

B. Legal acts governing customs records

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1.4. *International conventions and agreements relevant to customs records.* The World Customs Organization (WCO) is the international platform at which countries reach agreements on customs regulations, while the World Trade Organization (WTO) is the body concerned with international trade agreements. From an IMTS perspective, the two most relevant conventions adopted by WCO are the revised International Convention on the Simplification and Harmonization of Customs Procedures (known as the revised Kyoto Convention, or RKC), which provides standards for various customs procedures and describes corresponding good practices, and the International Convention on the Harmonized Commodity Description and Coding System (known as Harmonized System Convention, or HS Convention)^[2], which sets out the commodity classification. For trade statistics, the most important international agreement adopted by WTO is the WTO Agreement on Customs Valuation.^[3] All of these and some other relevant international conventions will be discussed in more detail in the subsequent chapters.

1.5. *National laws and regulations.* When a country becomes a signatory to a WCO convention (or parts of it), the content of that convention needs to be properly reflected in its national law. Generally, the national law adds further details applicable to the national needs and circumstances. Based on and authorized by the respective national law, various government regulations, administrative acts and service level agreements can be put in place to further elaborate the rights and the responsibilities of the various agencies with respect to the statistical process (see chap. V for details).

1.6. *National laws and regulations: experience of the United States of America.* The United States Code contains the general and permanent laws of the United States by subject matter. It is divided, by broad subjects, into 51 titles and published by the Office of the Law Revision Counsel of the United States House of Representatives. More than half of these titles make reference to laws and regulations enforced by the Administration for Customs and Border Protection. For instance, Title 13, entitled "Census", contains a chapter on "Collection and Publication of Foreign Commerce and Trade Statistics". Box I.1 below contains an excerpt from section 301 of that chapter. Another example is Title 19, entitled "Customs duties", which contains most references to customs procedures.

Box I.1 United States Code: excerpt from Title 13 entitled "Census"

Chapter 9 entitled "Collection and Publication of Foreign Commerce and Trade Statistics": section 301, entitled "Collection and publication", parts (a) and (b).

(a) The [United States Secretary of Commerce] is authorized to collect information from all persons exporting from, or importing into, the United States and the noncontiguous areas over which the United States exercises sovereignty, jurisdiction, or control, and from all persons engaged in trade between the United States and such noncontiguous areas and between those areas, or from the owners, or operators of carriers engaged in such foreign commerce or trade, and shall compile and publish such information pertaining to exports, imports, trade, and transportation relating thereto, as he deems necessary or appropriate to enable him to foster, promote, develop, and further the commerce, domestic and foreign, of the United States and for other lawful purposes.

(b) The Secretary shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate, on quarterly and cumulative bases, statistics on United States imports for consumption and United States exports by country and by product. Statistics on United States imports shall be submitted in accordance with the Harmonized Tariff Schedule of the United States Annotated for Statistical Reporting Purposes and general statistical note 1 thereof, in detail as follows:

- (1) net quantity;
- (2) United States customs value;
- (3) purchase price or its equivalent;
- (4) equivalent of arm's length value;
- (5) aggregate cost from port of exportation to United States port of entry;
- (6) a United States port of entry value comprised of (5) plus (4), if applicable, or, if not applicable, (5) plus (3); and
- (7) for transactions where (3) and (4) are equal, the total value of such transactions.

The data for paragraphs (1), (2), (3), (5), and (6) shall be reported separately for nonrelated and related party transactions, and shall also be reported as a total of all transactions.

1.7. *Access to information: experience of Canada.* Ideally, the national law or regulations on statistics require that statistically relevant information on foreign trade in possession of any institution be made available to the authorized compiling agency. Box I.2 below gives an example of such a legal arrangement, which requires the customs administration of Canada to provide Statistics Canada, the country's compiling agency of international trade statistics, with the relevant data.

Box I.2 Excerpt from the Statistics Act of Canada

Return of exports and imports from Customs

25. For the purposes of this Act and subject to section 17, the Solicitor General of Canada shall cause to be sent to the Chief Statistician returns of imports and exports into and from Canada and details of the means of transportation used therefor, in such manner and at such times as the Governor in Council may prescribe on the recommendation of the Minister and the Solicitor General of Canada. 1970-71-72, c. 15, s. 23; 1976-77, c. 28, s. 41; 2005, c. 38.

1.8. *Contents of national regulations and advantages of custom records.* National customs law usually requires that importers and exporters of goods report particulars of their transactions to customs for the purpose of collection of duties and taxes, for health, environmental and/or other control purposes, and for statistical purposes. In many countries, a person who fails to lodge the required declaration, or knowingly or recklessly lodges an inaccurate declaration, is liable for an offence. Such regulations make customs records a readily available and generally reliable source of data. Further details on customs records as the main data source for trade statistics are provided in chapter II. Their advantages and limitations are discussed in chapter VII and a number of related quality assurance issues are elaborated in chapter IX.

1.9. *International recommendations for trade statistics.* The United Nations Statistical Commission is the international forum at which countries adopt the international recommendations for trade statistics. At its forty-first session in 2010, the Commission adopted the revised recommendations for international merchandise trade statistics (IMTS 2010).^[4] The reflection of these recommendations in national laws or regulations, especially where the recommendations require additional information, allows the responsible agency to more effectively collect, process and disseminate the information necessary for the compilation and dissemination of high-quality international merchandise trade statistics.

[2] United Nations, Treaty Series, vol. 1503, No. 25910.

[3] See Legal Instruments Embodying the Results of the Uruguay Round of Multilateral Trade Negotiations, done at Marrakesh on 15 April 1994 (GATT secretarial publication, Sales No. GATT/1994-7).

[4] See Official Records of the ECOSOC, 2010, Supplement No. 4 (E/2010/24), chap. I, Sect. B, decision 41/103, para. (b).