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The Structure and Function of the World Customs Organization

Carsten Weerth*

The World Customs Organization (WCO, Organization Mondiale des Douanes, OMD) is an intergovernmental organization of more than 170 Member States. It is of tremendous importance for the simplification of international trade and customs procedures; however, its modes of action and decision-making processes have been very secretive for a very long time. Only in very recent years the WCO has decided to open up (in particular by help of the internet) and it now explains its ways of action. This paper gives an overview of the WCO structures, committees, and functions.¹

1. INTRODUCTION

The World Customs Organization (WCO, Organization Mondiale des Douanes, OMD) is an intergovernmental organization of more than 170 Member States. It is of tremendous importance for the simplification of international trade and customs procedures; however, its modes of action and decision-making processes are very secretive. Only in very recent years the WCO has decided to open up, to 'leave the ivory-tower', and to explain its ways of action.² This paper gives an overall overview of its structures, committees, and functions.³ It is dedicated to this opening process of the WCO and it strongly relies on information from the WCO itself (published under the URL: <www.wcoomd.org>).

Important and new information about the WCO is regularly available on this WCO website, such as press releases, information about the WCO in general and its legal instruments.⁴

The idea of making things more understandable is very important for all participating parties from the outside (legal advisers, economic operators, and scientists alike). However, the real decision-making progress of the WCO bodies and its contents are still

being done behind closed doors; though recommendations, declarations, and resolutions are now available on the WCO webpage,⁵ however the relevant documents and papers are very rarely published and therefore mostly not available for scientific research.

2. SECRETARIAT⁶

The WCO Secretariat is responsible for the day-to-day running of the WCO. Together with the WCO Committees, it carries out the key activities of the annual Strategic Plan approved by the Council.

3. COUNCIL⁷

The WCO is governed by a Council, which brings together all the members of the organization once a year, in a meeting chaired by an elected representative. It is assisted by the Policy Commission (twenty-four members, see section 4) with financial advice from the Finance Committee (seventeen members, see section 5).⁸

Notes

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1 For a first overall overview, see WCO (2008a), 'About Us, Committee Structure', <www.wcoomd.org/home_about_us_committee_structure.htm>, 25 Jan. 2009.

2 See H.-M. Wolffgang, 'Die WCO Öffnet Sich', *Zeitschrift für Außenwirtschaft in Recht und Praxis* (*AW-Prax*) 13, no. 11 (2007): 439.

3 For a first overall overview, see WCO, 2008a.

4 See WCO (2009a), 'About Us, Legal Instruments', <www.wcoomd.org/home_about_us_conventionslist.htm>, 25 Jan. 2009.

5 *Ibid.*

6 See WCO, 2008a.

7 See WCO, 2008a and WCO (2008b), 'About Us, Committee Structure, Council', <www.wcoomd.org/home_about_us_conventionslist.htm>, 25 Jan. 2009.

8 See WCO, 2008a.

The Council was established by the Convention establishing a Customs Cooperation Council, with the aim of securing the highest degree of harmony and uniformity in the customs systems of member governments, and especially to study the problems inherent in the development and improvement of customs techniques and customs legislation in connection therewith. It is the supreme body of the WCO, and as such, it takes the final decisions regarding the organization's work and activities. All WCO bodies report to the Council. The Council operates with administrative support provided by the WCO Secretariat.

Each member of the WCO has the right to be represented in the Council (up to 174 members in January 2009).

The functions of the Council, as stipulated in Article III of the Convention establishing a Customs Cooperation Council, are to:

- (a) Study all questions relating to cooperation in customs matters, which the Contracting Parties agree to promote in conformity with the general purposes of the present Convention.
- (b) Examine the technical aspects, as well as the economic factors related thereto, of customs systems with a view to proposing to its members practical means of attaining the highest possible degree of harmony and uniformity.
- (c) Prepare draft Conventions and amendments to Conventions and recommend their adoption by interested governments.
- (d) Make recommendations to ensure the uniform interpretation and application of the Conventions concluded as a result of its work and, to this end, to perform such functions as may be expressly assigned to it in those Conventions in accordance with the provisions thereof.
- (e) Make recommendations, in a conciliatory capacity, for the settlement of disputes concerning the interpretation or application of those Conventions.
- (f) Ensure the circulation of information regarding Customs regulations and procedures.
- (g) On its own initiative or on request, to furnish to interested governments information or advice on customs matters and make recommendations thereon.
- (h) Cooperate with other intergovernmental organizations as regards matters within its competence.
- (a) To examine and, where appropriate, approve the work done by the organization's technical bodies, including the preparation or amendment of WCO instruments.
- (b) To review, on the basis of written and oral reports by the Secretary General, the progress made during the previous twelve months with the implementation of the organization's rolling, three-year Strategic Plan.
- (c) To direct the future work of the organization, in particular by examining, finalizing, and adopting the Strategic Plan, which is prepared each year by the Secretariat and submitted to the Council after preliminary examination by the Policy Commission.
- (d) To examine and decide upon such policy issues as may be submitted to it by the Policy Commission.
- (e) To interpret the provisions of the founding Convention.
- (f) To provide a forum for the high-level exchange of information, views, and experiences on topical customs issues.
- (g) To take budgetary and financial decisions on the basis of recommendations submitted by the Finance Committee (in particular, acquitting the Secretary General of his financial management responsibilities for the previous financial year, taking note of the Audit Report and the follow-up action taken, appointing auditors, and adopting a decision concerning budgetary and financial provisions for the forthcoming financial year, including the scale of member contributions).
- (h) To adopt amendments to the Secretariat Staff Regulations and Staff Rules.
- (i) To elect the Council Chairperson and Vice-Chairpersons, the members of the Policy Commission, and the Chairperson, Vice-Chairperson, and members of the Finance Committee.
- (j) To appoint the Secretary General and Deputy Secretary General of the organization, and nominate Directors for appointment by the Secretary General.
- (k) To adopt the organization's Calendar of Meetings for the forthcoming year.

While the functions identified by the founding Convention remain broadly relevant, global developments in trade, transport, and technology have had a significant effect on the activities of the organization over the years. Today, the Council's key deliverables are:

The Council, under its Chairperson who is elected from among the delegates, examines issues on the basis of reports on meetings of the Policy Commission, the Finance Committee, and the various technical committees, and documents prepared by the Secretariat.

Article VII of the Convention requires the Council to meet at least twice a year, but since 1966, the two annual sessions have been held concurrently, almost

always in the month of June. The annual sessions generally last three days (with two days set aside for the conduct of formal business, and one day for discussions on topical customs issues).

Each member of the WCO nominates one delegate and one or more alternates to be its representatives on the Council. These representatives may be assisted by advisers (Article II of the Convention). Each active member has one vote, except that a member does not have a vote on any question relating to the interpretation, application, or amendment of any WCO Convention in force, which does not apply to that member (Rule 21 of the Rules of Procedure of the Council).

Representatives of non-member governments or of international organizations may be invited to attend Council sessions as observers. They may, at the discretion of the Chairperson, participate in the discussions but not vote.

Representatives of a simple majority of the members of the organization constitute a quorum (Rule 20 of the Rules of Procedure of the Council). Decisions are taken by a majority of not less than two thirds of the members present at the meeting and entitled to vote (Rule 21 of the Rules of Procedure), except in the case of decisions concerning the Rules of Procedure, where a majority of not less than two thirds of all the members is required (Article VI of the Convention).

The WCO Secretariat is responsible for making the arrangements and preparations for the Council sessions, providing professional, administrative, and technical services during the sessions, and performing follow-up tasks after the sessions, including in particular the drafting of the minutes.

All members are required to bear the expenses (travel and accommodation) of their own delegations to the Council (Article XII of the Convention).

If the sessions are held away from WCO Headquarters, at the invitation of a Member State, then that Member State will normally be required to meet the additional costs, which the organization has incurred by reason of accepting that invitation (e.g., hiring meeting facilities, travel and accommodation expenses of Secretariat officials attending the sessions, and so forth).

4. POLICY COMMISSION⁹

4.1. The Policy Commission

The Policy Commission was established to act as a dynamic steering group to the Council.

As is specified in Council Decision No. 284, membership of the Policy Commission is restricted to a specific number of WCO members, elected by the Council on a regional basis from among the active members in the region. The Policy Commission members are: the Chairperson of the Council (as Chairperson of the Commission) and the Vice-Chairpersons of the Council, each representing one of the WCO's six regions. The seventeen members, selected on a regional basis, are given as follows: East and Southern Africa: 1; Europe: 7; Far East, South and Southeast Asia, Australasia, and the Pacific Islands: 4; North of Africa, Near and Middle East: 1; North America, Central America, and the Caribbean: 3; West and Central Africa: 1. Belgium (in its capacity as host nation), the Chairperson of the Finance Committee, and any member that is not a member of the Policy Commission and is to host a session of the Commission away from the headquarters act as observers. In an ex officio capacity, former Chairpersons of the Council who are still serving in their national customs administrations (for a maximum of two years after ceasing to hold office as Chairperson).

The competence of the Policy Commission is defined as follows in Council Decision No. 284: 'The Commission shall concern itself with broad policy questions relevant to the WCO's activities. The Commission shall act as a dynamic Steering Group to the Council. It shall initiate studies on the policies, practices, and procedures of the WCO with the objective of assisting the Council to achieve the broad aims of its activities'.

The key deliverables of the Policy Commission are:

- (a) To examine questions referred to it by the Council, by individual members of the Policy Commission or Council, by the Finance Committee or by the Secretary General (either on his own initiative or at the request of one of the WCO's technical committees or other bodies).
- (b) In regard to the questions thus examined, to make recommendations to the Council or the relevant Committee, or provide advice to the Secretary General. The Commission may also instruct the Secretary General to undertake further research or reflection on an issue, on the basis of which the Policy Commission will consider the matter further.
- (c) In case of urgency, the Commission is empowered to ask the Secretary General to take such action as the Commission deems necessary in the

Note

⁹ See WCO (2008c), 'About Us, Committee Structure, the Policy Commission', <www.wcoomd.org/home_about_us_committtstructpolicycommiss.htm>, 25 Jan. 2009.

interests of the WCO and to report such decision to the next sessions of the Council.

- (d) Each June, to conduct a preliminary examination of the Strategic Plan that is prepared each year by the Secretariat and is submitted first to the Policy Commission and then to the Council.
- (e) Each December, to examine a Programme Budget for the following financial year and make recommendations to the Finance Committee on the general budgetary orientations (including the total amount of the General Operating Expenses) to be presented to the Council for that year.
- (f) Each December, to conduct a midyear review of WCO activities, based on written and oral reports presented by the Secretary General, as a means of monitoring progress on behalf of the Council.
- (g) Each June, to examine the Audit Report in the light of the comments on it made by the Finance Committee and make recommendations to the Council accordingly.

The Policy Commission, under its Chairperson (who is the Chairperson of the Council), examines issues on the basis of documents prepared by the Secretariat or, from time to time, Committee Reports or papers submitted by individual members. Although the Policy Commission is a 'restricted membership' body, the working documents prepared for the sessions are circulated to all WCO members for information.

The Policy Commission's Rules of Procedure specify that the Policy Commission shall hold at least two sessions a year, one of which shall be held in conjunction with the Council sessions. In practice, the Policy Commission holds two 3- or 4-day sessions each year, one about halfway through the financial year (almost always in December), and the other immediately before the annual Council sessions (almost always in June).

The members of the Policy Commission are elected by the Council (the composition of the Commission is described under Part 2 – Membership, above). The ordinary members of the Commission are elected for a two-year term, renewable indefinitely, whereas the Council Chairperson and Vice-Chairpersons are elected for a one-year term, renewable once only unless the Council considers otherwise.

The Rules of Procedure specify that Policy Commission members and observers must be represented by their Heads of Administrations, although exceptionally a Head of Administration may authorize a high-ranking official to represent him/her. Delegates and observers may be accompanied by advisers.

Being a 'restricted membership' body, the Policy Commission is not open to observers (apart from Belgium as the host nation, the Finance Committee Chairperson, and members hosting a session away from the headquarters). Nevertheless, in exceptional circumstances, a WCO member that is not a member of the Policy Commission may be invited to attend part of a Policy Commission session, for example to present a paper it has submitted, or to participate in discussions on a topic that it initiated, or to report on a meeting at which it represented the WCO.

Although the Policy Commission is essentially an advisory body for the Council, as opposed to a decision-making body, and normally arrives at its recommendations by consensus, there are detailed provisions governing voting in the Policy Commission; these are set out in an Appendix to the Policy Commission Rules of Procedure. Essentially, these provisions state that each member of the Policy Commission shall have one vote, representatives of a simple majority of the Policy Commissions members shall constitute a quorum, and a two-thirds majority of those present and entitled to vote is needed in order to carry a decision.

The WCO Secretariat is responsible for making the arrangements and preparations for Policy Commission sessions, providing professional, administrative, and technical services during the sessions and performing follow-up tasks after the sessions. When the Policy Commission meets immediately before the annual Council sessions, its report must be drafted during the session and adopted before the closing of the session, so that it can be circulated to the Council on the following day. For the Policy Commission's midyear session, the report is prepared and circulated by the Secretariat a few weeks after the session.

4.2. Working Groups/Sub-Committees

The Policy Commission has five Working Groups or Sub-Committees:

- (1) High Level Working Group on Capacity Building, Training and Technical Assistance (TTA).¹⁰ The Working Group on Capacity Building/TTA acts under the overall direction of the WCO Policy Commission and Council, with administrative support provided by the WCO Secretariat. The function of the Working Group on Capacity Building/TTA (as described in the minutes of the 101st/102nd Council Sessions) is to provide

Note

10 See WCO (2008d), 'About Us, Committee Structure, the High Level Working Group on Capacity Building Training and Technical Assistance', <www.wcoomd.org/home_about_us_committstruchhighlevelcb.htm>, 25 Jan. 2009.

direction for the WCO's work in the fields of capacity building, technical assistance, and training.

As directed by the Council, the Working Group on Capacity Building/TTA is a small, high-level body, which is responsible for a very specific range of activities, and whose composition is such as to provide for balanced representation of the six WCO regions.

It consists of:

- the Council Chairperson;
- the six Vice-Chairpersons;
- three administrations per region, designated by the Vice-Chairpersons;
- the five administrations that pay the highest contributions to the WCO;
- any other administration, organization, or private sector body invited by the Secretary General.

The delegates who attend meetings of the group are senior managers responsible for shaping general policy and strategic directions within their administrations/organizations.

The functions of the Working Group on Capacity Building/TTA are:

- to advise the Secretary General on the strategies and priorities to be adopted by the WCO in the framework of its Strategic Plan, in the areas of capacity building, TTA;
- to define the most important customs capacity building needs of each region and to group these needs into broad categories;
- to take responsibility for the preparation of a comprehensive customs capacity building strategy;
- to promote the exchange of views, experiences, and recommended practices with a view to strengthening cooperation between customs administrations in the areas of human resource development and training strategies and techniques;
- to advise the Secretariat on how to promote regional cooperation in the TTA field more effectively and how to make better use of the WCO's regional training centres;
- to provide advice on how to promote a mechanism for cooperation between the Secretariat

and member administrations with a view to sharing and providing the resources needed to deliver the WCO's TTA programmes; and

- to provide pertinent advice on the Secretariat's multimedia training policy.

The Working Group on Capacity Building/TTA:

- provides the Secretary General with advice and recommendations on issues relating to WCO capacity building, TTA; and
- presents a report to the WCO Council, describing the current and future strategy on these issues.

Means of Operation of the Working Group on Capacity Building/TTA:

- Meetings of the Working Group shall normally be chaired by the Chairperson of the WCO Council. In the absence of the Chairperson, the group shall elect one of its members to chair the meeting.
- The Working Group shall take decisions and make recommendations following discussions, and by consensus.
- The Secretariat shall inform the Working Group members of the dates of the meeting and the draft agenda, six weeks before the scheduled opening date.
- The Secretariat shall provide the working documents one month before the scheduled opening date, by mail/electronic mail or by placing them on the WCO member's website.
- A report shall be prepared for presentation to the Policy Commission.

The Working Group meets at WCO Headquarters each year, if necessary.

(2) Integrity Sub-Committee.¹¹

The Integrity Sub-Committee acts under the overall direction of the WCO Council and Policy Commission, with administrative support provided by the WCO Secretariat. The mandate of this Sub-Committee is to guide the WCO work in the area of integrity. The Integrity Sub-Committee reports directly to the Policy Commission.

As directed by the Council, the Integrity Sub-Committee shall be a small, well-focused yet high-level group having a balanced representation from all the WCO regions. It will consist

Note

11 See WCO (2008e), 'About Us, Committee Structure, the Integrity Sub-Committee', <www.wcoomd.org/home_about_us_committee_structintegritysub.htm>, 25 Jan. 2009.

of: Representatives of customs administrations; organizations or bodies from the private sector, and international organizations interested in the matter.

The delegates to the Sub-Committee meetings should be high-level managers responsible for policy development and strategic direction in their administrations/organizations.

The purpose of the Sub-Committee on Integrity is to:

- Act as a focal point for the design, development, implementation, and evaluation of the WCO Integrity Action Plan and integrity-related tools.
- Advise the Council, through the Policy Commission, on the appropriateness of WCO strategies and priorities necessary to promote the importance of integrity and ensure the effective implementation of the Revised Arusha Declaration on Integrity in Customs.
- Provide a forum for the exchange of views, experiences, and best practice approaches between member administrations.
- Ensure effective coordination and promotion of integrity-related activities with the private sector and other international organizations.
- Ensure effective integration of integrity principles in all WCO TTA programmes, conventions, and other instruments.

The Integrity Sub-Committee will:

- Review and recommend approval of the WCO Integrity Action Plan.
- Ensure that the WCO Integrity Action Plan and various integrity-related tools and programmes are consistent with the needs and views of member administrations.
- Coordinate WCO input into appropriate international integrity-related fora.

Rules of procedure:

- The Sub-Committee will elect the Chairperson for a one-year term among its members, before completion of the previous meeting. The retiring Chairperson and Vice-Chairperson are eligible for re-election.
- The decisions and recommendations of the Sub-Committee will be made through

discussion and consensus. Any remaining procedures will follow the provisions of the Policy Commission's Rules of Procedure.

- The Secretariat will notify the Sub-Committee members of the meeting dates and a draft meeting agenda will be made available thirty days before the scheduled date of the meeting.
- The Secretariat will provide working documents for the meetings before the scheduled meeting date, by mail/email or by placing them on the member's website.
- A report containing proceedings of the meetings will be prepared and provided to the members of the Sub-Committee, within thirty days of each meeting. Once agreed upon, the report will be provided to the next Policy Commission session.

The Sub-Committee will hold its meetings once a year or as deemed necessary by the Secretary General.

(3) Private Sector Consultative Group (PSCG; under discussion).

(4) SAFE Working Group (SWG; under discussion).¹²

The Formation of the SWG was approved by the WCO Council during its 2007 sessions. The SWG is the new working body charged with maintenance of the WCO SAFE of Standards. The SWG is open to all WCO members, to the PSCG, and to authorized WCO observers. The SWG will report to the Permanent Technical Committee (PTC) or to the Policy Commission, respectively, depending upon whether the particular matter at hand is one of technical concern or is a policy issue.

(5) SECURE Working Group (under discussion).

5. FINANCE COMMITTEE¹³

The Finance Committee acts under the overall direction of the WCO Council with administrative support provided by the WCO Secretariat. Its role and responsibility is to provide support and advice to the Policy Commission and Council in budgetary and financial matters.

A specific responsibility of the Finance Committee, as described in the Financial Rules adopted by the Council, is to examine the estimates of all of the organization's resources and uses for the following

Notes

¹² See WCO, 2008a.

¹³ See WCO (2008f), 'About Us. Committee Structure, Terms of Reference for the Financial Committee', <www.wcoomd.org/home_about_us_committstructfinance.htm>, 25 Jan. 2009.

financial year and prepare a report to the Council thereon. The estimates shall include an estimated profit and loss account, a statement on cash flow, and an estimated balance sheet. They shall cover all operations envisaged for the financial year concerned.

As described in Rule 28 of the Rules of Procedure of the Customs Cooperation Council, the Council each year invites seventeen members each to nominate a delegate to serve on the Finance Committee. They may also each nominate an alternate. The seats on the Finance Committee are allocated on a regional basis from among the active members in the region, in accordance with the following distribution: Europe: 8 seats; North of Africa, Near and Middle East: 1 seat; East and Southern Africa: 1 seat; West and Central Africa: 1 seat; South America, North America, Central America, and the Caribbean: 3 seats; Far East, South and Southeast Asia, Australasia, and the Pacific Islands: 3 seats.

It is expected that the two members paying the highest contributions to the budget of the organization will be members of the Finance Committee (this is stipulated in a footnote to Rule 28 in the Council's Rules of Procedure).

The purpose of the Finance Committee is to perform the functions assigned to it by the Financial Rules made by the Council, as well as to examine specific financial or budgetary matters referred to it by the Council, by the Policy Commission, or by the Secretary General.

In order to prepare decisions by the Policy Commission and the Council, the Finance Committee presents a financial situation report in respect of the achievement of the Strategic Plan objectives.¹⁴

6. AUDIT COMMITTEE¹⁵

The role of the Audit Committee will, as part of the ongoing systematic review of the WCO control environment and governance procedures, be to oversee the audit function and advise the Policy Commission and the Council as well as the WCO Secretary General in relation to the operation and the development of this function. The Audit Committee acts under the overall direction of the WCO Council with administrative support provided by the WCO Secretariat. The Audit Committee assists the Policy Commission and

the Council in fulfilling their oversight responsibility with respect to:

- the overall implementation of the WCO Strategic Plan;
- the budget allocation process and performance measurement policies and practices of the organization;
- efficient and effective programme management and the attainment of objectives, as outlined in the Strategic Plan;
- the protection of resources and their efficient and effective application against stated priorities; and
- the identification and mitigation of significant risks.

The Audit Committee provides independent, documented objective advice to the governing bodies of the WCO through the systematic review and follow-up of all internal and external audit work undertaken in relation to the WCO control environment, risk management practices, decision support, governance, and compliance processes.

The WCO financial and management audits are carried out, in accordance with the Council's decision, by independent professional auditors from the private sector.

7. THE TECHNICAL COMMITTEE ON RULES OF ORIGIN¹⁶

The Technical Committee on Rules of Origin (Technical Committee or TCRO) has competence in the application of the Rules of Origin of the World Trade Organization (WTO). It collaborates with the WTO's Committee on Rules of Origin (Committee or CRO), and has granted observer status to the Organization for Economic Cooperation and Development (OECD), the United Nations Conference on Trade and Development (UNCTAD), the United Nations Statistics Division (UNSD), and the International Chamber of Commerce (ICC).

The TCRO was established by the WTO Agreement on Rules of Origin (Origin Agreement), Article 4.2 (Institutions). The Technical Committee is a WTO body, but it has operated under the auspices of the WCO as provided for under Article 4.2 of the Origin

Notes

14 See WCO (2009b), 'About Us, Strategic Plan', <www.wcoomd.org/home_about_us_strategic_plan.htm>, 25 Jan. 2009.

15 See WCO (2008g), 'About Us, Committee Structure, Terms of Reference for the Audit Committee', <www.wcoomd.org/home_about_us_commstrucaudit.htm>, 25 Jan. 2009.

16 See WCO (2008h), 'About Us, Committee Structure, Terms of Reference for the Technical Committee on Rules of Origin (TCRO)', <www.wcoomd.org/home_about_us_commitstrucorigin.htm>, 25 Jan. 2009.

Agreement. Therefore, the WCO Council exercises its supervision over the Technical Committee with regard to administrative matters only.

When the TCRO was established, its two major mandates were to:

- (i) undertake the technical exercise of the Work Programme for harmonizing non-preferential rules of origin (HWP in short, as described in Articles 9.1 and 9.2 of the Origin Agreement); and
- (ii) assume its permanent responsibilities (as described in Articles 4.1 and 4.2 (Institutions), Article 6.3 (Review), and Annex I of the Origin Agreement).

Each WTO member has the right to be represented on the Technical Committee. Each member may nominate one delegate and one or more alternates to be its representative(s) on the Technical Committee. Representatives of members of the Technical Committee may be assisted by advisers at meetings of the Technical Committee. The WTO Secretariat may also attend such meetings with observer status (Origin Agreement, Annex I, paragraph 4).

Members of the WCO that are not members of the WTO may be represented at meetings of the Technical Committee by one delegate and one or more alternates. Such representatives attend meetings of the Technical Committee as observers (Annex I, paragraph 5).

Subject to the approval of the Chairperson of the Technical Committee, the Secretary General of the WCO may invite representatives of governments, which are neither members of the WTO nor members of the WCO, and representatives of international governmental and trade organizations to attend meetings of the Technical Committee as observers (Annex I, paragraph 6).

Such representatives attend meetings of the Technical Committee as observers with the right to take part in the discussions but not to take part in decision-making (Rules of Procedure, Rule 4, paragraph 2).

Nominations of delegates, alternates, and advisers to meetings of the Technical Committee are made to the Secretary General (Annex I, paragraph 7).

Delegations and alternates continue to hold their positions until such time as the Secretary General is notified of the termination of their appointment (Rules of Procedure, Rule 5, paragraph 2).

The purpose of the Technical Committee is given as follows:

(1) Re-harmonization Work Programme:

- The TCRO completed this technical exercise in 1999 and has been awaiting further requests from the WTO CRO. These requests could include assisting the work of the CRO in the

final stages of the HWP, for example, an overall coherence review.

- In the meantime, in order to ensure the smooth implementation of the Harmonized Non-Preferential Rules of Origin in the future, the Technical Committee has informally conducted a technical rectification exercise to align the draft rules of origin (based on HS 1996) on the 2002 edition of the Harmonized System.

(2) Re-permanent responsibilities of the TCRO:

- to examine specific technical problems arising in the day-to-day administration of the rules of origin of members and to give advisory opinions on appropriate solutions based upon the facts presented (Annex I, paragraph 1(a));
- to furnish information and advice on any matters concerning the origin determination of goods as may be requested by any member or the Committee (Annex I, paragraph 1(b));
- to prepare and circulate periodic reports on the technical aspects of the operation and status of this agreement (Annex I, paragraph 1(c));
- to review annually the technical aspects of the implementation and operation of Parts II and III (Annex I, paragraph 1(d));
- to exercise such other responsibilities as the Committee may request of it (Annex I, paragraph 2);
- to attempt to conclude its work on specific matters, especially those referred to it by members or the Committee, in a reasonably short period of time (Annex I, paragraph 3); and
- in cooperation with the Committee, to set up a mechanism to consider and propose amendments to the results of the HWP, taking into account the objectives and principles set out in Article 9 of the Origin Agreement. This includes instances where the rules need to be made more operational or need to be updated to take into account new production processes as affected by any technological change. In this respect, the Technical Committee, at its Twentieth Session, sent a proposal to the CRO in the form of a document entitled 'Proposed Mechanism for the Submission of the Views of the TCRO to the CRO for Amendments to the Harmonized Non-Preferential Rules of Origin.'

The Technical Committee will:

- prepare draft amendment texts of the Harmonized Non-Preferential Rules of Origin in the course of the technical rectification exercise;

- provide information and advisory opinions on any matters, including appropriate solutions, concerning the origin determination of goods (Annex I, paragraphs 1(a) and (b));
- prepare periodic reports on the technical aspects of the operation and status of this agreement (Annex I, paragraph 1(c));
- prepare annual reviews on the technical aspects of the implementation and operation of Parts II and III (Annex I, paragraph 1(d)); and
- forward a report to the WCO Council on its work.

The Technical Committee may:

- examine specific technical problems arising in the day-to-day administration of the rules of origin of members (Annex I, paragraph 1(a));
- in accordance with WCO Council guidelines, establish such Sub-Committees or Working Parties as it considers necessary, and elect from among the representatives of its members a Chairperson for each such Sub-Committee or Working Party. All the proposals of such Sub-Committees or Working Parties shall be submitted to the Technical Committee for decision (Rules of Procedure, Rule 17);
- where appropriate, request information and advice from the Committee on matters related to this agreement. The Technical Committee may also request such other work from the Committee as it considers appropriate for the furtherance of the above-mentioned objectives of the Agreement (Article 4.2);
- cooperate, promote joint projects, or share information and experiences with relevant WCO working bodies and international governmental and trade organizations related to the matters within its competence.

The Technical Committee meets as necessary, but not less than once a year (Annex I, paragraph 8). Meetings of the Technical Committee are normally held at WCO Headquarters (Rules of Procedure, Rule 9).

8. THE TECHNICAL COMMITTEE ON CUSTOMS VALUATION¹⁷

The Technical Committee on Customs Valuation ensures the uniform interpretation of WTO rules governing the valuation of goods. It exemplifies the close cooperation that exists between the WTO and

the WCO. The Technical Committee on Customs Valuation (hereinafter referred to as ‘the Technical Committee’) is established in accordance with Article 18 of the Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade 1994 (hereinafter referred to as ‘the Agreement’) under the auspices of the WCO with a view to ensuring, at the technical level, uniformity in interpretation and application of the Agreement. The Technical Committee carries out the responsibilities described in Annex II to the Agreement and operates in accordance with the rules of procedure contained therein, with assistance provided by the WCO Secretariat. The Technical Committee shall comprise representatives of members of the WTO. Each member of the WTO may nominate one delegate and one or more alternates to represent it. Those representatives may be assisted by advisers (paragraph 5 of Annex II to the Agreement).

The purpose of the Technical Committee is to:

- examine specific technical problems arising in the day-to-day administration of the customs valuation system of members of the WTO and to give advisory opinions on appropriate solutions based upon the facts presented;
- study, as requested, valuation laws, procedures, and practices as they relate to the Agreement and to prepare reports on the results of such studies;
- prepare and circulate annual reports on the technical aspects of the operation and status of the Agreement;
- furnish such information and advice on any matters concerning the valuation of imported goods for customs purposes as may be requested by any member of the WTO or the Committee on Customs Valuation (hereinafter referred to as ‘the WTO Committee’), which has been established under the auspices of the WTO in accordance with Article 18 of the Agreement;
- facilitate, as requested, technical assistance to members of the WTO with a view to furthering the international acceptance of the Agreement;
- carry out an examination of a matter referred to it by a panel under Article 19 of the Agreement;
- exercise such other responsibilities as the WTO Committee may assign to it.

The Technical Committee shall:

- draft Explanatory Notes, Case Studies, and other instruments to guide the interpretation of the Agreement;

Note

¹⁷ See WCO (2008i), ‘About Us, Committee Structure, the Technical Committee on Customs Valuation’, <www.wcoomd.org/home_wco_topics_valoverviewboxes_valcommittees_committstructvaluation.htm>, 25 Jan. 2009.

- report to the WTO Committee and the WCO Council on its work;
- report to WTO panels on matters referred to it under Article 19 of the Agreement.

The Technical Committee may:

- examine and draft Explanatory Notes, Case Studies, and other instruments to guide the interpretation of the Agreement;
- in accordance with WCO Council guidelines establish and direct the work of working bodies as may be necessary for purposes within its competence;
- cooperate, promote joint projects, or share information and experiences with relevant WCO working bodies and international governmental and trade organizations related to the matters within its competence;
- devote part of each alternate meeting to a ‘theme’ seminar with the purpose of providing a more structured form of technical assistance for its developing country members.

Meetings of the Technical Committee will normally be held twice a year at WCO Headquarters in Brussels, usually for a period of five days.

9. THE HARMONIZED SYSTEM COMMITTEE¹⁸

The Harmonized System Committee works with the WTO, the UNSD, the ICC, the United Nations Environmental Program (UNEP), the Convention on International Trade in Endangered Species of wild fauna and flora (CITES), the Organization for the Prohibition of Chemical Weapons (OPCW), and the Rotterdam Convention on the Prior Informed Consent (PIC) Procedure in order to make the Harmonized Commodity Description and Coding System (Harmonized System Convention, Brussels, 14 June 1983; in short Harmonized System or HS) uniformly applicable in all its 135 Member States (as of January 2009) and make amendments to technical and other modernizations in a regular manner (every four to six years).¹⁹

9.1. The Harmonized System Review Sub-Committee²⁰

The Review Sub-Committee (RSC) acts under the overall direction of the HS Committee with administrative support provided by the WCO Secretariat.

As described in Rule 2 of the Rules of Procedure of the Sub-Committee, the Sub-Committee consists of:

- representatives of the Contacting Parties to the HS Convention;
- representatives of any member of the Council, which is not a Contacting Party to the HS Convention; and
- subject to invitation by the Secretary General, the following:
 - representatives of States that are not members of the Council;
 - representatives of intergovernmental or other international organizations;
 - in consultation with the Chairperson of the Sub-Committee, any experts whose participation is considered desirable on the basis of the contribution they might be expected to make to the work of the Sub-Committee.

The purpose and scope of the Sub-Committee is to:

- pursue a review of the HS under the general guidance of the HS Committee;
- propose to the Committee such amendments to the HS as may be considered desirable having regard, in particular, to the needs of users and to changes in technology or in patterns of international trade; and
- prepare, to the extent appropriate, any consequential amendments to the Explanatory Notes and the Compendium of Classification Opinions for consideration by the Committee.

The RSC’s key deliverables are:

- amendments to HS legal texts at predetermined intervals for uniform application by all users (amendments entered into force in 1992, 1996, 2002, and 2007); and
- consequential amendments to the Explanatory Notes as well as the Compendium of Classification Opinions.

The HS Committee elects the Chairperson from among the members of the HS Committee.

The Sub-Committee examines issues on the basis of documents prepared by the Secretariat, which incorporate comments and proposals from administrations.

Notes

¹⁸ See WCO, 2008a.

¹⁹ See I. Wind, ‘HS 2007: What’s It All About?’, *Global Trade and Customs Journal* 2, no. 2 (2007): 79-86 and C. Weerth, ‘Harmonized System: Evolution of a Nomenclature at Its Twentieth Anniversary (1988-2008)’, *Global Trade and Customs Journal* 3, no. 7/8 (2008): 275-278.

²⁰ See WCO (2008j), ‘About Us, Committee Structure, Harmonized System Review Sub-Committee’, <www.wcoomd.org/home_wco_topics_hsoverviewboxes_committees_committstrchsrewsub.htm>, 25 Jan. 2009 and Wind.

The Sub-Committee seeks to reach a consensus on any matter examined and reports to the Committee. If agreement cannot be reached on a question, the differing views together with their supporting rationales are reported to the HS Committee.

The Sub-Committee holds its sessions as and when required and subject to approval by the Committee and the Council. It usually meets twice a year. Each session lasts one to two weeks depending on the number of items on the agenda.

9.2. The Harmonized System Working Party²¹

The HS Working Party acts under the overall direction of the HS Committee with administrative support provided by the WCO Secretariat.

There is no specific provision. The Working Party usually consists of:

- representatives of the Contacting Parties to the HS Convention;
- representatives of any member of the Council, which is not a Contacting Party to the HS Convention; and
- subject to invitation by the Secretary General, representatives of intergovernmental or other international organizations.

The purpose and scope of the Working Party is to draft the texts of possible amendments to the HS Nomenclature, Explanatory Notes, and Compendium of Classification Opinions before their final adoption by the HS Committee.

The HS Committee elects the Chairperson from among the members of the HS Committee.

The Working Party examines issues on the basis of documents prepared by the Secretariat, which incorporate comments and proposals from administrations.

The Working Party seeks to reach a consensus on any matter examined and reports to the HS Committee. If agreement cannot be reached on a question, the differing views together with their supporting rationales are reported to the HS Committee.

The Working Party holds its sessions as and when required and subject to approval by the HS Committee and the Council. It usually meets immediately before the HS Committee meeting.

10. THE SCIENTIFIC SUB-COMMITTEE²²

The Scientific Sub-Committee acts as an advisory body of the Council on questions involving chemical or other scientific matters. In practice, the Sub-Committee acts under the instruction of the Council or any of its Committees or Sub-Committees and it reports back to these WCO bodies. It also serves as forum for the exchange of views by the customs laboratory services of Council members.

As described in Rule 2 of the Rules of Procedure of the Scientific Sub-Committee, each member of the Council and any other Contacting Party to a Convention established or administered by the Council have the right to be represented.

The purpose and scope of the Scientific Sub-Committee is to:

- assist the HS Committee and the RSC in their technical work, in particular with regard to questions involving the classification of chemical products;
- assist the Council and its Committees and Sub-Committees in their work, related to all scientific and engineering aspects of customs administration, operation, and procedures; and
- serve as a forum for the exchange of views by the customs laboratory services of Council members on customs-related scientific and engineering developments and best practices.

The Sub-Committee's key deliverables are to:

- advise the HS Committee on classification questions involving scientific issues;
- draft HS legal texts and Explanatory Notes involving scientific issues at the request of the HS Committee or the RSC;
- carry out studies for improvement of texts concerning chemical Chapters of the Harmonized System (mainly Chapters 25 to 40);
- exchange views among delegates with regard to the role of customs laboratories, analytical methods, and so forth;
- provide guidance to the Secretariat in its technical assistance programmes on customs laboratory matters; and
- provide scientific and engineering support and advice to the Council and any of its Committees

Notes

21 See WCO (2008k), 'About Us, Committee Structure, the Harmonized System Working Party', <www.wcoomd.org/home_wco_topics_hsoverviewboxes_committees_committstruthsworkpart.htm>, 25 Jan. 2009 and Wind.

22 See WCO (2008l), 'About Us, Committee Structure, Terms of Reference for the Scientific Sub-Committee', <www.wcoomd.org/home_wco_topics_hsoverviewboxes_committees_committstruthsscientsub.htm>, 25 Jan. 2009.

and Sub-Committees on customs requirements or operations.

The Chairperson is elected from among the representatives of the members.

The Sub-Committee examines issues on the basis of documents prepared by the Secretariat, which incorporate comments and proposals from administrations.

The Sub-Committee seeks to reach agreed views on any matter examined and report them to the Council or the relevant Committee as appropriate (normally to the HS Committee). If agreement cannot be reached on a question, the differing views together with their supporting rationales are reported.

The Sub-Committee holds its sessions as and when required and subject to approval by the HS Committee and the Council. It normally holds at least one session a year.

II. THE ENFORCEMENT COMMITTEE²³

The Enforcement Committee works toward the protection of society in the broadest sense of the term. It cooperates with a wide network of partners including Interpol, the United Nations Office on Drugs and Crime (UNODC), the World Intellectual Property Organization (WIPO), the United Nations Education Science and Culture Organization (UNESCO), the International Centre for Migration Policy Development (ICMPD), the European Community (EC), the CITES, the International Atomic Energy Agency (IAEA), and with various private sector representatives.

The Enforcement Committee acts under the overall direction of the WCO Council and Policy Commission, with administrative support provided by the WCO Secretariat.

The mandate of the Enforcement Committee (as described in Chapter I, Rule 1, Rules of Procedure of the Enforcement Committee) is to initiate work and studies on enforcement, with the objective of enabling the Council to discharge the obligations of the Convention establishing the Customs Cooperation Council in accordance with the general purposes of the Convention.

The Committee is also to perform such tasks as may be assigned to it under the terms of the Conventions adopted by the Council, in particular the Convention on mutual administrative assistance for the prevention, investigation, and repression of customs offences (Nairobi Convention).

As described in Chapter II, Rule 2, Rules of Procedure of the Enforcement Committee, the Committee shall comprise representatives of Council members and of Customs or Economic Unions, which are Contracting Parties to the Nairobi Convention. However, such Unions shall not have the right to vote. Each member and each such union may nominate one delegate and one or more alternates to represent it.

The representatives should be officials responsible for and specialized in enforcement matters. They may be assisted by advisers.

The purpose of the Enforcement Committee is to:

- contribute to the strategic direction of work done by the WCO in compliance, control and intelligence within the framework of the WCO Strategic Plan in areas such as security, the intelligence function, commercial fraud, mutual administrative assistance, illicit drug trafficking, money laundering, electronic crime, smuggling, environmental crime, transnational organized crime;
- promote the exchange of views, experiences, and best practices and facilitate improved cooperation between customs administrations, the business/private sector, and governmental and non-governmental organizations;
- promote improvements in the effectiveness of customs through technology, communication, and legal instruments;
- task and provide strategic direction to Enforcement Committee working bodies;
- promote measures that will increase the effectiveness of the Regional Intelligence Liaison Offices (RILOs);
- provide strategic support for WCO technical assistance programmes by members and international donor agencies;
- promote measures that will improve the strategic direction and focus of members in order to achieve results and improve outcomes.

The Enforcement Committee will:

- report to and make recommendations to the Council on the matters within its area of responsibility;
- take decisions, or initiate or undertake action in the areas for which it is responsible.

The Enforcement Committee may:

- establish, in accordance with WCO Council guidelines, and direct the work of such working

Note

23 See WCO (2008m), 'About Us, Committee Structure, Terms of Reference for the Enforcement Committee', <www.wcoomd.org/home_wco_topics_epoverviewboxes_meetings_commitstrucenforcemnt.htm>, 25 Jan. 2009.

bodies as may be desirable for purposes within its competence;

- cooperate, promote joint projects, or share information and experiences, with relevant law enforcement agencies, business/private sector organizations, and international organizations related to commercial fraud, smuggling, and intelligence development.

12. WORKING GROUP ON COMMERCIAL FRAUD²⁴

The Working Group on Commercial Fraud acts under the overall direction of and reports to the Enforcement Committee, with administrative support provided by the WCO Secretariat.

Three member administrations from each WCO region are nominated through the Vice-Chairpersons. The tenure of the members shall usually be of two years with no bar to their re-nomination.

The members of the Working Group shall elect the Chairperson among them:

- (i) To study the nature and extent of commercial fraud²⁵ and analyze its linkages with money laundering, organized crime, and terrorist financing.
- (ii) To assist in ascertaining perceived needs of member administrations in the area of commercial fraud.
- (iii) To propose strategies and methods of international cooperation to combat commercial fraud.
- (iv) To develop appropriate tools, such as guidelines and recommendations, for addressing the problem of commercial fraud, for approval of member administrations.
- (v) To consider any other issues of relevance to commercial fraud.

The Working Group on Commercial Fraud will report to the Enforcement Committee on the agenda items

that it has examined, providing its conclusions in the form of recommendations or options for the Enforcement Committee's consideration.

The Working Group will work on a continuous basis using email and the WCO member's website. Information on the activities and progress of the Working Group and the papers and reports generated by it shall be made available on the WCO member's website. The Working Group shall meet at least once a year, for a duration not exceeding three days. Meetings shall be held at WCO Headquarters, unless participants agree otherwise.

13. ELECTRONIC CRIME EXPERT GROUP²⁶

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The Electronic Crime Expert Group (ECEG) reports to, and operates under the direction of, the Enforcement Committee.

The purpose of the ECEG is to provide a specialist resource to the WCO to advise on aspects of electronic crime as it affects WCO members, including:

- Defending the electronic infrastructure of WCO members by monitoring existing or emerging electronic technologies, which may provide specific benefits or advantages to WCO members in 'hardening' their electronic systems against criminal abuse, misuse or attack, and assist with the development of intelligence and the detection of offenders (e.g., techniques and procedures for targeting and profiling, tracking and tracing procedures, and other detection techniques, immediate action procedures, evidence collection, and so forth).
- Providing early warning of known or potential vulnerabilities to members from the criminal exploitation of electronic systems (e.g., e-commerce fraud, cyber-smuggling, identity fraud, theft and manipulation of data, and so forth).
- Countering threats to the core competencies of WCO members through the development of best preventative practice, including specific proactive and reactive countermeasures, which could be

Notes

24 See WCO (2008n), 'About Us, Committee Structure, Terms of Reference for the Working Group on Commercial Fraud', <www.wcoomd.org/home_about_us_committstructcommrfraud.htm>, 25 Jan. 2009.

25 'Commercial fraud' means:

Any offence against statutory or regulatory provisions which Customs are responsible for enforcing, committed in order to:

- (1) Evade, or attempted to evade, payment of duties/levies/taxes on movements of commercial goods; and/or
- (2) Evade, or attempt to evade, any prohibition or restrictions applicable to commercial goods; and/or
- (3) Receive, or attempt to receive, any repayments, subsidies or other disbursements to which there is no proper entitlement; and/or
- (4) Obtain, or attempt to obtain, illicit commercial advantage injurious to principle and practice of legitimate business competition.

(This definition was agreed by the Working Group to the Eleventh Enforcement Committee (Document No. 36.540), approved by the Enforcement Committee and adopted by the Council.)

26 See WCO (2008o), 'About Us, Committee Structure, Terms of Reference for the Electronic Crime Expert Group (ECEG)', <www.wcoomd.org/home_about_us_commelectroniccrimeexpertgroup.htm>, 25 Jan. 2009.

used by WCO administrations to minimize the risks and impacts identified above, including consideration of such issues as:

- new or refined control and/or law enforcement tools and techniques;
- new or refined methods to collect and present evidence more appropriately;
- specific countermeasures, which member's clients and stakeholders could develop to minimize risks and impacts (e.g., encryption/PKI key protection).
- Keeping pace with technological change, especially the potential impact of specific technological issues such as security, encryption, bandwidth, biometrics, and so forth, in the context of vulnerabilities and impacts on WCO members.
- Recommendations and broad options for training and technological development by member administrations, and the production of best practice.

The ECEG will report and make recommendations:

- annually to the Enforcement Committee on matters within its scope;
- on an ad hoc basis to other Working Group members, as required; and
- through the production of insight reports on topics of specific interest to members.

The Chairperson of the ECEG will:

- rotate annually;
- be responsible for coordinating the activities of the members of the ECEG; and
- maintain close contact with other WCO groups who are dealing with similar topics.

Unclassified reports and research product from the ECEG will be made available via the WCO's restricted website.

The ECEG will provide a forum in which members can:

- discuss and formulate views on the implications of new developments in electronic crime;
- explore possible policy options in respect of regulatory aspects of emerging IT issues;
- formulate possible strategies and mechanisms (technical, policy, and legal) by which members will be able to develop and/or maintain a capability to

detect, react, investigate, and prosecute electronic crime; and

- meet to explore ways in which members, government, and the private sector can together promote the responsible and successful development of electronic commerce.

While most of the ECEG's research will be conducted in its member's own jurisdictions, it will be supported by regular online contact between all ECEG members and an annual meeting to develop the ECEG's yearly report to the Enforcement Committee.

Meetings of the ECEG shall normally be held no more than once a year. The location of the annual ECEG meeting will be at the discretion of the Chairperson.

The Chairperson of the ECEG is responsible for the development of the agenda for annual meetings, in consultation with the Secretariat.

14. CUSTOMS ENFORCEMENT NETWORK MANAGEMENT TEAM²⁷

The Customs Enforcement Network Management Team (CENMaT) is responsible for overseeing the overall management of the Customs Enforcement Network (CEN). The CENMaT reports to, and operates under the direction of, the Enforcement Committee.

The CENMaT is a limited-size group composed of representatives from all RILOs, representatives from host member administrations, and representatives from member administrations seconding or who have seconded staff to RILOs.

The purpose of the CENMaT is:

- to oversee the effective and efficient management of the CEN system;
- to represent the views of CEN users in wider WCO fora;
- to promote the exchange of views, experiences, and best practices concerning the CEN system.

The tasks of the CENMaT are:

- to assure the maintenance of the CEN system by:
 - monitoring regularly the developments and the status of CEN;
 - continuously evaluating the performance and security of the system;
 - identifying the main technical amendments/modifications to the system (content and

Note

27 See WCO (2008p), 'About Us, Committee Structure, Terms of Reference for the Customs Enforcement Network Management Team (CENMaT)', <www.wcoomd.org/home_about_us_commstrucenmat.htm>, 25 Jan. 2009.

procedure) taking into account the user's suggestions.

- to formulate the CEN user perspective and present it to the appropriate WCO decision-making bodies, relative to:
 - strategy and further improvements to the system;
 - access policy;
 - other policy and legal issues related to CEN;
 - to further develop and monitor the system and its functions.

The CENMaT reports and makes recommendations to the Enforcement Committee on CEN matters.

The WCO Secretariat will notify members of the dates of the meeting, the draft agenda, and relevant documents and will invite suggestions for agenda items from members.

The Chairperson of the CENMaT will be elected by delegates annually before completion of the previous meeting.

The CENMaT normally meets once a year – or on request by a member whenever appropriate – at the WCO Headquarters in Brussels for a period usually of two days. The meeting should be held shortly before the session of the Enforcement Committee in order to prepare any discussions related to CEN and give the most up-to-date report on the CEN status.

The WCO Secretariat, as the Central CEN Management, is responsible for:

- notification to CENMaT members and development of the draft agenda in consultation with them;
- administrative preparation for the meeting;
- preparation of the relevant documents and their distribution to delegates well in advance of the meeting;
- facilitation of delegates during the course of the meeting;
- preparation and distribution of the report within sixty days of the meeting;
- following up practical actions decided by the CENMaT to be approved by the Enforcement Committee and the Council, implement them, and inform members about results or progress of the work.

Amendments to these 'Terms of Reference' are subject to the endorsement of the Enforcement Committee.

15. GLOBAL INFORMATION AND INTELLIGENCE STRATEGY PROJECT GROUP²⁸

WCO members control borders utilizing available information. A request has been made to develop a comprehensive and flexible Global Information and Intelligence Strategy (GIIS), which incorporates standards for tactical, operational, and strategic intelligence and the principles of risk management, and which caters for all technical solutions ranging from paper-based systems to full computer-assisted systems. The Twenty-First Session of the Enforcement Committee approved the establishment of a small Project Group, the GIIS Project Group, to develop the strategy.

The GIIS Project Group mandate is to develop an applicable strategy that meets the needs of all members for the development of intelligence, including recommendations for bringing the strategy into force, taking due account of the varying situation in member administrations.

The GIIS Project Group mandate covers consideration of information – including nominal and/or personal data – and the relationship between information systems, including CEN.

The development of a GIIS shall include consideration of the following issues:

- The identification of intelligence standards for tactical, operational, and strategic intelligence.
- The elaboration of intelligence support specific to customs activities relating to airports and seaports, to subsequent investigations and to trade facilitation and management.
- The incorporation of intelligence collection, collation, evaluation, analysis, and dissemination into customs practices.
- The identification of intelligence products, such as alerts, trends, profiles, reports, and messages.
- The confirmation of customs-specific intelligence competencies.
- The development of an intelligence training curriculum.
- The identification of clear linkages between intelligence and risk management principles.
- Planned and coordinated intelligence liaison.
- The management of information through to the development of intelligence.

Note

28 See WCO (2008g), 'About Us, Committee Structure, Terms of Reference for the Global Information and Intelligence Strategy Project Group', <www.wcoomd.org/home_about_us_globalinfointelstrat.htm>, 25 Jan. 2009.

- Quantitative and qualitative measurement parameters for completed intelligence.
- The incorporation of the strategy into WCO organizational structures and rules, including CEN and RILOs.

The GIIS Project Group will:

- Monitor and report on progress on implementation of the GIIS.
- Further develop risk indicators (Standard Risk Assessments, General Risk Indicators, Intellectual Property Rights (IPRs)).
- Further develop the vision document proposed by the Netherlands regarding the role of the WCO intelligence structure and the RILO network.

The GIIS Project Group is scheduled to meet on a periodic basis to carry out its work.

As far as possible, the GIIS Project Group will manage its work through electronic means. Drafts seeking comment will be placed on the member's website and may be accessed by project members as well as all WCO administrations.

The GIIS Project Group will consult with members through the WCO Regional Vice-Chairpersons and will seek timely input and feedback on draft reports.

The GIIS Project Group will consult with other Committees and Working Groups, including CEN-MaT, the Expert Group on Electronic Crime, and the WCO/Business Partnership, to identify linkages and overlaps.

16. THE PTC²⁹

The PTC is responsible for activities related to the harmonization and simplification of customs procedures. It regularly cooperates with a variety of players on the international trade scene, including the ICC, the Integrated Electronics Engineering Center (IECC), and the Universal Postal Union (UPU).

The PTC acts under the overall direction of the WCO Council and Policy Commission, with administrative support provided by the WCO Secretariat.

The role assigned to the PTC at its inception was to initiate technical studies (other than as regards Nomenclature and Valuation) with the objective of enabling the Council to discharge the obligations of the Convention establishing the CCC in accordance with the general purposes of the Convention. For this purpose, the powers conferred upon the Council by virtue

of Article III of the Convention are, save as regards the provisions of paragraphs (c), (d), (e), and (h) of that Article, delegated to the PTC insofar as they are necessary for the execution of its functions. The PTC does not have the power to make recommendations to governments of members or to international organizations without the express authority of the Council.

The PTC also performs such particular tasks as may be assigned to it by the Council or under the terms of Conventions adopted by the Council.

As is specified in Article X (a) of the Convention establishing the CCC, the PTC is composed of representatives of the members of the Council. Each member may nominate one delegate and one or more alternates to be its representatives on the Committee.

The representatives should be officials responsible, within their administrations, for matters relating to customs procedures and trade facilitation.

The PTC may decide to invite representatives of international organizations to attend sessions of the Committee as observers.

The functions of the PTC are to:

- contribute to the strategic direction of work done by the WCO in respect of the promotion, development, and administration of trade facilitation instruments and tools, in accordance with the WCO Strategic Plan;
- help enhance cooperation between customs administrations and governmental and non-governmental (private sector) organizations in the field of trade facilitation;
- introduce and promote initiatives aimed at improving the effectiveness of customs through information technology (IT) and electronic commerce, customs cooperation, and the establishment of various legal instruments;
- develop various tools designed to enhance efficiency in trade (particularly the guide to measure the time required for the release of goods) and promote their use by members;
- contribute to the development of means and methods to facilitate, simplify, and harmonize the customs formalities applicable to postal consignments;
- provide strategic support for the WCO's capacity building programmes for its members.

The PTC will:

- report to and make recommendations to the Council on the matters within its area of responsibility;

Note

29 See WCO (2008r), 'About Us, Committee Structure, Terms of Reference for the Permanent Technical Committee', <www.wcoomd.org/home_wco_topics_pfoverviewboxes_pfcommittees_commitstructpermnttech.htm>, 25 Jan. 2009.

- take decisions, or initiate or undertake actions in the areas for which it is responsible.

The PTC elects a Chairperson and a Vice-Chairperson each year, from among the representatives of its members. The Chairperson and Vice-Chairperson are elected for a period of one year and are eligible for re-election.

The WCO Secretariat, in consultation with the PTC Chairperson, draws up the agenda for each session and circulates it to the members of the Committee at least thirty days in advance of the opening day of the session, although this period may be reduced in case of emergency. Working documents, especially those that may require consultation at the national level, should also be made available to the members in sufficient time.

The agenda comprises all items whose inclusion has been approved by the Council, and all items whose inclusion has been proposed by the Secretary General, the PTC Chairperson, or any WCO member.

The PTC may also:

- establish such Working Parties as it may deem necessary to assist it in the performance of its functions;
- determine, in accordance with WCO Council guidelines, and direct the activities of the working bodies falling within its competence;
- cooperate, promote joint projects, and share information and experiences with international, governmental, and non-governmental organizations, and business/private sector associations whose activities are related to customs procedures and trade facilitation. These partners participate as observers in the PTC.

The general arrangements for PTC sessions, including in particular the invitations, the dates and duration of each session, and the priorities to be fixed for the items on the Committee's agenda, shall be the responsibility of the WCO Secretariat. The Committee holds its sessions as and when required and subject to approval by the Council.

17. THE CONTACT COMMITTEE FOR THE WCO/IATA/ICAO GUIDELINES ON ADVANCED PASSENGER INFORMATION (API)³⁰

The Contact Committee for the WCO/IATA/ICAO Guidelines on Advance Passenger Information (API)

is established so that the guidelines may be managed and maintained by the three organizations. In doing so, the Committee will promote the implementation of the guidelines, consider any measures to secure uniformity in the interpretation and application thereof, monitor the application of the guidelines, and consider any amendment proposed to the guidelines.

The API shall consist of experts from all three organizations involved. As regards representation of the WCO, the delegation shall consist of four members, at least two of whom have experience in operating an API system. With regard to representation from ICAO, the delegation shall consist of an officer from the Facilitation Section and an immigration expert nominated by ICAO. IATA shall be represented by the Assistant Director, Facilitation Services.

The Secretary General of the WCO may invite representatives of non-member governments or of international organizations to attend meetings as observers.

The Contact Committee deals with issues arising from the application of the guidelines and, in particular, seeks means to keep the guidelines current and reflective of the needs of members and of the industry. As these guidelines are a cornerstone of counter-terrorism measures, the Committee is established to permit timely changes to the guidelines.

To this end, the API shall:

- promote the application of the guidelines for administrations developing API systems;
- examine questions relating to interpretation and application of the guidelines;
- examine proposals for amendments to the guidelines and the appendices thereto; and
- act as a platform for the exchange of information on issues of common interest related to providing API to the authorities.

The Committee shall adopt a report reflecting the discussion on the agenda items and the conclusions reached. The Committee shall submit the details of any proposed changes to the guidelines and the appendices thereto to the WCO's PTC, to the ICAO Secretary General, and to IATA's Passenger Services Conference, for their approval.

The Contact Committee shall elect a Chairperson and Vice-Chairperson for a one-year term. The retiring Chairperson and Vice-Chairperson are eligible for re-election.

Note

30 See WCO (2008s), 'About Us, Committee Structure, the Contact Committee for the WCO/IATA/ICAO Guidelines on Advance Passenger Information', <www.wcoomd.org/home_wco_topics_pfoverviewboxes_pfcommittees_committstruictaicaoinfo.htm>, 25 Jan. 2009.

The agenda for each session shall be drawn up by the Secretary General of the WCO. It shall include any proposals for amendments to the guidelines communicated by members or international organizations. The agenda shall be circulated to the members of the Committee at least thirty days before the Committee meets. Working documents, especially those that may require consultation at the national level, should be available to the Committee in sufficient time to allow the appropriate consideration of the document.

Meetings shall be organized annually. When required, the WCO Secretariat will organize virtual meetings and establish discussion forums on the WCO member's website.

The general administrative arrangements for the meeting of the Committee, including the date and duration of each session and the priorities to be fixed for the items on the Committee's agenda, shall be the responsibility of the Secretary General of the WCO.

18. REVISED KYOTO CONVENTION MANAGEMENT COMMITTEE

According to Article 6, paragraph 1 of the Kyoto Convention, there shall be established a Management Committee to consider the implementation of this Convention, any measures to secure uniformity in the interpretation and application thereof, and any amendments proposed thereto.

The Contracting Parties shall be members of the Management Committee.

The competent administration of any entity qualified to become a Contracting Party to this Convention under the provisions of Article 8 or of any member of the WTO shall be entitled to attend the sessions of the Management Committee as an observer. The status and rights of such observers shall be determined by a Council Decision. The aforementioned rights cannot be exercised before the entry into force of the Decision.

The Management Committee may invite the representatives of international governmental and non-governmental organizations to attend the sessions of the Management Committee as observers.

The Management Committee:

- (A) shall recommend to the Contracting Parties:
 - (I) amendments to the Body of this Convention;
 - (II) amendments to the General Annex, the Specific Annexes, and Chapters therein and the incorporation of new Chapters to the General Annex; and

- (III) the incorporation of new Specific Annexes and new Chapters to Specific Annexes;
- (B) may decide to amend Recommended Practices or to incorporate new Recommended Practices to Specific Annexes or Chapters therein in accordance with Article 16;
- (C) shall consider implementation of the provisions of this Convention in accordance with Article 13, paragraph 4;
- (D) shall review and update the guidelines;
- (E) shall consider any other issues of relevance to this Convention that may be referred to it;
- (F) shall inform the PTC and the Council of its decisions.

The competent administrations of the Contracting Parties shall communicate to the Secretary General of the Council proposals under paragraph 5 (a), (b), (c), or (d) of this Article and the reasons therefore, together with any requests for the inclusion of items on the agenda of the sessions of the Management Committee. The Secretary General of the Council shall bring proposals to the attention of the competent administrations of the Contracting Parties and of the observers referred to in paragraphs 2, 3, and 4 of this Article.

The Management Committee shall meet at least once each year. It shall annually elect a Chairman and Vice-Chairman. The Secretary General of the Council shall circulate the invitation and the draft agenda to the competent administrations of the Contracting Parties and to the observers referred to in paragraphs 2, 3, and 4 of this Article at least six weeks before the Management Committee meets.

Where a decision cannot be arrived at by consensus, matters before the Management Committee shall be decided by voting of the Contracting Parties present. Proposals under paragraph 5 (a), (b), or (c) of this Article shall be approved by a two-thirds majority of the votes cast. All other matters shall be decided by the Management Committee by a majority of the votes cast.

Where Article 8, paragraph 5 of this Convention applies, the Customs or Economic Unions, which are Contracting Parties, shall have, in case of voting, only a number of votes equal to the total votes allotted to their members that are Contracting Parties.

Before the closure of its session, the Management Committee shall adopt a report. This report shall be transmitted to the Council and to the Contracting Parties and observers mentioned in paragraphs 2, 3, and 4.

In the absence of relevant provisions in Article 6, the Rules of Procedure of the Council shall be applicable, unless the Management Committee decides otherwise.

19. ADMINISTRATIVE COMMITTEE FOR THE CUSTOMS CONVENTION ON CONTAINERS (1972)³¹

The Administrative Committee for the Customs Convention on Containers (1972) is established to consider the implementation of the Customs Convention on Containers (1972) and any amendment proposed thereto.

The Administrative Committee shall also maintain the Handbook and issue Opinions and Comments for inclusion therein.

The Administrative Committee shall consist of Contracting Parties to the Convention. The Administrative Committee may decide that States referred to in Article 18, which are not Contracting Parties or representatives of international organizations, may attend the sessions of the Committee as observers.

To achieve the mandate, the Administrative Committee shall:

- examine proposals for amendments to the Convention;
- examine proposals for inclusion in the Handbook and where appropriate issue Opinions and Comments for inclusion therein;
- examine relevant developments in other WCO working bodies and international organizations, as appropriate.

The Administrative Committee shall adopt a report. This report shall contain comments on the agenda items discussed and their conclusions.

The Administrative Committee shall recommend amendments to the Convention to the Contracting Parties. The Committee shall issue Opinions and Comments for inclusion in the Handbook, as appropriate. The Administrative Committee shall, on the occasion of every session, elect a Chairperson and a Vice-Chairperson.

The agenda for each session shall be drawn up by the Secretary General. It shall include any proposals for amendments to the Convention communicated by the Contracting Parties. The draft agenda shall be circulated to the competent administrations of the Contracting Parties and of the States referred to in Article 18 of the Convention, which are not Contracting Parties, at least six weeks before the Committee meets.

The Rules of Procedure for the Administrative Committee are set out in the Convention. In the absence of relevant provisions in the Convention, the Rules of

Procedure of the Council shall be applicable unless the Committee decides otherwise.

The Secretary General shall convene the Administrative Committee at a time fixed by the Committee, but not less frequently than once every two years and also at the request of the competent administrations of at least five Contracting Parties.

20. ISTANBUL CONVENTION ADMINISTRATIVE COMMITTEE³²

The Administrative Committee of the Istanbul Convention is established to consider the implementation of the Istanbul Convention, any measures to secure uniformity in the interpretation and application thereof, and any amendment proposed thereto. The Committee can also decide upon the incorporation of new Annexes to the Convention.

Contracting Parties to the Istanbul Convention shall have the right to be represented as a member of the Administrative Committee. The Committee may also decide that the competent administration of any member, State, or customs territory in accordance with Article 24, which are not Contracting Parties, or representatives of international organizations, may attend the sessions as observers for questions that interest them.

To achieve the mandate, the Administrative Committee should:

- examine questions of interest that may be of great value and offer useful guidance to customs administrations, issuing and guaranteeing associations, and carnet users;
- examine questions relating to interpretation and application of the Convention raised by the Contracting Parties or issuing and guaranteeing associations;
- examine proposals for amendments to the Convention and/or the incorporation of new Annexes to the Convention;
- consider disputes concerning the interpretation or application of the Convention referred by the Contracting Parties in dispute and make recommendations for their settlement.

The Committee shall adopt a report. This report shall contain comments on the agenda items discussed and their conclusions.

Notes

31 See WCO (2008t), 'About Us, Committee Structure, the Administrative Committee for the Customs Convention on Containers, 1972', <www.wcoomd.org/home_wco_topics_pfoverviewboxes_pfcommittees_committstructconventcontainer.htm>, 25 Jan. 2009.

32 See WCO (2008u), 'About Us, Committee Structure, the Administrative Committee of the Istanbul Convention', <www.wcoomd.org/home_wco_topics_pfoverviewboxes_pfcommittees_committstructadministconven.htm>, 25 Jan. 2009.

The Committee shall recommend amendments to the Convention to the Contracting Parties.

The Administrative Committee shall, on the occasion of every session, elect a Chairperson and a Vice-Chairperson.

The agenda for each session shall be drawn up by the Secretary General. It shall include any proposals for amendments to the Convention communicated by the Contracting Parties together with any other items requested. The draft agenda shall be circulated to the competent administrations of the Contracting Parties and of the members, States, or customs territories referred to in Article 24 of the Convention, which are not Contracting Parties, at least six weeks before the Committee meets.

The Rules of Procedure for the Administrative Committee are set out in the Convention. In the absence of relevant provisions in the Convention, the Rules of Procedure of the Council shall be applicable unless the Committee decides otherwise.

The Secretary General shall convene the meeting at a time fixed by the Committee and also at the request of the competent administrations of at least two Contracting Parties. The meetings are normally held in conjunction with the meeting of Contracting Parties to the ATA Convention. The two meetings usually last a total of two days.

21. INFORMATION MANAGEMENT SUB-COMMITTEE³³

The Information Management Sub-Committee (IMSC) is established in order to initiate work and studies on all aspects of the use of IT and the management of information in the customs area, with a view to allowing for greater facilitation of international trade, increasing the efficiency and effectiveness of customs control, and identifying potentials for improving existing systems and reducing costs. To this end, the IMSC will take only those actions that support the WCO Strategic Plan. The IMSC reports to the PTC.

Each member of the WCO and any other Contracting Party to a Convention established or administered by the WCO shall have the right to be represented as a member on the IMSC. However, opinions on any matter concerning a particular Convention shall be formulated only by the representatives of Contracting Parties to that Convention. Other representatives to whom that Convention does not apply shall participate

in the discussion as observers only. Subject to the approval of the Chairperson of the Sub-Committee, the Secretary General may invite representatives of non-member governments or of international organizations to attend meetings of the Sub-Committee as observers.

To achieve the mandate, the IMSC should:

- evaluate and keep members informed of new IT developments and their impact on customs;
- provide advice and guidance and launch special programmes for members to assist them in streamlining current procedures, in progressively adopting IT/electronic commerce and in resolving difficulties (e.g., with electronic signatures and other legal issues);
- seek access for members to additional resources to implement automation and electronic commerce/EDI by cooperating with other governmental and non-governmental international organizations;
- continue to promote, in close cooperation with other international organizations, the implementation of electronic commerce, including UN/EDIFACT, for the interchange of customs information among customs administrations and between customs administrations and trade participants;
- identify member's training needs in IT and EDI and seek the assistance, where necessary, of member administrations and other international organizations for this training;
- assist members in enhancing their efforts in customs control and trade facilitation by employing electronic commerce/EDI.

22. UPU/WCO CONTACT COMMITTEE³⁴

The WCO/UPU Contact Committee was established in 1965 by an agreement between the WCO and the UPU, following a resolution adopted by the UPU at its Fifteenth Congress held in Vienna. The WCO/UPU Contact Committee has the character of a Working Group whose conclusions are submitted to the competent WCO and UPU bodies for approval. Within the WCO, this body is the PTC and, within the UPU, the Postal Operations Council (POC).

Each of the two organizations is represented by experts from six member administrations and by its

Notes

33 See WCO (2008v), 'About Us, Committee Structure, the Information Management Sub-Committee (IMSC)', <www.wcoomd.org/home_wco_topics_pfoverviewboxes_pfcommittees_committstructinfomanagesub.htm>, 25 Jan. 2009.

34 See WCO (2008w), 'About Us, Committee Structure, the WCO/UPU Contact Committee', <www.wcoomd.org/home_wco_topics_pfoverviewboxes_pfcommittees_committwcoupucontract.htm>, 25 Jan. 2009.

own Secretariat. Where possible, each expert shall be accompanied by a technical adviser from the national customs or postal administration, as appropriate. Consequently, the WCO/UPU Contact Committee shall not include representatives from the postal and customs administration of the same country. The customs and postal administrations of the host country shall also be invited to the Committee as observers.

The Committee is usually reconstituted every five years, following a decision by the supreme bodies in both organizations, namely the WCO Council and the UPU Congress.

The Contact Committee deals with issues of common interest and, in particular, seeks means and methods to speed up and simplify customs formalities in the postal service. To this end, the WCO/UPU Contact Committee:

- works as contact point between the two organizations on issues raised at the respective organizations;
- exchanges information on issues of common interest related to postal traffic, in particular the issues related to the clearance of postal items;
- seeks means and methods to facilitate, simplify, and harmonize customs formalities on postal items;
- seeks means and methods to ensure effective customs control of postal items;
- seeks means and methods to ensure that effective security arrangements are made for the carriage of all postal items;
- seeks means and methods to enhance customs control at export level.

A report, drafted after the meeting by the Secretariat of the host organization, is sent to the Chairperson of the meeting for approval. The report must then be approved by the competent bodies in each of the two organizations. Within the WCO, this body is the PTC and, in the UPU, the POC. The report shall contain details of decisions taken and/or actions to be taken within agreed time frames. The WCO Secretariat, the UPU Secretariat, and the member administrations of the WCO/UPU Contact Committee shall make every effort to ensure that the conclusions of the Contact Committee will be respected by their respective competent bodies.

The agenda for each meeting shall be drawn up by the organization hosting the meeting in close consultation with the other organization and shall be distributed to the delegates to the Contact Committee at

least thirty days in advance of the opening date of the meeting, except in case of urgency. Working documents, especially those that may require consultation at the national level, should also be available to delegates in sufficient time.

The WCO/UPU Contact Committee may set up Working Groups as it considers necessary to progress some of its functions. However, the Contact Committee shall retain overall responsibility for all matters of its competence.

The general administrative arrangements for the Contact Committee, including the date and the venue, shall be decided by the host organization in close consultation and cooperation with the other organization.

The WCO/UPU Contact Committee shall be organized annually and alternately in Brussels (Belgium) and in Bern (Switzerland). The meeting is of two-day duration. Where appropriate and subject to agreement between the two organizations, the Contact Committee may be cancelled. In that case, the organization that proposed to host the cancelled meeting shall host the next meeting.

A separate preparatory meeting for the customs and postal administrations is to be arranged before the opening of the official meeting. In principle, the preparatory meeting discusses the issues based on each agenda item and seeks joint positions of the respective organizations. Each of the two organizations must designate a spokesperson, which presents the documents prepared by, and speaks on behalf of, his/her organization. However, all experts and observers may take the floor during the discussions. The meeting is chaired by the spokesperson for the organization hosting the meeting.

The officers of the Secretariat designated by the Secretaries General of the two organizations shall perform the secretariat duties at the meetings of the Contact Committee.

23. CONTRACTING PARTIES TO THE ATA CONVENTION³⁵

The Contracting Parties of the Carnet ATA Convention (sixty-six in January 2009) shall meet when necessary in order to consider the operation of the Convention and also to consider measures to secure uniformity in the interpretation and application of the Convention. The meeting shall also consider amendments to the ATA Convention.

Contracting Parties to the ATA Convention shall have the right to be represented at the meeting. There are no

Note

35 See WCO (2008x), 'About Us, Committee Structure, the Meeting of Contracting Parties to the A.T.A. Convention', <www.wcoomd.org/home_wco_topics_pfoverviewboxes_pfcommittees_committstructcontrctataconv.htm>, 25 Jan. 2009.

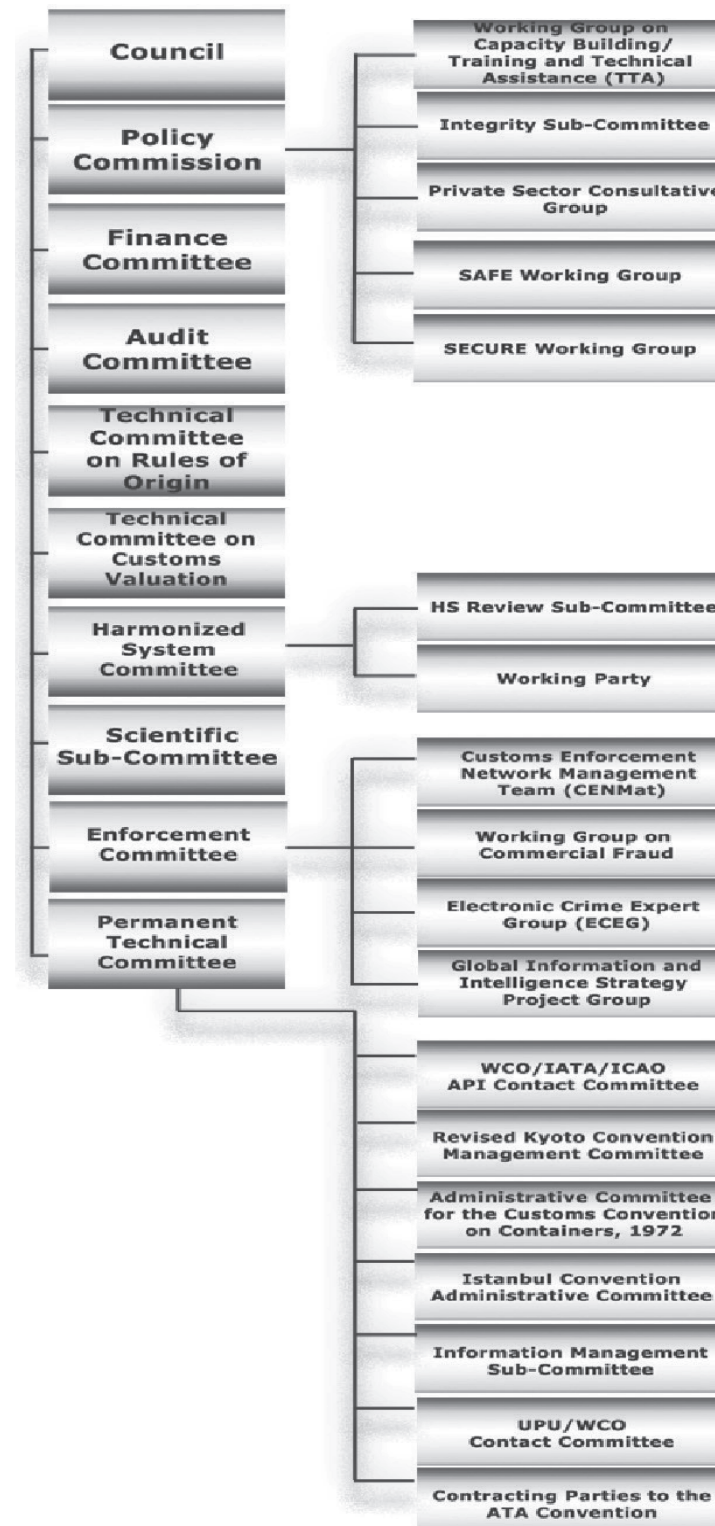
specific provisions for non-Contracting Parties or representatives of international organizations to attend the meeting as observers. In practice, however, invitations for the meeting are sent to non-Contracting Parties as well as international organizations.

To achieve the mandate, the meeting of Contracting Parties should:

- examine questions relating to interpretation and application of the Convention raised by the

AQ10

Figure 1: Structure of the WCO



Source: © WCO, 2009.

Contracting Parties or issuing and guaranteeing associations;

- examine proposals for amendments to the Convention;
- consider disputes concerning the interpretation or application of the Convention referred by the Contracting Parties in dispute and make recommendations for their settlement.
- recommend amendments to the ATA Convention to the Contracting Parties.

The Convention is silent on the election of a Chairperson and a Vice-Chairperson. However, in practice, they are elected at the start of the meeting.

In practice, the agenda for each meeting is drawn up by the Secretary General. It includes any proposals for amendments to the Convention communicated by the Contracting Parties, together with any other items requested.

The meeting is to be convened by the Secretary General at the request of any Contracting Party and is, in principle, held at the WCO Headquarters in Brussels. Rules of Procedure for the meetings are to be decided by the Contracting Parties, but no decision can be taken on any matter unless more than half of the Contracting Parties are present. The meetings are normally held in conjunction with a meeting of the Administrative Convention for the Istanbul Convention. The two meetings usually last a total of two days.

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Q12

Q13