions of e-commerce. Secondly, the information, regarding the rules and regulations relating to import and export, is not readily available in the electronic form to the occasional buyers and sellers who are normally not aware of such legal and procedural requirements. Thirdly, postal/courier companies lack the mechanism to transfer information electronically to customs administrations which results in delays in clearances.

3. The international legal framework for cross-border e-commerce

The WTO in its second Ministerial Conference held in May 1998 recognised the growing volume of global e-commerce and stressed the need to establish a comprehensive work programme to examine the issues related to this type of trade (WTO, 1998).

The delegations to the Council for Trade in Goods agreed that the goods which were marketed or sold by electronic means and delivered physically across borders, would be subject to the existing WTO commitments and provisions related to trade in goods, under the GATT 1994 and the multilateral trade agreements covered under Annex 1A of the WTO Agreement (WTO, 1999, p. 3, paras. 2-3). Moreover, it was stressed that the WTO members should adhere to the basic principles of international trade such as transparency, predictability and non-discrimination for cross-border e-commerce goods.

In June 2001 Baku Declaration, the WCO expressed its intention to develop a comprehensive policy on e-commerce. It urged the members to accept and implement the RKC for creating an e-customs environment and use the websites to make official customs information readily available. It asked the members to further strengthen cooperation with national/international law enforcement agencies and seek cooperation and partnership with the internet community to effectively deal with global e-commerce (WCO, 2001, pp. 1-2).

In December 2017 the Policy Commission of the WCO passed Luxor Resolution outlining the guiding principles for cross border e-commerce. The aim of the resolution was to encourage customs administrations to tap the potential of e-commerce and to find out the solutions for the challenges posed by it, in consultation with the stakeholders by using modern technologies. The resolution also aimed to develop and deliver common standards, guidelines, and tools for customs clearance and data harmonization to address challenges relating to certain high-risk consignments and to facilitate the clearance of legitimate e-commerce consignments (WCO, 2017a, p. 2).

This resolution prescribed eight principles for cross-border e-commerce to establish an e-commerce framework of standards. The first principle requires the use of advance electronic data to facilitate trade, collect revenue and to ensure security and safety. It prescribes to establish a legal and policy framework which should allow electronic exchange of data between all stakeholders involved in the supply chain of cross-border e-commerce with due account for the laws related to privacy, data security and protection, and competition law. It requires customs

administrations to use WCO instruments and tools for timely and accurate advance electronic data for strengthening customs controls through pre-loading security risk assessment and pre-arrival customs clearance of low-risk shipments. It advises to apply non-intrusive inspection techniques and the use of data analytics for risk-based interventions and to facilitate legitimate cross-border e-commerce. It stipulates to unmask the 'unknown players' involved in the cross-border e-commerce by using data validation techniques and globally recognised trusted data sources (WCO, 2017a, pp. 3-4).

The second principle requires customs administrations to further adopt facilitation measures such as the expedited release of shipments with reduced data requirements while maintaining required customs controls. It also demands more simplification of customs clearance procedures to deal with the increasing volume of low-value small shipments. It underscores the need for the establishment of Single Windows for expeditious and coordinated release of shipments by all relevant departments involved in the cross-border e-commerce. It also requires the establishment of an electronic refund system by using data reconciliation between the imported and returned shipments where duty/taxes have been paid. It requires customs administrations to strengthen partnership with e-commerce platforms and vendors by including them in the Authorised Economic Operator (AEO) programmes and extending facilitation through Mutual Recognition Agreements (MRAs) (WCO, 2017a, pp. 4-5). Such arrangements will help to increase self-compliance and reduce the compliance cost for customs administrations.

The third principle requires customs administrations to use risk profiling for identifying those consignments which pose high risk regarding safety and security and share this information with other relevant government agencies, wherever required, to improve their risk analysis process. This enhanced information sharing and cooperation will help to make informed decisions and further improve compliance and facilitation.It also requires customs administrations to further develop their capabilities regarding information technology by using WCO tools for profiling and risk assessment and use it to identify the illicit trade channels and to facilitate legitimate e-commerce consignments (WCO, 2017a, p. 5).

Whereas, the fourth principle sets guidelines for the revenue collection. It requires customs administrations to capture reliable and relevant data as early as possible before the importation of the consignments for efficient and accurate revenue collection. It suggests applying alternative revenue collection models such as purchaser collection model, vendor collection model, or intermediary collection model in an effective and equitable manner. This approach will not only facilitate trade but also help the early realization of government revenue.It also requires customs administrations to make a comprehensive review of the *de minimis* values and adjust them according to the current trading environment (WCO, 2017a, p. 6).

The fifth principle requires customs administrations to establish mechanisms for accurate measurement and analysis of cross-border e-commerce data with the cooperation of international/national organisations and other stakeholders. It stipulates the use of data analytics for analysing the 'Big Data' relating to cross-border e-commerce to look at the trends and to make evidence-based decision making (WCO, 2017a, p. 6).

The sixth principle recommends enhanced cooperation between all stakeholders involved in the cross-border e-commerce through more formal arrangements such as signing of Memoranda of Understanding and Trusted Trader Programmes. Whereas, the seventh principle requires customs administrations to take measure for public awareness regarding compliance, regulatory requirements, safety and security. It requires to publish all policy, regulatory and procedural

information and share it with the stakeholders by using all possible means such as social media, mass media, and websites. It requires the development of a communication strategy for consistent and regular engagement with all the stakeholders regarding opportunities and challenges posed by e-commerce. It emphasises the need for capacity building, to bridge the gap of the digital divide, through online training and international events. The eighth principle demands customs administrations to harmonise their legislative frameworks by using the existing instruments and tools such as the RKC and the SAFE Framework of the WCO, and TFA of the WTO (WCO, 2017a, p. 7).

Keeping in view the eight principles of the Luxor Resolution, the WCO has developed the 'WCO Cross-Border E-Commerce Framework of Standards' (hereafter referred to as the WCO E-Commerce Framework) (WCO, 2018d). A resolution was passed by the Council of the WCO in June 2018 wherein the Members resolved to adopt the WCO E-Commerce Framework and submit an indicative timetable for its implementation (WCO, 2018c, p. 2). Though the WCO E-Commerce Framework is not binding on its members, the WCO intends to keep it a 'living document' to provide harmonization, standardization, and guidance to customs administrations for effectively dealing with e-commerce consignments. This entails a continual review and update of the WCO E-Commerce Framework, keeping in view the changes in technology, business models and consumer habits, to ensure that it remains relevant, accurate and useful for customs administrations and the stakeholders involved in cross-border e-commerce.

The WCO has also specifically prescribed certain tools and guidelines which can help customs administrations in improving control, compliance and facilitation regarding e-commerce. These tools include 'the revised International Convention on the Simplification and Harmonization of Customs Procedures' namely the Revised Kyoto Convention (RKC)(WCO, 1999, General Annex), 'SAFE Framework of Standards to Secure and Facilitate Global Trade' (known as SAFE Framework) (WCO, 2018e), 'Guidelines for the immediate release of consignments by Customs' (WCO, 2018b), IT Guide for Executives, 'Guidelines on application of Information and Communication Technology' prescribed in Chapter 7 of General Annex to the RKC (WCO, 2014), WCO Customs Risk Management Compendium, Single Window Guidelines and Recommendation on the dematerialization of supporting documents (WCO, n.d.a, para. 19).

4. WCO Cross-Border E-Commerce Framework of Standards

According to the WCO, cross-border e-commerce has certain characteristics as depicted in Figure 2. It involves online communication, ordering, sale, and, if applicable, payment for the goods. Followed by cross-border transaction, in the shape of shipment of physical goods which are destined to the buyer by a commercial or a non-commercial entity (WCO, 2018d, p. 8).

In order to help customs administrations to effectively manage the cross-border e-commerce through better control, compliance and trade facilitation, the WCO has developed the WCO E-Commerce Framework which is built upon the eight principles laid down in the Luxor Resolution. The objective of 15 global standards of the WCO E-Commerce Framework is to assist customs administrations and other relevant government agencies in developing e-commerce strategic and operational frameworks supplemented by action plans and timelines bearing in mind the national specificities and various business models. The overarching principles of these standards are to promote efficiency, transparency, certainty, predictability, security and safety in the global supply chain of e-commerce. As summarized in Figure 3, these standards promote a harmonized approach to risk assessment, clearance/release, revenue collection, and border cooperation in relation to cross-border e-commerce. They establish a standardized framework

for advance electronic data exchange between e-commerce stakeholders and Customs and other relevant government agencies with the aim to facilitate legitimate shipments to provide a more level playing field for various stakeholders. They seek to strengthen co-operation between customs administrations, relevant government agencies and other stakeholders involved in cross-border e-commerce (WCO, 2018d, p. 9).
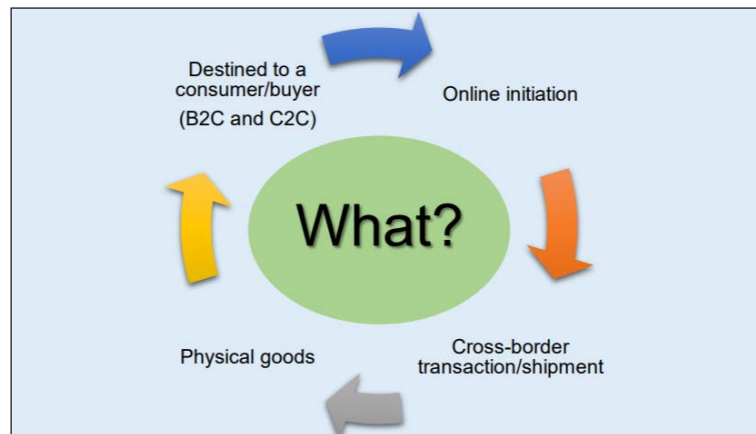

Fig. 2. WCO's perspective on cross-border e-commerce
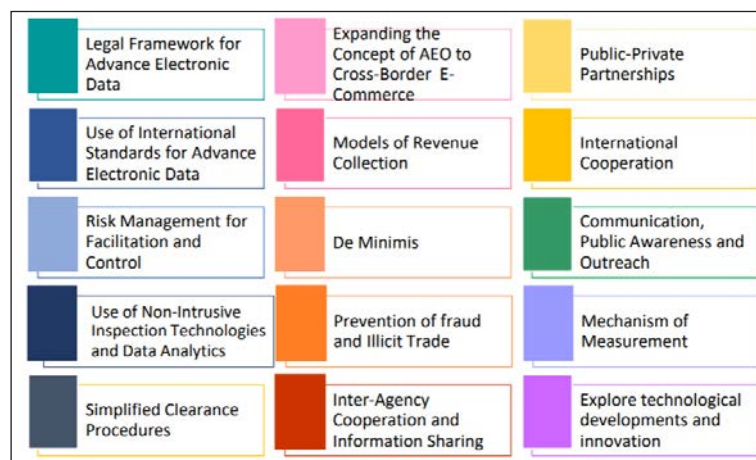*Source: (Hinojosa, 2018, p. 2)*

Fig. 3. Summary of Standards
Source: (Hinojosa, 2018, p. 12)

Due to the new actors, new data sources and new partnerships in the cross-border e-commerce, these standards require customs administrations to use a new, dynamic and collaborative approach to risk management by capturing direct and advance data from e-commerce operators relating to the order, payment and shipping. This direct data exchanged by e-platforms and intermediaries should include the information relating to the supplier, buyer, origin, place of

delivery, description, value, and weight of goods, number of pieces, delivery mode and tracking data. If the quality of this data is ensured and transmitted to customs administrations in a timely manner, it will help to have an efficient and effective risk management system in place with enhanced facilitation for legitimate e-commerce shipments through fast clearance and identification of risky consignments (Hinojosa, 2018, pp. 13-15).

5. Reviewing the de minimis values

Most of the customs administrations have set a *de minimis* threshold below which no duty and taxes are collected on the imported goods. The basic concept of setting this threshold is to determine the level below which the administrative cost for collecting the duty and taxes outweighs the collected amount. The WCO has prescribed the *de minimis* regime but it has not set any minimum value. Each customs administration set the *de minimis* value depending upon the national law and economic conditions of the country. There is a wide disparity in the *de minimis* regimes set by different customs administrations. For instance, in Canada, the *de minimis* value is $20 whereas in Australia it is $1,000 (WCO, 2017b, p. 25). Since most of these regimes were set before the advent of cross-border e-commerce, therefore, there is a need to review and adjust them according to the changed trading conditions for securing government revenue and facilitating the trade.

6. Analysis of revenue collection models proposed by the OECD

6.1. The Traditional Revenue Collection Model

As depicted in Figure 4, the traditional revenue collection model is based on the collection of duty and taxes within the border control. In those countries where the systems are established to receive advance cargo information, conduct risk assessment and pre-arrival clearance, the shipments can be cleared immediately at the border without being stopped. However, the postal environment is pre-dominantly paper-based which leads to the absence of electronic data transmission. In such a scenario each parcel is required to be checked manually at the border for the collection of duty and taxes and for ensuring safety and security (OECD, 2015, p. 195). This situation is creating serious problems for customs administrations.
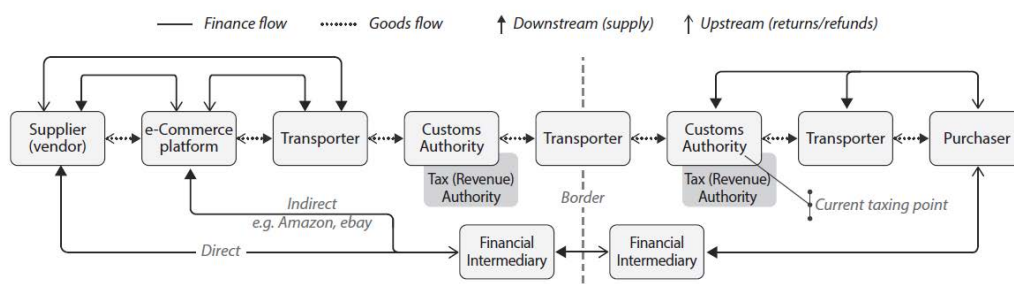

Fig. 4. Traditional Revenue Collection Model
Source: (OECD, 2015, p. 195)

6.2. The Purchaser Collection Model

Figure 5 shows the purchaser collection model which is based on self-assessment by the purchasers to determine and pay their liability regarding taxes. In such a case the purchasers are required to get registered with the administrations. The major disadvantage of this model is its reliance on self-

compliance which is quite difficult in the cross-border e-commerce environment due to the lack of knowledge of customers regarding the relevant laws and procedures. This will result in increased cost for ensuring compliance by customs administrations. Moreover, the implementation of such a model will require a complete overhauling of the administrative and information technology systems of customs administrations which will also raise administrative costs (OECD, 2015, pp. 196-197).
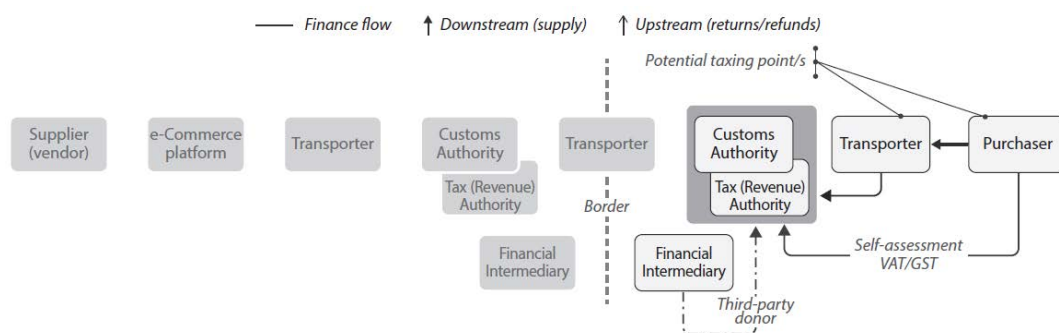

Fig. 5. Purchaser Collection Model
Source: (OECD, 2015, p. 197)

6.3. The Vendor Collection Model

The vendor collection model, as shown in Figure 6, relies on the vendor for the collection of taxes. The vendors are required to get registered in the destination jurisdiction and collect taxes at the point of sale while charging the price of the goods. The taxes can be transmitted to the relevant administration by filing periodic returns. The major advantage of this model is regarding the collection of taxes well before the arrival of the goods and minimizing interventions at the border resulting in fast track clearance. However, the major challenge of this model is to ensure compliance by the vendors located in foreign jurisdictions (OECD, 2015, pp. 197-199).
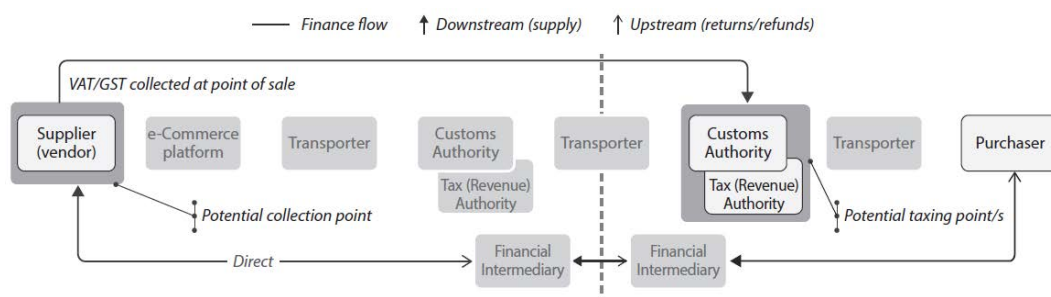

Fig. 6. Vendor Collection Model
Source: (OECD, 2015, p. 198)

6.4. The Intermediary Collection Model

The intermediary collection model is illustrated in Figure 7. It relies on the intermediaries in the supply chain such as postal operators, express carriers and e-commerce platforms to collect and transmit taxes for the cross-border e-commerce consignments. The intermediaries have a

better understanding of the law and procedures as compared to the customers. They can collect the taxes along with transport/processing fee by relying on the information provided by the vendors. However, such a model should ensure that the intermediaries collect and remit taxes prior to the importation of goods(OECD, 2015, pp. 201-204).
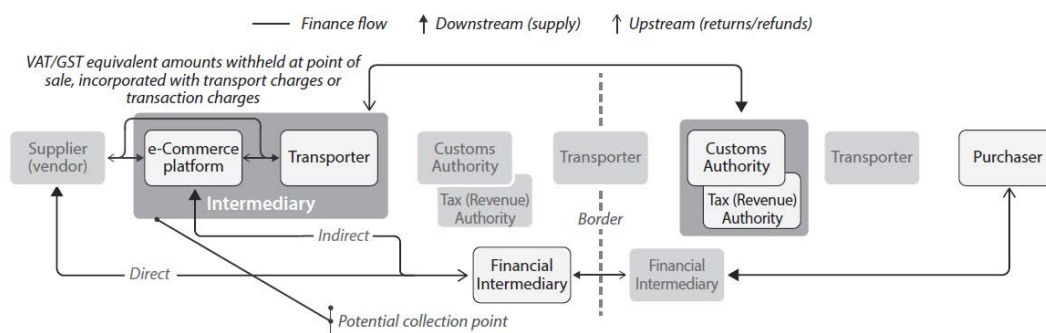

Fig. 7. Intermediary Collection Model
Source: (OECD, 2015, p. 202)

The selection of an appropriate model will depend upon the national policy objectives and circumstances of a country. However, customs administrations can learn from the experience of Australia which has witnessed a significant increase in cross-border e-commerce in the last five years. For instance, during the period from 2013 to 2016, the volume of inbound mail parcels and air cargo increased by 57%. It is expected that the number of international mail parcels will double in the period from 2017 to 2021 (Australian Department of Home Affairs, 2019, p. 30, para. 1).

In order to provide a competitive environment for Australian retailers, and to ensure tax neutrality[4] and collection of revenue, Australia launched a vendor collection model with effect from 1st July 2018. Under this model, when an Australian consumer purchases goods online from an overseas market such as a merchant, re-deliverer or online marketplace, the supplier collects the General Sales Tax (GST) at the 'checkout' for the goods valued equal to or less than $1,000. The supplier sends the goods to the customer, completes a self-assessed clearance declaration and remits GST to the Australian Taxation Office (ATO). ABF may inspect the good at the border for compliance with other import requirements. Under this model, electronic distribution platforms (EDPs), vendors, and re-deliverers are required to register with the ATO and remit GST whose annual taxable sales to Australia is to the tune of $75,000 or more. However, EDPs facilitating annual taxable sales to Australia of more than $75,000 are required to collect GST on all sales of low-value items that occur on their platform, including those sellers whose annual sales is less than $75,000. All major suppliers and platforms have not only registered but they are also collecting and remitting GST to ATO. For monitoring compliance, the ATO is using different techniques such as data matching, using import data, conducting investigations, gathering information from public and industry (Australian Department of Home Affairs, 2019, p. 31).

7. Role of the WCO instruments and tools for managing cross-border e-commerce

Since cross-border e-commerce is one of the priority areas identified by the WCO members, therefore, the use and implementation of the instruments and tools developed by the WCO can

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[4] Neutrality: Taxation should seek to be neutral and equitable between forms of business activities. It is one of the basic principles of Ottawa Taxation FrameworkConditions (OECD, 2015, p. 20).

help customs administrations to more effectively deal with this trade. For instance, the Transitional Standard 6.9 of General Annex to the RKC requires customs administrations to use information technology to the optimal level for enhancing customs control. Its Standard 7.1 demands customs administrations to apply information technology to support their operations. Whereas, Standard 7.4 empowers customs administrations to exchange information electronically with legally approved parties (WCO, 1999, General Annex, Transitional Standard 6.9, Standards 7.1 and 7.4). Moreover, in the Baku Declaration, the WCO urged upon the member countries to create a modern e-customs environment (WCO, 2001, p.1, para. 8).

In the 'Guidelines for the immediate release of consignments by Customs', the WCO has advised customs administrations to seek co-operation with the e-commerce operators to access vital data of e-commerce consignments such as the producer, buyer, seller, origin and description of goods, and their price and payment information. Such data should be sought electronically well in advance of the arrival of the consignments to conduct effective risk management and to facilitate the immediate release of huge volumes of cross-border e-commerce shipments (WCO, 2018b, p. 10). Whereas, the purpose of WCO's 'Guidelines on the application of Information and Communication Technology (ICT)' is to enable customs administrations to use ICT for improving their services to the clients and trading partners (WCO, 2014, p. 8, para. 1).

The SAFE Framework demands from customs administrations to apply an additional layer of security risk assessment for postal items and air cargo by requiring the entities in the air cargo supply chain such as carrier, freight forwarder, postal operator or their agent to submit a pre-loading data (WCO, 2018e, p. 9, para. 7). This advance provision of data can help customs administrations to conduct a risk assessment before loading of the consignments at the origin and subsequently clear a large volume of small shipments expeditiously on arrival.

In addition, the use of other tools such as Single Window Compendium, WCO Data Model, Coordinated Border Management Compendium and Customs-Business Partnership Guidance can greatly help customs administrations to effectively deal with traditional as well as e-commerce trade.

8. Role of the WTO Trade Facilitation Agreement (TFA) for managing cross-border e-commerce

Since the main objective of the TFA is to bring transparency, predictability and efficiency in international trade, therefore, the implementation of its provisions will greatly benefit cross-border e-commerce. For instance, Article 1 of the TFA requires customs administrations to make information available through the internet such as law and procedure related to import, export and transit of goods, rates of applicable duty/taxes, rules of classification and valuation, penalties for violations and other regulations relating to trade. Moreover, enquiry points should be established to facilitate trade. Article 7 demands from customs administrations to use expeditious procedures for clearance of goods by using pre-arrival processing mechanisms and providing for electronic payment of duty/taxes. It also requires using a risk management system for maintaining control and facilitating the legitimate trade. It demands further facilitation for AEOs who meet the compliance criteria set by the administration. Whereas, Article 10 requires customs administrations to establish Single Window for managing and facilitating the international trade (WTO, 2017, Articles 1, 7&10).

Simplified documentation makes it easier for people to understand how to ship goods internationally. Combining forms and streamlining the process supports compliance, encourages good behaviour and maintains high levels of security. Installation of electronic systems allows destination country customs administration to assess data and clear packages prior to the shipment arrival. The cost of this technology is outweighed by gains in efficiency and security. Improved data collection and risk

management by data analytics can help customs administrations to perform comprehensive security checks in a way that does not hold up the flow of packages. Moreover, the Single Window system helps clear goods expeditiously. For instance, Singapore Customs processes 99% declarations within 10 minutes by using the Single Window environment (UPU, 2018, April 11).

9. Ways to manage the challenges posed by cross-border e-commerce

9.1. How to improve enforcement?

In the traditional trade, customs administrations use the risk management system to channelize the trade through different channels such as green, yellow and red. The green channel consignments are instantly cleared without any intervention on the part of customs administration. The yellow channel consignments entail documentary check by customs staff. Whereas, the red channel consignments are subjected to both documentary check and physical examination. However, this traditional risk management system operates on the basis of certain risk parameters by analysing the data collected from the supply chain for the relevant consignments and keeping in view the profiles of the concerned traders. As there are well-established systems for the traditional trade therefore not only the capturing of real-time good quality data is possible in a timely manner but some customs administrations receive data before the arrival of the goods. This helps to clear a major portion of the consignments expeditiously without Customs involvement at the border. However, trader profiles are developed over a period of time on the basis of trade history of the trader and they play an important role in the selection of a channel for customs clearance of the consignments imported or exported by the concerned trader.

Whereas, the major issue with e-commerce consignments is related to the lack of timely and complete information relating to the buyers/sellers and the goods. This lack of information coupled with the fragmented poor-quality data from the supply chain creates constraints for using the traditional risk management system for effective customs enforcement.

On the other hand, the volume of e-commerce consignments is increasing at a terrible rate. For instance, Dutch Customs is witnessing on average 15 per cent annual increase in the declarations relating to cross-border e-commerce. The growth is so fast that Customs cannot keep up with the number of physical inspections (Tax and Customs Administration of Netherlands, 2016, September 4). This situation demands innovative solutions by customs administrations to timely receive comprehensive and good quality data of e-commerce consignments for conducting a risk analysis to ensure effective enforcement.

Customs administrations can unveil the potential of blockchain[5] technology in collaboration with the private sector to enhance the 'connectivity' and 'traceability' of supply chains. Customs would become significantly visible in the supply chain from the early stages. It would provide Customs with a broader and clearer picture of international trade enabling knowledge-based enforcement for strict compliance and faster clearance. This would fully help to distinguish between legitimate and illegitimate trade without relying on conventional risk management (Okazaki, 2018, p. 21, paras. 2-3).

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[5] A blockchain is a decentralized, distributed record or 'ledger' of transactions in which the transactions are stored in a permanent and near inalterable way using cryptographic techniques. Unlike traditional databases, which are administered by a central entity, blockchains rely on a peer-to-peer network that no single party can control. Authentication of transactions is achieved through cryptographic means and a mathematical 'consensus protocol' that determines the rules by which the ledger is updated, which allows participants with no particular trust in each other to collaborate without having to rely on a single trusted third party.Participants in a blockchain can access and check the ledger at any time. Blockchain therefore ensures immediate, across-the-board transparency, and as transactions added to the blockchain are time-stamped and cannot easily be tampered with, blockchain technology allows products and transactions to be traced easily. Because of their decentralized and distributed nature and the use of cryptographic techniques, blockchains are said to be highly resilient to cyber-attacks compared to traditional databases (WTO, 2018, p. vii, paras. 2-3).

The immutable nature of blockchain can make it easier for customs administrations to track any fraudulent activity (WTO, 2018, p. 56).

Korean Customs has conducted a pilot project using the blockchain technology in collaboration with two e-commerce companies for facilitating the clearance procedure and enabling Customs to perform high-quality risk management. The main aim of the project was to test the feasibility of mutually sharing real-time information between e-commerce, transport companies and the Korean Customs (KCS, 2019, p. 34, para. 2).

As shown in Figure 8, the current process of Korean Customs regarding e-commerce relies on manual production and communication of order and transport information. It has disconnected information in each work process. It runs the risk of forgery and can involve human errors while working offline (KCS, 2019, p. 34).
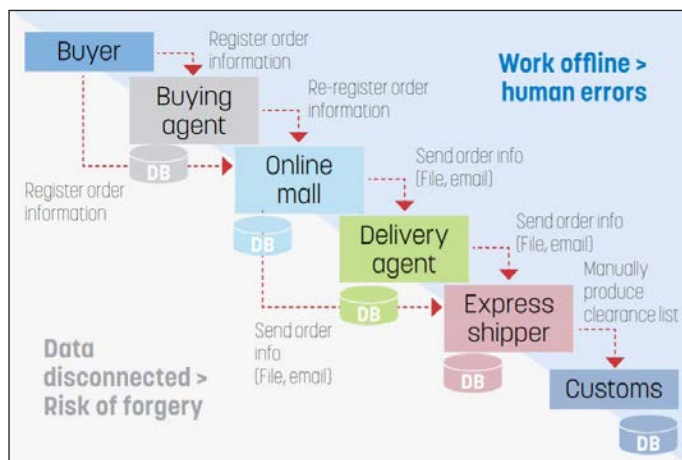

Fig. 8. Current process for e-commerce
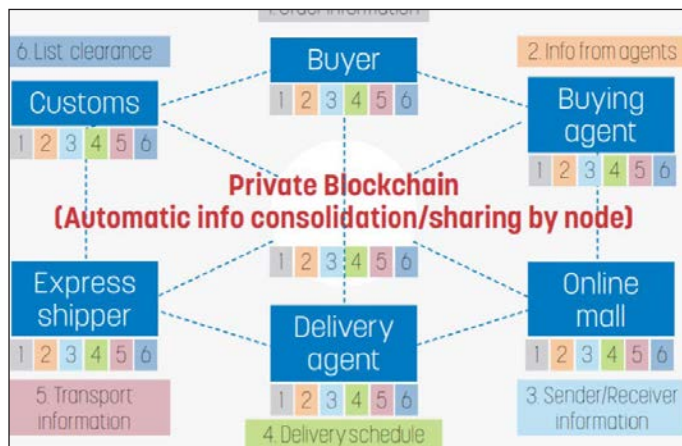*Source: (KCS, 2019, p. 34)*

Fig. 9. Future process based on blockchain model for e-commerce
Source: (KCS, 2019, p. 34)

However, the future process which is based on blockchain for e-commerce, as depicted in Figure 9, will enable secured original order and transport information. It will provide simultaneous information sharing to e-commerce actors (KCS, 2019, p. 34).

Blockchain can help to break the various silos which currently exist between different parties involved in cross-border e-commerce and further accelerate its pace. However, the use of this technology requires substantial investment, coordination and cooperation among all the stakeholders involved in the supply chain of international trade. Moreover, it requires significant changes to the existing systems and legal structures (WTO, 2018, pp. 111-112).

The use of data analytics can also help customs administrations to improve enforcement and root out fraud. For instance, Korean Customs conducted a pilot project by using data analytics to find out commercial fraud conducted through express cargo/postal items and to identify potential illicit transactions. The risk analysts formulated the hypothesis that such non-compliant importers, in order to avoid paying duties/taxes, were importing items in a multiple of small shipments to get the benefit of *de minimis* exemption, using a number of different addresses and contact numbers. The analysis revealed startling facts. For example, among the suspicious cases, one importer had reported 123 different phone numbers and 127 different addresses. Moreover, as shown in Figure 10, 83 different people reported the same seven phone numbers on different occasions when importing goods destined for 60 different addresses. Though this project was aimed at testing how data analytics could enhance risk analysis for identifying commercial fraud in express cargo and postal items, but the Korean Customs believes that such methodology can be successfully used to other high-risk areas such as identifying the criminals involved in drug trafficking in cross-border e-commerce (Kang, 2018, p. 67).
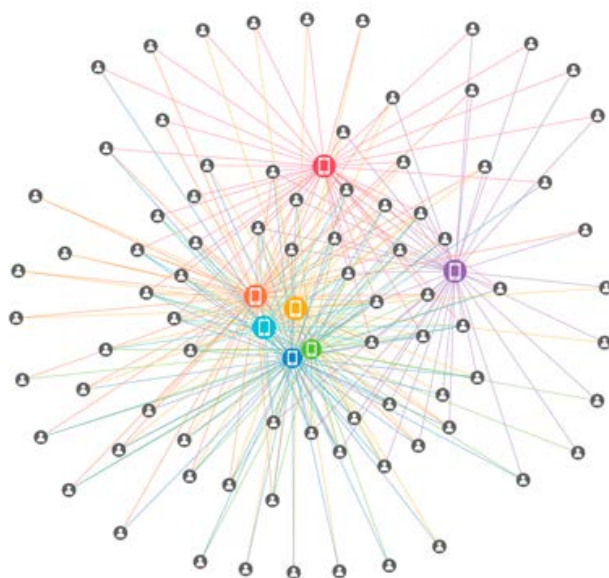

**Fig. 10. Geographic coordinates showing different people reporting
the same phone numbers on different occasions**
Source: (Kang, 2018, p. 66)

The development and use of Single Window environment can also help customs administrations for effective management of e-commerce consignments. For instance, some customs administrations who are using Single Window, with national identification numbers for all citizens/residents and well-developed address infrastructure, implement identity management of individuals. Through this identity management individual's details are validated by using national identification number and address databases, in co-operation with the relevant government agency. This has proved to be very useful in the risk management of low-value e-commerce shipments bought/sold by individuals (WCO, n.d.b, p. 4, para. 4).

The sharing of electronic advance data related to e-commerce consignments can become a game changer for customs administrations. It can help significantly improve screening of mail consignments. In this regard, Australia and New Zealand conducted a successful two-week live 'green lane' trial for international mail in September 2017. The trial was conducted in the backdrop of tremendously increasing mail volume. For instance, during the period from 2015-16 to 2016-17, the mail volume from Australia to New Zealand increased by 74% and from New Zealand to Australia by 25%. This trial was conducted to test the processes for streamlining the movement of low-risk goods being sent through international mail between Australia and New Zealand and to test the usage of pre-arrival data for risk assessment and targeting of mail items (Australian Department of Home Affairs and the New Zealand Customs Service, 2018, p. 27, paras. 1-4).

The data was generated by eSeller and sent to postal operators and on to the border agencies for pre-arrival risk profiling at least six hours prior to the arrival of the parcels. The border agency of the importing country sent back hold/release message for each postal item to postal operators. On the basis of these messages, postal operators segregated 'green lane' mail items at the source for clear identification at the destination mail facility through bar code scanning. The mail parcels which generated a 'hold' status were checked by the border agency officers (Australian Department of Home Affairs and the New Zealand Customs Service, 2018, pp. 28-29).

The trial provided a way for improving trade facilitation, saving of resources by postal authorities, improved targeting of risky consignments and helping customs administrations to reallocate resources to high-risk areas. The pre-arrival information also helped to develop an extra valuable layer for the screening mail shipments (Australian Department of Home Affairs and the New Zealand Customs Service, 2018, p. 29).

9.2. How to improve compliance?

Customs administrations must have a strong legislative base for effective compliance management. According to Widdowson, "All relevant powers that give rise to an agency's rights and responsibilities must be clearly provided for in the relevant legislation (Widdowson, n.d., p. 18)". Whereas, most of the customs administrations are dealing with cross-border e-commerce under the general provisions of traditional trade. Therefore, there is a need to develop a strong legislative base for effectively dealing with cross-border e-commerce.

Since customs administrations deal with a large volume of work by utilizing limited available resources, therefore one of the major components of their compliance management strategy is to increase self-compliance. This helps them to deploy scarce resources to more risky areas for their more efficient and effective use. The AEO programme is based on this core component of self-compliance of compliance management strategy of customs administrations.

Keeping in view the volume of cross-border e-commerce, customs administrations need to engage private partners to ensure compliance. Potential vendors, e-marketplaces and

intermediaries should be identified for granting the AEO status. This deeper engagement with e-commerce supply chain actors will help to ensure safety and security, sharing of advance electronic information and improved compliance (WCO, 2016, p. 7).

Moreover, the possibilities of mutual recognition agreements for such AEOs should be explored. Under such an arrangement, an AEO becomes compliant with the requirements of both the contracting parties. In this way, the compliance extends beyond borders and it is not limited to the geographical boundaries of a country. Customs administrations need to benefit from this entirely a different approach compared to the traditional international customs cooperation in which information sharing was on negative elements whereas positive waves are transmitted under such an AEO programme.

9.3. How to improve trade facilitation?

Since anyone can become buyer or seller in cross-border e-commerce, therefore, customs administrations should introduce simplified declarations for such trade to enhance facilitation. For e-commerce consignments, the Dutch Customs has introduced a special system named VENUE. In this system, the advance incomplete declaration can be filed on a standard format for import or export consignments and the information is communicated to Customs in a special way. However, to use the VENUE, a permit is required from Dutch Customs. In the Netherlands, the *de minimis* value for B2C shipments regarding VAT is €22 whereas for customs duty it is €150. For goods worth more than €22 an additional declaration is required to be lodged within a set period. For VENUE declarations, Dutch Customs has drawn up a leaflet which explains general, technical and data format requirements for the users (Tax and Customs Administration of Netherlands, 2016, September 4).

Likewise, Belgium Customs and Excise Department haslaunched BE-Gate for import and export of e-commerce goods. For imports, BE-Gate allows submission of a large volume of arrival notifications of e-commerce consignments by one simple transaction through a data file approved by Customs. In case the value of a consignment is equal to or less than €22, this file can also be used as a declaration for release of such consignment. However, for consignments having value more than €22 an additional declaration is required to be submitted. The information regarding any package selected by Customs for inspection is automatically sent to the declarant. Whereas, consignments valuing less than €1,000 and weighing less than 1,000 kilograms can be exported by using BE-Gate (Federal Public Service Finance, 2019, paras. 1-3).

This initiative of Belgium Customs offers numerous benefits. It provides for simplified declarations and fast clearance for the consignments not selected for inspection. It is specifically adapted to manage big data. The usage of BE-Gate is free of charge. However, the user is required to meet certain conditions such as to have an office in Belgium, the status of a customs agent, get an authorization for using simplified declarations and have a comprehensive guarantee (Federal Public Service Finance, 2019, paras. 4&6).

Recently, Finnish Customs has launched a facilitation tool for online shoppers in the shape of a customs duty calculator. This online tool helps buyers to determine the likely amount of duty and taxes on the purchases from abroad. The user makes certain selections such as type of goods, origin, currency, and gives price, transportation and processing cost. The system not only calculates potentially payable duty/taxes but also explains the clearance process for the goods. Within six months of the launch of this tool, its users have increased more than ten times (Maunuksela-Malinen, 2019, p. 45).

Summary and concluding remarks

In a nutshell, the tsunami of small packages, in the shape of cross-border e-commerce, is tremendously affecting the international trading environment. It is creating serious challenges for customs administrations regarding enforcement, compliance and trade facilitation due to

limited available resources for managing the situation. Poor quality data and limited information regarding buyers and sellers of e-commerce shipments coupled with the limitations of traditional risk management systems pose serious challenges for ensuring safety and security by customs administrations. The lack of knowledge of buyers/sellers regarding customs laws and procedures is giving rise to unintentional non-compliance. Whereas, criminals are exploiting the situation for drug trafficking, smuggling and money laundering and contributing to deliberate non-compliance. On the other hand, lack of standardized procedures, non-availability of information regarding import/export processes and limitations of postal/courier companies to provide good quality advance electronic data to customs administrations is seriously affecting trade facilitation.

The WTO and the WCO have taken certain measures to establish an international legal framework for cross-border e-commerce. The work for this legal framework started with the second Ministerial Conference of the WTO held in May 1998 and it culminated with the publication of the WCO E-Commerce Framework in June 2018. The principles contained in this legal framework provide comprehensive guidelines to customs administrations such as simplification of procedures, risk management, revenue collection, inter-agency and international co-operation, facilitation, control and compliance measures.

However, in addition to establishing a strong legislative base, customs administrations need to take drastic measures to meet the challenges of cross-border e-commerce. Firstly, they need to review the *de minimis* values which have become outdated due to the upsurge of e-commerce. Secondly, there is a need to adopt a new revenue collection model enabling customs administrations to collect duty/taxes before the arrival of the goods and facilitating the uninterrupted flow of a major portion of e-commerce consignments. In this regard, customs administrations can learn from the experience of Australia which has launched vendor collection model for collecting GST on low-value e-commerce consignments. Thirdly, the application of the provisions of the WCO instruments and tools such as the RKC, SAFE Framework, Single Window Compendium and WCO Data Model, and the WTO TFA can greatly help customs administrations to effectively manage cross-border e-commerce. Fourthly, sharing of electronic advance data, the establishment of Single Window environment, and the use of cutting-edge technologies such as blockchain and data analytics can help customs administrations for effective enforcement by learning from the experience of Korea, Australia and New Zealand. Fifthly, the introduction of the AEO programme for the major actors involved in cross-border e-commerce will help to increase self-compliance and reduce the compliance costs for customs administrations. Lastly, for facilitating e-commerce trade special systems can be launched with simplified procedures such as VENUE of Dutch Customs and BE-Gate of Belgium Customs. Other facilitation measures such as interactive duty calculator launched by Finnish Customs can also help to facilitate cross-border e-commerce and improve compliance.

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МІЖНАРОДНА ЕЛЕКТРОННА ТОРГІВЛЯ: ЗАВДАННЯ ДЛЯ МИТНОЇ СЛУЖБИ ТА ШЛЯХИ ПОДАЛЬШОГО РОЗВИТКУ

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Метою статті є проведення аналізу завдань, які стоять перед митною службою у результаті провадження міжнародної електронної торгівлі, та визначення заходів для подальшого розвитку митних операцій у цій сфері. У результаті стрімкого збільшення обсягу світової міжнародної електронної торгівлі перед митними службами постають серйозні завдання з правового врегулювання, контролю та сприяння торгівлі у зв'язку з обмеженими ресурсами для керування таким видом торгівлі. У статті оцінюється об'єм міжнародної електронної торгівлі та визначаються завдання з правового регулювання, контролю та сприяння торгівлі, які необхідно вирішити митній службі. Аналізується походження та розвиток міжнародної правової бази ведення такої електронної торгівлі та описуються шляхи впровадження положень для врегулювання явища міжнародної торгівлі митною службою ефективно та економічно вигідно. У статті підкреслено необхідність перегляду мінімальних складових такого типу діяльності. Висвітлені слабкі сторони чинної моделі збору доходів для підтримки ведення електронної торгівлі та описані переваги та недоліки альтернативних моделей, запропонованих Організацією економічного співробітництва та розвитку (ОЕСР). Пояснюється, як Австралія імплементувала торгову модель для збору Загального податку на продаж (ЗПП) електронних товарів. У статті підкреслено необхідність використовувати різноманітні інструменти та засоби, розроблені Всесвітньою митною організацією (ВМО), та положення Угоди про спрощення процедури торгівлі (УСПТ) Світової організації торгівлі (СОТ) для кращого управління міжнародною електронною торгівлею силами митних служб. У статті пояснюється наскільки покращиться регулювання процесами з використанням технологій блокчейн, аналізу даних, середовища «одного вікна», масового розповсюдження електронних даних. Також наголошено на необхідності глибшої взаємодії з приватними партнерами, залученими до ланцюга поставок міжнародної торгівлі, для покращення контролю та зменшення витрат на це. У статті описано як можливо сприяти електронній торгівлі, уживаючи певних заходів, представлених митними службами Данії, Бельгії та Фінляндії. Результати такого аналізу викладені у висновках до статті.

Ключові слова: контроль, міжнародні електронна торгівля, митні служби, правове врегулювання, Організація економічного співробітництва та розвитку (ОЕСР), сприяння торгівлі, Всесвітня митна організація (ВМО), Світова організація торгівлі (СОТ).