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# WCO news

**Council 2016**  
**Customs brokers**  
**Cultural heritage**  
**Carbon emissions**



World Customs Organization

# New edition of the Harmonized System



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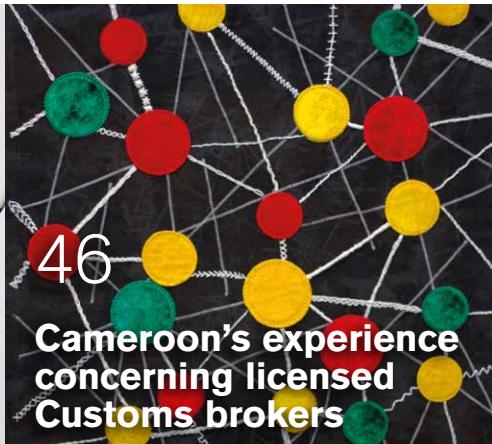
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Technology



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Model

EN FR



The WTO TFA

EN

## Latest accessions to WCO instruments

Revised Kyoto Convention



Lao People's Democratic  
Republic

Date of accession: 16 July 2016  
104<sup>th</sup> Contracting Party

More information

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## Council 2016

Directors General of Customs gathered at WCO Headquarters from 14 to 16 July 2016 to endorse the work done by the Organization covering the period July 2015 to June 2016, and to chart the way forward in the months ahead.

This dossier touches on the WCO's main areas of work – compliance, facilitation, tariff and trade affairs, and capacity building – and presents the progress made and initiatives taken in each of these areas over the 12 month period. It also reports interesting events that occurred during the Council.





# Members of the WCO engage on e-commerce, security, coordinated border management, illicit trade, and revenue at the July 2016 WCO Council Sessions

**By Kunio Mikuriya,**

SECRETARY GENERAL,  
WORLD CUSTOMS ORGANIZATION

DURING THE 126<sup>TH</sup>/127<sup>TH</sup> Sessions of the WCO Council, which took place in July of this year, Heads of Customs administrations representing the 180 Members of the WCO engaged on many critical topics, such as e-commerce, security, Customs-Police cooperation, Customs-Tax cooperation, protection of cultural heritage, and revenue. In this article, I take up each of these topics in turn.

## E-commerce

The changing trade landscape is a dramatic development for Customs, especially the growth in e-commerce and the associated current and emerging challenges in terms of supply chain facilitation, security, protection of society, and the collection of duties and taxes. These challenges are particularly in the context of cross-border low-value business-to-consumer (B2C) and consumer-to-consumer (C2C) e-commerce shipments.

The WCO's recent activities on e-commerce include the collection of WCO Members' working experiences and practices, as well as the different streams of work currently being carried out in collaboration with the Organisation for Economic Co-operation and Development (OECD), the United Nations Conference on Trade and Development (UNCTAD), the World Trade Organization (WTO), the Universal postal Union (UPU), and other relevant bodies and e-commerce stakeholders.

In addition, the WCO has established a multi-stakeholder Working Group on E-Commerce (WGEC), the first meeting of which took place in September 2016 with a broad variety of stakeholders attending, including Customs administrations and partner international organizations, as well as representatives of the postal and express service industry, e-vendors,

e-commerce platforms, and online payment providers. Going forward, the implementation of an electronic interface between Post and Customs at the national level through the use of joint WCO-UPU messaging standards, as well as providing related strategic direction for future work, should be a top priority.

E-commerce is a data-rich environment that demands equally strong data capabilities. With "Digital Customs" being the WCO's theme for 2016, the Council also discussed how to embrace a more digital environment, and create an operating model that captures and exploits data from across the industry ecosystem. Two high-level speakers from the private sector addressed this issue: a representative of Microsoft who stressed the importance of embracing the "cloud" in order to access aggregated data; and a representative of GS1 who highlighted the need for standards in order to connect stakeholders and share data.

## Security

Border security continues to be an increasingly serious concern for countries across the globe. The WCO's Punta Cana Resolution of December 2015 was a direct result of this concern, and highlighted the global Customs community's position in relation to fighting terrorism. The WCO's key activities in this regard include high-level political engagement at the UN and G7, accompanied by operational-level activities across the five key focus areas of the WCO Security Programme: passenger controls; Programme Global Shield; the Strategic Trade Controls Enforcement (STCE) Programme; the Small Arms and Light Weapons (SALW) Project; and terrorist financing.

My hope is that the WCO's global security strategy will increasingly inspire regional counter-terrorism strategies. In addition, I encourage WCO Members to engage in

the work of the Security Virtual Working Group by highlighting their revised strategies and best practices, and providing them to the WCO Secretariat. In relation to information exchange, I plan to turn the WCO into an even more active player through initiatives like the new Information and Intelligence Centre (I2C), and through the global Regional Intelligence Liaison Office (RILO) network.

## Customs-Police cooperation

Customs-Police cooperation is part of the WCO's coordinated border management (CBM) framework. The WCO has a long-standing cooperative relationship with INTERPOL, based on a Memorandum of Understanding (MoU) that has existed since 1998. As a testimony to this good relationship, this year we invited Jürgen Stock, INTERPOL's Secretary General, to address the Council. However, the challenges associated with overlapping activities and mandates have often been difficult to overcome at the national level.

With the above in mind, the WCO presented the draft Customs-Police Cooperation Handbook to the Council, which, in its current form, will be further enhanced by the inclusion of WCO Members' experiences, as well as different existing cooperation typologies.

While recognizing the importance of national legislation and the institutional legal framework on Customs-Police relations, the aim of this Handbook is to provide suggestions and recommendations for Customs administrations looking to strengthen cooperation with Police authorities. In this regard, a diagnostic tool has been developed, enabling WCO Members to assess the current "state of play" of Customs-Police cooperation in their respective countries.

The Handbook also identifies opportunities for enhanced Customs-Police cooperation,



and describes possible concrete areas of cooperation that allow both organizations to achieve their strategic and tactical objectives. As it is not possible to apply a “one size fits all” solution, the Handbook attempts to present the different tools that could be used by WCO Members in their countries to strengthen the relationship between both authorities.

I envision the Handbook serving as a reference for Customs administrations looking to develop a cooperation framework and/or to strengthen existing Customs-Police cooperation based on their respective responsibilities, mandates and competencies, as well as their operating environment and operational resources.

#### **Customs-Tax cooperation**

Another important CBM issue is Customs-Tax cooperation. In this regard, the WCO presented its work in this area to the Council, emphasizing the need for a “whole-of-government” approach in addressing common challenges relating to enhanced facilitation of legitimate trade and the effective control of illicit trade, including the evasion of duties and taxes, illicit financial flows and other financial crimes.

In this context, the key features of the WCO Customs-Tax Guidelines for strengthening cooperation and the exchange of information between Customs and Tax authorities at the national level, was developed with the support of WCO Members, the OECD, the International Chamber of Commerce (ICC), and other stakeholders.

The Guidelines aim to provide reference guidance to Customs and Tax authorities for enhancing mutual cooperation and strengthening existing information exchange mechanisms, leading to enhanced trade facilitation and an effective coordinated approach to tax and fiscal crimes. The OECD has agreed to promote the Guidelines in the tax world via the Forum on Tax Administration (FTA) and the Taskforce on Tax and Crime, as well as in the next edition of the “Rome Report on Effective Inter-Agency Co-operation in Fighting Tax Crime.”

#### **Protection of cultural heritage**

Trafficking in cultural objects is one of the most ancient forms of crime, but is now identified as an emerging risk for the WCO and its Members, particularly because of the civil war in Syria, and the civil unrest

*My hope is that the WCO's global security strategy will increasingly inspire regional counter-terrorism strategies. In addition, I encourage WCO Members to engage in the work of the Security Virtual Working Group by highlighting their revised strategies and best practices, and providing them to the WCO Secretariat.*

in Iraq and Libya. Other organizations are also prioritizing actions to address this scourge – for example, the UN Security Council adopted two Resolutions on illicit trafficking of cultural objects in 2015.

The WCO is extremely active on this topic, providing capacity building, technical assistance, and training to its Members. During its Sessions, the Council adopted a Resolution on the Role of Customs in Preventing Illicit Trafficking of Cultural Objects, which reflects the commitment of the global Customs community to combat this crime.

At the Council Sessions, a keynote address was given by Molly Fannon, the Director of the Office of International Relations at the Smithsonian Institution in Washington, D.C. Ms. Fannon described the importance that cultural objects have for individuals and civilizations as they served to define themselves, to reveal their history and their present, and to project their future.

In highlighting the risk of these objects being destroyed, she showed the image of Palmyra which was destroyed by ISIS in 2015. In this connection, she drew delegates' attention to the fact that by the time ISIS and other groups had publicly destroyed cultural heritage sites, they had already extracted as much economic value from these sites as possible in order to finance their activities.

Following her presentation, Ms. Fannon and I signed a MoU between the WCO and the Smithsonian Institution as a basis for further enhanced cooperation between the two organizations. I am, therefore, quite sure that both organizations will benefit tremendously from our cooperative efforts.

#### Revenue Package III

The WCO also presented its current work on revenue matters to the Council, and announced the launch of Revenue Package III, which consists of two parts. Under Part 1, the WCO will promote

and update the existing tools, provide assistance to WCO Members, and assess the impact of the application of the tools. Part 2 includes a number of new initiatives related to closer cooperation between Customs and Tax, as well as matters on origin, post-clearance audit (PCA), "Fragile Borders," control of mineral resources, and Customs laboratories.

#### Going forward

The WCO will continue to engage and act on the critical issues facing the global Customs community, of which I have highlighted only a few in this article. Additional WCO activities are summarized in the articles which follow, under the name of each WCO Directorate, including other interesting highlights from the 2016 WCO Council Sessions. In fact, I can quite happily state that this year's Council Sessions were positive and dynamic, charting a clear path forward for WCO Members and the international Customs community as a whole.

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# Tariff and Trade Affairs

## Cross-cutting activities: Revenue Package and Advance Rulings

THE WCO CONTINUED to assist its Members in the implementation of the Revenue Package which provides guidance and good practices for improving the efficiency and effectiveness of revenue collection.

WCO experts conducted a national and a regional seminar to promote the Revenue Package and Advance Rulings. The national seminar was held in Swaziland to assist the country's Revenue Authority in implementing an advance ruling system for classification and origin, as required under the Trade Facilitation Agreement (TFA) of the World Trade Organization (WTO).

The regional seminar gathered 22 countries in the WCO Asia/Pacific region. At the end of the event, all participants shared the view that well-organized infrastructure formed the basis for objective, predictable and transparent practices in the subject areas, and recognized the importance of increasing their institutional capacity to carry out the core Customs functions of classification, origin and valuation in an efficient and effective manner.

An accreditation workshop was also held in Ghana to identify expert diagnostic facilitators on tariff and trade topics who will be expected to provide assistance to WCO Members on the Revenue Package and its materials in the WCO West, Central, East and Southern Africa regions.

## Rules of origin

### *Harmonization of non-preferential rules of origin*

As WTO Members continued to hold extremely polarized views about the

need and benefits of harmonized non-preferential rules of origin, the WTO Committee on Rules of Origin (CRO) had not held any negotiations or discussions on the Harmonization Work Programme or the draft rules since its April 2015 meeting.

### *Preferential rules of origin*

Through the initiatives contained in the WCO Action Plan on Preferential Origin, the WCO continued to be active in preparing its Members to face the challenges arising from the growing importance of preferential trade by providing them with all the necessary tools and modern techniques to ensure that Rules of Origin (RoO) are clearly understood and implemented.

### *Comparative Study on Preferential Rules of Origin*

A new section on the Trans-Pacific Partnership (TPP) Agreement, which was signed on 4 February 2016, was added to the Comparative Study on Preferential Rules of Origin which aims to enhance overall understanding of preferential RoO. The study now offers a comparison of the characteristics found in the four existing origin models, i.e. the European EUR-MED, NAFTA, ASEAN and the TPP, from which most of the preferential agreements in force today derive.

### *Technical update of preferential rules of origin*

To assist WCO Members with the updating of their existing RoO in relation to changes in the Harmonized System (HS), the WCO recently issued a 'Guide for the Technical Update of Preferential Rules of Origin.'

Such technical updates should be carried out in administrations at the same time as



their preparations for the implementation of the new edition of the HS. For this reason, a presentation on the technical update was made at the six WCO Regional Workshops on HS 2017 Implementation that were conducted in 2016.

### *Technical Assistance*

Capacity building activities relating to RoO have included sub-regional workshops for the Arab Maghreb Union (AMU), as well as for the Gulf Cooperation Council (GCC), and national workshops in the Democratic Republic of the Congo, Georgia, Haiti and Kazakhstan. WCO experts also participated in the following workshops:

- A workshop organized in September 2015 by the Asia Pacific Economic Cooperation (APEC) bloc, dealing with the new trade landscape, the complexities of RoO and the logistical challenges of trade facilitation;
- A seminar organized in October 2015 by the United Nations Conference on Trade and Development (UNCTAD) and the European University Institute, aimed at improving the RoO negotiating and drafting skills of representatives from Least Developed Countries (LDCs);
- A workshop organized in December 2015 in Morocco by the Islamic

Centre for Development of Trade (ICDT) and the Organisation of Islamic Cooperation (OIC), focusing on the administration of regional trade agreements and regional trade integration.

In addition, WCO experts participated in several conferences, such as the Conference on Trade Compliance in the Middle East held in the United Arab Emirates (UAE) in March 2016, the 14<sup>th</sup> World Free Zone Convention held in February 2016 in Thailand, the 5<sup>th</sup> International Origin Conference held in Korea in November 2015, and the 8<sup>th</sup> Advanced Forum on Customs Compliance held in the United Kingdom in November 2015.

### Valuation

The WCO continued its efforts in assisting its Members with the uniform application of the WTO Agreement on Customs Valuation, in particular, by providing guidance on the management of Customs valuation in an increasingly complex trade landscape.

### *Examination of Customs valuation questions*

One technical question posed by a WCO Member led to the adoption and release of a new instrument on transfer pricing and Customs valuation. The instrument, Case Study 14.1, illustrates a specific scenario where Customs took into account transfer pricing information in the course of verifying the Customs value [see the

June 2016 edition of WCO News]. In view of the strong interest from the business community, the WCO has made Case Study 14.1 available via its website. It will also be published in the WCO Valuation Compendium.

As Members of the WCO Technical Committee on Customs Valuation (TCCV) could not reach consensus, two questions were placed in Part III of the Conspectus of Technical Valuation Questions, i.e. questions raised, but not being considered by the TCCV at present. The two questions relate to:

- the treatment of fees for unlocking a function of imported goods after importation – the application of Articles 1, 8.1 (c) and 8.1 (d) of the Agreement;
- the treatment of advertising and promotion costs in a situation where the seller decides to carry out advertising and promotion activities in the country of importation, and requires the buyer to contract and pay for the goods.

Two other questions were also placed in Part III of the Conspectus as the issues raised in these questions were already covered in existing instruments. They relate to:

- the treatment of goods in a global value chain (goods imported after a series of purchases of goods and/or services for transformation, processing or repair);
- the meaning of the expression “sold for export to the country of importation” (one sale and split consignments to different countries).

The TCCV continued and will continue examining questions concerning:

- related party transactions as they pertain to the Agreement and transfer pricing;
- sales conditions, objective and quantifiable data – whether a royalty paid under a franchise agreement could be added to the value of imported inputs used in the manufacture of a finished product;



- examining the circumstances surrounding a sale under the provisions of Article 1.2 (a) – goods produced in different countries;
- international marketing fees – whether the payment of an international marketing fee is dutiable.

#### **Technical assistance**

National workshops on valuation issues took place in Georgia, Swaziland and Tanzania. Two sub-regional workshops on Customs valuation were also organized, the first one in the Islamic Republic of Iran which included the Islamic Republic of Afghanistan and Pakistan, and the second one in Belarus which included Armenia, Azerbaijan, Georgia, Moldova and Ukraine.

Valuation-related diagnostic missions were carried out in Cameroon, El Salvador, Togo and Swaziland. Experts and trainers in Togo received training to enable them to implement some of the recommendations of the diagnostic as well as guidance in developing a valuation database. The WCO also provided assistance to the Democratic Republic of the Congo, Ghana and Nigeria, in order to enhance their capacity in light of the cessation of contracts with private sector inspection companies.

A train-the-trainers mission was delivered in the Maldives in terms of a multi-year assistance project, aimed at improving Customs valuation control ideally through post clearance audit (PCA) and risk management, under which a training kit was developed to remedy the gaps identified through an observation tour conducted in May 2015. The Maldives Customs Service now has its own trainers, as well as a new tailor-made training module and supporting material.

Moreover, accreditation workshops were organized in Ghana for English speakers in the WCO West and Central Africa and East and Southern Africa regions, and in China for countries in the Asia/Pacific region. The workshops focused on the diagnostic tool for tariff classification, origin and Customs valuation which was recently developed by the WCO.

#### **Transfer Pricing/Customs-tax cooperation**

WCO experts participated in several conferences to promote the Organization's work on transfer pricing and Customs valuation to government representatives and the tax business community, with a view to encouraging closer Customs-tax cooperation:

- The 92<sup>nd</sup> meeting of the Organisation for Economic Co-operation and Development

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(OECD) Committee on Fiscal Affairs held in June 2016 in Japan;

- The 4<sup>th</sup> and the 6<sup>th</sup> Global Transfer Pricing Conference organized by Bloomberg BNA and Baker & McKenzie held respectively in March 2016 in France and in June 2016 in the United States;
- The 10<sup>th</sup> Meeting of the OECD Forum on Tax Administration held in May 2016 in China;
- Transfer Pricing Minds International 2016 held in March 2016 in the UK;
- The 5<sup>th</sup> Tax Planning Strategies and Experiences Forum held in November 2015 in the Netherlands;
- The sub-regional Workshop on Curbing Illicit Financial Flows held in November 2015 in Ghana;
- The Annual Conference of the International Bar Association held in October 2015 in Austria;
- A transfer pricing course organized by the Tax Institute for Austrian and International Tax Law at Vienna University in September 2015 in Austria;
- The annual World Customs Law Meeting organized by the International Customs Law Academy in September 2015 in Switzerland.

#### Nomenclature and classification

The WCO continued to carry out its work on the uniform application of the HS, with the adoption of numerous classification decisions and intensified capacity building efforts devoted to preparations for the implementation of HS 2017, infrastructure for classification, the implementation of advance ruling systems for classification, and Customs laboratories.

#### Status on the implementation of HS 2012

The fifth edition of the HS, or HS 2012, entered into force on 1 January 2012 and, at present, 118 out of 154 Contracting Parties have notified the WCO of their implementation of the amendments to the HS Nomenclature that became effective

from 1 January 2012. Five WCO Members which are not Contracting Parties to the HS Convention have also implemented the HS 2012 amendments.

#### *Classification decisions and amendments to HS publications*

At its 56<sup>th</sup> and 57<sup>th</sup> Sessions, the WCO HS Committee took 354 classification decisions, of which 305 related to International Nonproprietary Name (INN) pharmaceutical products linked to the implementation of the WTO Agreement on Trade in Pharmaceutical Products. The Committee also adopted 18 amendments to the HS Explanatory Notes, 44 new Classification Opinions, and a number of consequential amendments to the HS 2017 Explanatory Notes.

The HS classification decisions (with the exception of those for which reservations have been entered), the amendments to the HS Explanatory Notes, and the amendments to the Compendium of Classification Opinions are available on the WCO website.

#### *Technical assistance*

HS-related capacity building assistance to WCO Members is delivered in the form of national and regional seminars and workshops on the implementation and uniform application of the HS, on the implementation of advance ruling systems for classification, as well as advice on the classification of commodities following the submission of a request by a Member.

Ten national seminars focused on the HS and related matters, including Customs laboratory infrastructure and analysis methodology, were conducted in Bosnia and Herzegovina, Brazil, Colombia, Costa Rica, Ecuador, El Salvador, Guatemala, Kazakhstan, Serbia and Tanzania. Moreover, a national workshop focusing on the development of an advance ruling system for classification was held in Bangladesh.

A regional workshop on the implementation of the HS 2017 was organized in each of the six WCO regions. Technical assistance on this topic was also delivered to the committee in charge of managing the Common External Tariff of the West African Economic and Monetary Union

(UEMOA). The workshop also enabled awareness to be raised among UEMOA administrations on the HS review cycle.

The 2017 edition of the HS includes new specific provisions for the 33 most traded chemicals covered by the Chemical Weapons Convention (CWC). The Organisation for the Prohibition of Chemical Weapons (OPCW) invited the WCO to present the provisions and the use of the HS in controlling these chemicals at two training courses: the first one gathered GCC Customs authorities and other Arabic-speaking States Parties to the CWC; and the second one brought together countries from East and Southern Africa.

The WCO was also invited by the OPCW to introduce the role played by the WCO in controlling the trade in chemical products to participants of the OPCW's Associate Programme, an annual programme conducted for participants from developing countries which aims to enhance their capacities by offering training in chemistry and chemical engineering.

The HS 2017 amendments relating to the chemicals area were also presented to participants attending the Seminar of European Customs Chemists (SECC) which took place in the Netherlands in June 2016, gathering around 300 chemists and officials from 55 countries. The Seminar has become a regular event that is organized every three years with the objective of enhancing cooperation and networking among Customs laboratories in order to improve the accuracy and effectiveness of Customs analysis work.

The WCO was also invited by the Statistical Centre for the Cooperation Council for the Arab Countries of the Gulf and the United Nations Statistical Division (UNSD) to present the HS and its 2017 amendments at the Regional Workshop on International Merchandise Trade Statistics held in February 2016 in Oman.

As for classification advice to WCO Members, 117 responses were provided by the WCO Secretariat during the 2015/2016 period.



### **Amendments to HS-related recommendations**

Acceptance by HS Contracting Parties of the amendments to the 2017 edition of the HS impacted on three HS-related WCO Council recommendations:

- The Recommendation of 24 June 2011 on the use of standard units of quantity to facilitate the collection, comparison and analysis of international statistics based on the Harmonized System was completely revised. The amended version adopted by the Council is dated 14 July 2016;
- The Recommendation of 26 June 2009 on the insertion in national statistical nomenclatures of subheadings for substances controlled under the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on their Destruction (as amended in 2011) was revoked as 33 of the 34 chemicals covered by the recommendation have been inserted in the HS 2017 edition. It should be noted that this recommendation is a simplified version of the recommendation of 18 June 1996 (mentioned below) which covers 76 chemicals, and was deemed by some Members to be too complex to implement;
- The Recommendation of 18 June 1996 on the insertion in national statistical nomenclatures of subheadings for substances controlled under the

Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on their Destruction (as amended in 1999, 2006 and 2011) was modified by, on the one hand, deleting the chemicals which have been included in the HS 2017 Nomenclature and, on the other hand, incorporating “Mixtures consisting mainly of dimethyl methyl phosphonate, oxirane and phosphorus oxide (P2O5),” currently listed in the Council Recommendation of 26 June 2009 which was revoked, but not included in the HS 2017 edition. The amended recommendation adopted by the Council is dated 14 July 2016.

### **New recommendation**

In support of Programme Global Shield, a Council Recommendation concerning the insertion in national statistical nomenclatures of subheadings to facilitate the monitoring of the international movement of goods required for the production and use of improvised explosive devices (IED) was adopted. Under the terms of the Recommendation, WCO Members and Contracting Parties to the HS Convention are requested to insert in their statistical nomenclatures, as soon as possible, additional subdivisions for products covered by HS heading 36.03.

### **More information**

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**In support of  
Programme Global  
Shield, a Council  
Recommendation  
concerning the insertion  
in national statistical  
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# Procedures and Facilitation

## New publications



### Capacity building delivery

MORE THAN 100 national or regional events have been organized to support WCO Members in implementing the Organization's existing instruments and tools covering various important Customs-related areas, such as risk management, authorized economic operator (AEO) programmes, transit and the Single Window (SW), as well as the use of the Time Release Study (TRS) and accession to the Revised Kyoto Convention (RKC).

### WTO Trade Facilitation Agreement

Since the adoption in November 2014 of the Protocol of Amendment to insert the Trade Facilitation Agreement (TFA) into the main World Trade Organization (WTO) Agreement, 94 WTO Members have ratified the TFA to date. The TFA will take effect once the Protocol has been accepted by two-thirds of the Members of the WTO, i.e. 110 Members in total, as per the WTO's current membership figures.

The latest measures carried out by the WCO in the area of trade facilitation and TFA implementation under the WCO Mercator Programme include:

- Adding new tools and best practices, which have emerged from consultations

with WCO Members, relating to the implementation of the relevant trade facilitation measures, in the TFA Implementation Guidance developed by the WCO. This guidance aims to support an understanding of the linkages between the TFA and WCO instruments and tools, such as the RKC;

- Delivering national and regional missions for technical assistance and capacity building to facilitate preparations for the implementation of the TFA. In this regard, the WCO is continuing to develop its pool of experts with specific expertise in TFA topics (Mercator Programme Advisors, and Technical Operational Advisors on transit, the SW, the TRS, the RKC and others);
- Providing guidance and assistance in the setting up of National Committees on Trade Facilitation (NCTF);
- Holding meetings of the WCO Working Group on the TFA (TFAWG);
- Completing the first round of regional awareness-raising workshops on the TFA, and launching the second round

which will focus on the technical aspects of TFA implementation;

- Participating in high-level meetings with key parties and individuals to emphasize the key role of Customs and the WCO in the implementation of the TFA;
- Developing e-learning courses on the WTO TFA, and on transit systems.

The WCO continues to provide support relating to accessions to the RKC, which is an excellent implementation instrument for WCO Members to comply with the TFA requirements.

### Advance Passenger Information (API) and Passenger Name Record (PNR)

The WCO continues to develop, maintain and promote API-PNR standards together with the International Air Transport Association (IATA) and the International Civil Aviation Organization (ICAO), as well as to facilitate the sharing of experience between WCO Members on the establishment of API-PNR systems. In this regard, WCO experts participated in two national workshops (Azerbaijan and Georgia) with the aim of providing these countries with technical assistance and know-how, and to initiate discussions



between Customs officials, officials from other government agencies as well as representatives of airline industries.

In order to keep passenger information message standards up to date with the latest requirements, the WCO, in the framework of the API-PNR Contact Committee, maintains the API PAXLST and PNRGOV standards. The latest version of the PNRGOV Message Implementation Guide (MIG), namely version 15.1, as well as PAXLST 5.0 (2015) were produced and thereafter endorsed by the WCO Council in July 2016. In addition, the WCO also developed a Guidance for Customs administrations to use PNR/API which aims to provide insight on how WCO Members can effectively utilize passenger information for passenger profiling and risk assessment.

### Customs information management

#### **WCO Data Model (DM)**

Seventy-two countries have reported that their information systems conform to the WCO DM, and around 49 countries have active projects underway involving the implementation of the DM. A WCO Member-wide tabulation status report of adoption, and indicating the increasing

use of the DM, is available on the WCO website.

The level of adoption of the WCO DM appears to be increasing now that the European Union's (EU's) Directorate General of Taxation and Customs Union (TAXUD) has developed the EU Customs Data Model (EU CDM) based on the DM. The EU CDM's high level of conformance with the DM has been achieved through the derivation of the DM information packages. The CDM is a binding instrument within the EU, as it is included as a technical annex to the Union Customs Code (UCC). This demonstrates how the harmonized implementation of the WCO DM can support integration and interoperability at the regional level. The EU's decision to base its EU CDM on the WCO DM can, therefore, act as a reference model for implementation of the DM by WCO Members in other regions.

In line with its strategy to engage executive-level decision makers on the "bigger picture" aspects of information and communications technology (ICT), which led to the publication last year of the "IT Guide for Executives", efforts have been made to develop guidance to demystify the technical aspects of the DM with a view

to making it more comprehensible to a broader audience.

Efforts are also ongoing to work together with different international organizations in order to leverage the capability of the WCO DM to support seamless collaboration between and among cross-border management agencies. The WCO Data Model Project Team (DMPT) worked with the Secretariat of the International Plant Protection Convention (IPPC), the Universal Postal Union (UPU) and the International Maritime Organization (IMO), in order to further facilitate trade and transport border crossing through the convergence of regulatory information requirements, which will enable traders and transporters to comply with the requirements in a cost effective manner. This effort also aims to clarify the technical relationship between the DM and other international data requirements through "Information Packages," enabling users to appreciate how these requirements can be expressed and implemented in a harmonized way using the DM.

The question to be considered is whether the WCO and the Customs community should allow other users of the DM, such as other government agencies and international



The WCO developed a Guidance for Customs administrations to use PNR/API which aims to provide insight on how WCO Members can effectively utilize passenger information for passenger profiling and risk assessment.

organizations, to raise Data Maintenance Requests (DMRs). This should be seen against the fact that as interest by other international organizations in using the DM is increasing, the ability to have their data requirements accommodated in the Model can be seen as an additional benefit. An example of this is the United Nations Economic Commission for Europe (UNECE), which is using the DM as the basis for building the e-TIR system, and the UN Conference on Trade and Development (UNCTAD), which is aligning the data requirements for its ASYCUDA system to conform with the requirements of the DM.

Moreover, work remains to be done to develop more promotion material, especially concerning practical guidance on how to adopt the WCO DM, how to migrate from previous versions of the DM to the newer version, and the linkage between data requirements and business requirements, so that the benefits of implementing the Model can be seen from a business perspective too. The WCO will, therefore, have to look into these linkages and provide more detailed information on how the DM should be used and understood, as it moves towards Version 4 of the Model.

#### ***Single Window (SW)***

The WCO “Compendium on How to Build a Single Window Environment” is made up of two volumes whose sheer length has been deemed problematic for capacity building activities. A shorter, simplified version called a “supplement” has been developed to serve training workshops of a three to five-day duration.

The supplement addresses the key stages of SW development, including its essential concepts and applications, agenda setting and policy planning, establishing formal structures, business process analysis and modelling, data harmonization, and the dematerialization of supporting documents.

WCO experts also supported activities relating to the implementation of SW solutions, and promoted the use of WCO standards and tools in doing so. Evidence of this support is demonstrated by the variety of work undertaken by these experts in which they:

- held a regional workshop on coordinated border management (CBM), the SW and the DM for the WCO Middle East and North Africa (MENA) region, which gathered

Customs officials as well as officials of Customs’ partner agencies, and representatives from the private sector;

- conducted two workshops in Zambia to assist the country in building a national SW and, more specifically, in finalizing the data harmonization for the country’s ASYCUDA Single Administrative Document;
- organized two field missions to support the establishment of a SW in Mauritius;
- conducted a five-day national workshop on CBM, the SW and the DM in Sudan, to provide an holistic understanding to the administration on both information technology (IT) and non-IT issues that are critical to the successful implementation of a SW;
- attended a national SW conference and a back-to-back workshop, to support Ghana Customs in the implementation of its national SW;
- conducted a workshop in Bhutan to enhance the collective understanding and technical capability of all government agencies as the country

moves towards a more coordinated electronic environment;

- participated in the Workshop of the Trade Promotion Organs of the Organisation of Islamic Cooperation (OIC) on Single Window Modality and E- Trade, and their role in promoting intra-OIC trade;
- attended the 4<sup>th</sup> International Single Window Conference & Exhibition of the African Alliance for E-Commerce (AAEC).

#### Digital Customs

The WCO developed position papers as well as a brochure presenting several tools and instruments which support the concept of "Digital Customs," and is collecting best practices in this area. It also organized the National Workshop on Digital Customs and Interactive Services in Uzbekistan.

Considering the transversal nature of Digital Customs, the WCO has adopted a 'Digital Customs Work Plan' to carry out future work in a comprehensive and cohesive manner. Additionally, the WCO has developed a 'Digital Maturity Model' to support Members in their ICT implementation journey.

#### Technical Experts Group on Non-Intrusive Inspection Equipment (TEG-NII)

The TEG-NII was set up to develop standards for the following objectives:

- to allow interoperability of different NII equipment supplied by different manufacturers;
- to allow the exchange of images within and between Customs administrations;
- to allow the development of a database or library of images – a more long-term goal;
- to assist in the training of image analysts.

It held its first meeting from 21 to 22 September 2016, and is currently open to Customs administrations and main NII manufacturers at this time.

#### Postal traffic

The WCO is closely working with the UPU on a number of issues of mutual concern, which, in particular, include advance electronic exchange of data, postal supply chain security, and e-commerce.

To promote electronic pre-advice on postal items, based on WCO-UPU Customs/Post EDI messages, experts of the WCO:

- participated in the "SAFEPOST Project – Postal Security & Customs Forum" which brought together over 60 postal operators and Customs administrations/border forces from the WCO Europe region to discuss the project, whose aim is to enhance the integrity and security of the postal supply chain;
- organized, in conjunction with the UPU, joint workshops for countries in the Eastern Europe, Central Asia and Caucasus sub-regions as well as Latin America, to strengthen existing cooperative relationships between Customs and postal operators at the national level, in particular by improving the exchange of advance electronic information.

Forms CN 22 – (packages under 2 kg in weight or valued at less than 300 special drawing rights (SDR)), CN 23 (packages valued in excess of 300 SDR), CP 71 (dispatch note) and CP 72 (manifold set) have been amended. The changes include additional columns on the CN 22 for the Harmonized System (HS) code and country of origin, "sale of goods" and "returned goods" as reasons for export, the telephone number of the sender and addressee, and an optional S10 barcode, in addition to substantially harmonizing and aligning these documents. The amendments are expected to assist Customs in carrying out better risk



profiling and more efficient collection of duties and taxes where applicable, as well as supporting postal administrations in enhancing service delivery.

#### E-commerce

The WCO participated in the Global Conference on Trade Facilitation organized by the UPU. It also participated in a Workshop on Customs Control over Cross-border E-Commerce, which was jointly organized by the Asia Pacific Economic Cooperation (APEC) bloc and China Customs, to promote the tools and the work done by the WCO thus far.

The WCO also organized the first ever regional workshop on e-commerce for the North of Africa, Near and Middle East (MENA) region from 16 to 19 November 2015 in Riyadh, Saudi Arabia to enhance understanding on current and emerging challenges posed by e-commerce, together with possible solutions best suited to their respective economic environments, as well as related WCO tools and instruments, and ongoing work with other stakeholders in this domain.

The WCO supported the Organisation for Economic Co-operation and Development (OECD) in terms of developing alternative models of revenue, which was published last year as part of the OECD report titled "Addressing the Tax Challenges of the Digital Economy." It is also working with the Technical Expert Group on Measuring E-Commerce, in which the WTO, UNCTAD, the UPU, the OECD and representatives of the private sector are



exploring potential avenues for measuring cross-border business-to-consumer (B2C) and consumer-to-consumer (C2C) e-commerce.

A working group comprising WCO Members, representatives from the WCO Private Sector Consultative Group (PSCG), observers and e-commerce operators/intermediaries has been set up to deliberate on the opportunities and challenges stemming from growing e-commerce, in particular, cross-border low-value business-to-consumer (B2C) and consumer-to-consumer (C2C) shipments, and to carry out related future work in a more cohesive and sustainable manner in line with the WCO Strategic Plan for 2016/2017-2018/2019. It held its first meeting in September 2016.

#### The future of Customs

The Virtual Working Group on the Future of Customs (VWG FC), consisting of representatives from Customs, international organizations, the private sector and academia, initiated a discussion on the implications of enhanced use of 3D printing on Customs and other government agencies, and on origin, valuation and intellectual property (IP). Developments relating to drones, particularly the use of drones for surveillance and monitoring purposes and for legal or illegal cross-border delivery of goods, were also presented.

#### Customs Brokers

This year, the WCO published a "Study Report on Customs Brokers," based on the

results of a survey to which WCO Members had responded in large numbers. Among other things, the publication provides policy considerations as a reference point for WCO Members who were considering the establishment or adjustment of a licensing/regulatory regime for brokers, in line with the provisions of the RKC and the WTO TFA [The Focus section of the WCO News magazine offers some insights into this topic].

#### Guidelines for Transparency and Predictability

The Guidelines are based on existing international agreements, such as the TFA, the RKC, and other WCO instruments and tools. It reviews terms and concepts, such as promptness, accessibility, enquiry points, data protection and confidentiality, freedom of information, information on appeals, and publication management. Examples of best practices complement the text.

#### Role of Customs in natural disaster relief

At the invitation of the UN Secretary-General, the WCO Secretary General participated in the first World Humanitarian Summit. The role of Customs in facilitating the clearance of disaster relief consignments was highlighted, as well as the contribution of the WCO in providing training to raise its Members' awareness of WCO standards on relief consignments and to enhance their preparedness.

The WCO and representatives of Customs administrations participated, for the first time, in the "Humanitarian Networks and

Partnerships Week Programme" which was organized by the UN Office for the Coordination of Humanitarian Affairs (UN-OCHA). The event brought together 825 experts representing the national institutions of 67 affected countries and donor governments, as well as 22 UN agencies, international organizations, the International Federation of Red Cross and Red Crescent Societies (IFRC), 10 regional organizations, 53 national and international non-governmental organizations (NGOs), alliances and partnerships, 35 private sector companies, and 25 research and academic institutions.

The WCO, in cooperation with UN-OCHA and the IFRC, held a seminar on the role of Customs in natural disaster relief for countries of the West, Central, East, and Southern African regions. This was the fourth in a series of regional seminars planned by the three organizations to give effect to the June 2011 WCO Resolution on the Role of Customs in Natural Disaster Relief. Aimed at promoting the use of existing tools and instruments to help Customs administrations together with other relevant agencies respond efficiently to emergency situations, these seminars also provide an ideal platform for Customs authorities and their key humanitarian aid partners to share experiences and perspectives, in order to obtain feedback on Customs' future needs and constraints.

#### More information

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# Capacity Building

## Four areas of activity

THE WCO CONTINUES to provide capacity building (CB) assistance to WCO Members around the world. Highlighted below is a sample of the initiatives taken for each of the specific areas of activity outlined in the WCO Organizational Development Package: Strategic Advisory Support and Delivery; Human Resource Development; Integrity; and Stakeholder Engagement.

## Strategic Advisory Support and Delivery

This activity derives from the WCO's 2003 Capacity Building Strategy. It is also reflected in the WCO Mercator Programme, a strategic initiative aimed at assisting WCO Members in implementing trade facilitation measures, including the World Trade Organization's (WTO's) Trade Facilitation Agreement (TFA). The strategy entails needs-assessments through diagnostic missions, the development of comprehensive strategic plans, the implementation of WCO standards, and the regular monitoring of performance indicators. Key WCO CB tools to support these actions include the Diagnostic Framework and the Capacity Building Development Compendium.

During the reporting period, five strategic planning missions were delivered, including one in Namibia as the country moves towards the establishment of a revenue authority, and one in the Bahamas to prepare a national training strategy that includes executive, operational and technical topics, as well as modern delivery methods, including blended learning. Moreover, one evaluation monitoring mission, under the auspices of Phase 3 of the WCO Columbus Programme, was undertaken.

CB delivery during such missions is based on a two-pronged approach, namely "ownership" and "results-based management" (RBM). RBM ensures that strategic planning and implementation management are guided by focusing on the desired results. This requires effective performance measurement

(PM) in order to effectively demonstrate the impact that activities have on organizational performance. In this regard, two PM missions were conducted during the 2015/2016 period in Colombia and in Oman.

## Human Resource Development

WCO activities focusing on human resource development include the enhancement of the e-learning catalogue, organizing the 2<sup>nd</sup> and 3<sup>rd</sup> sessions of the Virtual Customs Orientation Academy (VCOA) and the 67<sup>th</sup>, 68<sup>th</sup> and 69<sup>th</sup> sessions of the WCO Fellowship Programme, as well as the delivery of support relating to the Leadership and Management Development Programme (LMDP), the Framework of Principles and Practices on Customs Professionalism (FPPCP) and the People Development Diagnostic Tool (PDDT).

## E-learning catalogue

The WCO CLiKC! Platform now has 23 e-learning courses available. A new e-learning course covers transit procedures, and is available in English and in French. An e-learning course on the implementation of the WTO TFA will be available shortly, in English and in French.

The existing courses on Risk Management, Post-Clearance Audit, Coordinated Border Management and the Revised Kyoto Convention will soon be translated into Arabic and Amharic. The course on Customs Controls has been revised in terms of content and design, and is now available in English, French and Spanish. The course on the TIR system has been updated and translated into the Farsi language.

## *Virtual Customs Orientation Academy (VCOA)*

The 2<sup>nd</sup> and 3<sup>rd</sup> sessions of the VCOA – a WCO initiative aimed at providing newly recruited Customs officials, having less than four years' service, with basic knowledge and skills in international Customs standards – took place in July

2015 and April 2016 respectively, with the participation of 72 Customs officials from 42 WCO Member administrations. Upon completion of the activities, and after being evaluated, 59 successful Customs officers were awarded certificates, six of them with honours. The WCO Secretariat is currently seeking funding, in order to translate the curriculum of the VCOA and to pilot a French Session in 2017.

## Fellowship programme

The Fellowship Programme aims to assist Customs administrations with their organizational development by endowing certain managers, selected on the basis of their potential for development within their administrative structure, with the technical knowledge and capacities required for their administration's reform and modernization activities.

Three sessions were held during the 2015/2016 period for English, French and Spanish speakers respectively. In total, they brought together 46 officers over a six week period: the first four weeks are spent at WCO Headquarters in Brussels; and the last two weeks entail a study trip to a Customs administration in a developed WCO Member country. The calendar of the upcoming sessions, as well as details on the selection procedure, is available on the WCO website.

## Scholarship programme

The Scholarship Programme provides Customs officials from developing countries with an opportunity to pursue Master's level studies and training in Customs-related fields. This year, nine officers participated in the Public Finance Programme at the National Graduate Institute for Policy Studies (GRIPS) in Tokyo, Japan, and 10 officers participated in the Strategic Management and Intellectual Property Rights (IPR) Programme at the Aoyama Gakuin University (AGU) in Tokyo, Japan.



### **Career Development programme**

The Career Development Programme provides an opportunity for selected candidates, known as Professional Associates (PA), to undertake work at the WCO Secretariat for 10 months. Ten officers took part in the programme during the 2015/2016 period.

### **Leadership and Management Development Programme (LMDP)**

The LMDP, which is intended to improve the capability of Customs' leaders and managers in order to drive reform and modernization, has been reviewed. The review took into account the experience gained by the "facilitators" during the 60 workshops that have been conducted over the last four and a half years, together with new insights and modern leadership and management theories, as well as the evaluations provided by over 1000 LMD workshop participants. Some LMD workshop facilitators tested the new version during a workshop, enabling them to lead future workshops using the new material.

Nine LMD workshops were conducted during the reporting period, and an additional four have been delivered as part of the WCO fellowship and career development programmes. Two new facilitators have been accredited.

To enable the WCO to measure the impact of LMD workshops on Customs administrations and individual participants, a "monitoring and evaluation" concept has been developed. Four to six months after the LMD workshop is conducted, participants, their superior and a colleague of the same management level, as well as two subordinates, evaluate the progress a participant has made in all areas of leadership and management with the help of a questionnaire consisting of 62 questions. On a scale from "no improvement at all" to "improvement beyond expectations," the results of the 10 LMD workshops held in 2015 show that the overall impact is 80% (a very high improvement in leadership and management skills, attitude and behaviour, including an increased impact at the organizational level).

After being successfully piloted, the concept of a "Top Executive Retreat" event has been finalized. Participation in the retreat will be offered to the Director General and his/her executive team, as a means to further strengthening their capacity in implementing strategic objectives, building a high-performing executive team and an effective management culture based on trust and openness, and reinforcing the leadership qualities of individual members of the executive team. Every Top Executive Retreat is tailor-made, and designed to take into account an administration's prevailing situation as well as its future direction.

### **Framework of Principles and Practices on Customs Professionalism (FPPCP)**

To assist WCO Members in understanding and implementing policies relating to professional qualifications and career paths in Customs administrations, the FPPCP was developed and linked to an online repository of practices – the CLiKC! People Development Interactive Map – which provide guidance on five topics:

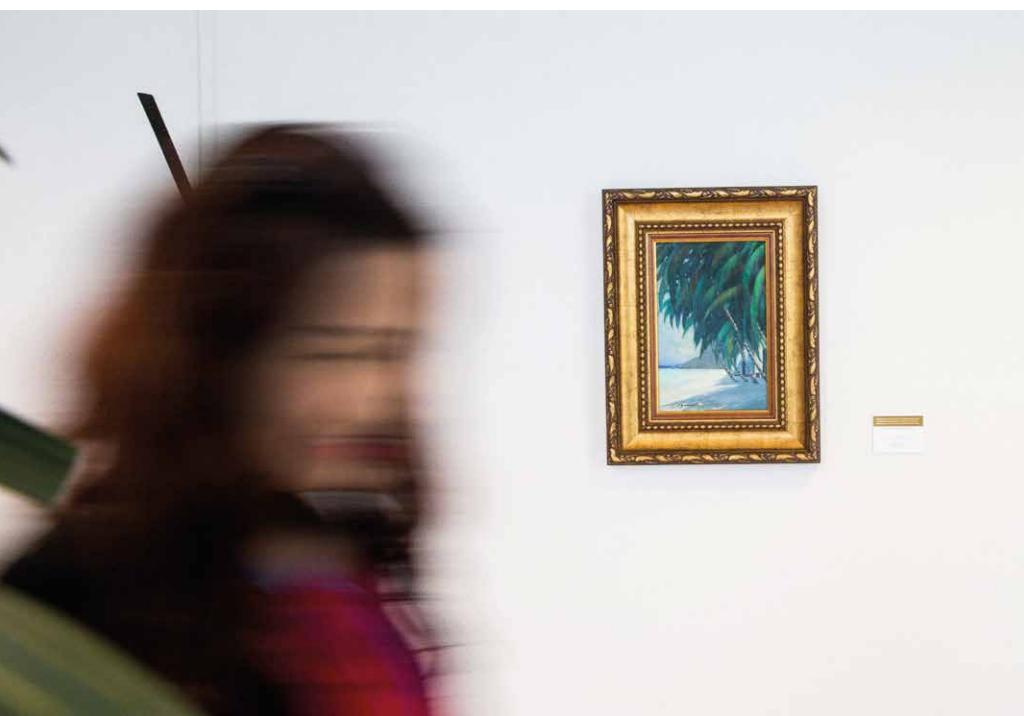
- Strategic human resources management;
- Strategic organizational design/job profiling;
- Recruitment processes;
- National training centre guidelines;
- Customs career paths.

The Map provides a live overview of the Customs community's initiatives and solutions that have been implemented worldwide, in order to efficiently manage competency-based human resource (HR) processes.

The WCO continues to deliver assistance to a number of WCO Members in implementing elements of the FPPCP, which was used as a basis for WCO HR management workshops in Jordan and in Lebanon.

### **People Development Diagnostic Tool (PDDT)**

The PDDT is intended to serve as a practical guide for administrations, enabling them to gauge where they stand in the context of Customs international standards and best practices. The tool comprises:



Painting on display during the Council Sessions as part of an exhibition of Dominican Republic artwork

- a form for entering the reference documents for an HR strategy, aimed at identifying the fundamental components of an HR strategy and, by default, elementary failures;
- a diagnostic questionnaire focusing on the existence and efficiency of the main HR practices and processes, and the legal and ethical framework of an HR strategy;
- a value creation matrix setting out the perceptions of key HR players regarding shortcomings in implementing best practices in their experience of HR management in their administration.

Although the tool can be used autonomously in its simplified form by teams in charge of HR modernization within their administrations, WCO Members may benefit from a series of accompanying measures to support their HR capabilities, including a WCO mission. These missions are facilitated by HR experts, either from the WCO Secretariat or from a Customs administration

with HR expertise recognized by the Secretariat. These arrangements aim to ensure coherence and consistency in using the tool.

The HR diagnostic tool has already been the subject of pilot schemes during HR management diagnostic missions. It has been piloted in Namibia, Peru and Tunisia, with the assistance of Swiss Customs in the case of the latter. In addition, the tool has been tested in the context of the support provided under the West African Customs Administrations Modernization (WACAM) Project.

#### ***WACAM Project***

The WACAM Project, funded by the Swedish Government, aims to assist West African Customs administrations in the fields of strategic management, HR management, and stakeholder engagement. The following developments and/or activities have taken place:

- Strategic management component – new WCO material on strategic management and business process mapping (BMP) has been developed;

- HR management component – four countries have benefitted from national support in the development of competency-based HR management tools, and the project continues to build a regional pool of HR management experts;

- Stakeholder engagement component – the Cape Verde Customs Administration has established a National Committee for Trade Facilitation (NCTF), and initiated efforts to conduct a WCO Time Release Study (TRS) in 2016.

#### **Integrity**

Capacity building and integrity are closely related, because a lack of integrity is an impediment to Customs reform. During the reporting period, 15 integrity-related missions were conducted, and work was carried out on the following projects, among others:

- assistance to Kyrgyzstan Customs in developing integrity training modules;
- a workshop organized by Cameroon Customs with a view to taking stock of the implementation of PM and contracting in Cameroon and elsewhere;
- a mission to assist the Mauritius Revenue Authority (MRA) in the development of a corruption risk map;
- assistance to the Malawi Revenue Authority to follow-up on the implementation of its Integrity Action Plan;
- a mission to Armenia to assist the administration in developing integrity training material;
- the delivery of an integrity diagnostic in Moldova and in Paraguay;
- providing guidance to assess related corruption risks, as well as specific training material to foster Customs reform in the area of integrity, in

the WCO Middle East and North of Africa (MENA) region in cooperation with the United Nations Development Programme (UNDP);

- two missions to assist the Swaziland Revenue Authority and the Uganda Revenue Authority with the implementation of PM to fight corruption.

In addition to the above listed support activities, assistance has been provided virtually to WCO Members in five cases, comprising support in areas such as providing comments on integrity-related documents, checking codes of conduct, and obtaining information from other administrations.

With regards to the WCO Integrity Newsletter, the 12<sup>th</sup> and 13<sup>th</sup> editions were published, containing articles on Members' best practices. Included were articles on reforms undertaken in Afghanistan, as well as articles on the policies and strategies applied in Bolivia, Iceland, Mauritius, Paraguay, and Uruguay.

The WCO was represented at the Organisation for Economic Co-operation and Development (OECD) Integrity Forum which was held in April in Paris, France. This event provided the WCO with an opportunity to share its work on integrity, including the brochure entitled the "Why and How of Performance Measurement Contracts," as well as promote the use of data and corruption risk-mapping.

The WCO also took part in the G20 Anti-Corruption Working Group (ACWG) which met in London, United Kingdom (UK) during June 2016. The ACWG discussed the G20 Strategic document on preventing and countering corruption by promoting integrity in Customs, as well as a compilation of the replies provided by Customs administrations to the G20 integrity questionnaire.

Last but not least, the WCO delivered a communication on anti-corruption at the border, based on research conducted

on PM, at a research workshop organized jointly by the Kosciuszko Institute in Poland and the Ukrainian Institute for Public Policy. The workshop was supported by the Science for Peace and Security Programme of the North Atlantic Treaty Organization (NATO).

#### **Stakeholder Engagement**

Three donor-related events were held during the 2015/2016 period: a donor conference for the West and Central Africa region in July 2015; a donor meeting for the East and Southern Africa region in September 2015; a meeting between donors and entities from the Americas and the Caribbean region in February 2016, focused on learning how to work and define regional priorities.

WCO CB efforts continue to enjoy support from established donors contributing to the Customs Cooperation Fund, such as the Governments of Germany, Japan and Korea, as well as China Customs and Eurocustoms. Other donors include:

- Her Majesty's Revenue and Customs (HMRC) in the UK;
- the Inter-American Development Bank (IADB);
- the Asian Development Bank (ADB);
- the Japan International Cooperation Agency (JICA);
- the Swedish International Development Cooperation Agency (SIDA);
- the Swedish Ministry for Foreign Affairs;
- the German Federal Enterprise for International Cooperation (GIZ);
- the Secretariat of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES);
- the United States Department of State;
- the Norwegian Agency for Development Cooperation (NORAD);
- the Finnish Ministry of Foreign Affairs;
- the UK Department for International Development (DFID).

#### **More information**

[capacity.building@wcoomd.org](mailto:capacity.building@wcoomd.org)



**The WCO took part in the G20 Anti-Corruption Working Group which discussed the G20 Strategic document on preventing and countering corruption by promoting integrity in Customs, as well as a compilation of the replies provided by Customs administrations to the G20 integrity questionnaire.**

# Compliance and Enforcement



## Security Programme

THE PUNTA CANA Resolution, released in December 2015, emphasizes the key role that Customs administrations play in tackling illicit cross-border movements of goods that could ultimately support terrorism and terrorist financing.

To support WCO Members in building or enhancing their border security capacity, the WCO recently launched the Border Security Initiative (BSI). WCO Members, following a specific WCO or United Nations (UN) border security-related assessment mission, can request technical assistance from the BSI in developing tangible plans to support the implementation of relevant security measures.

Under the 'Strategic Trade Controls Enforcement (STCE) project,' the WCO continues to build the capacity of Customs authorities in dealing with strategic goods, which are defined as weapons of mass destruction (WMD), and conventional weapons and related items involved in the development, production or use of such weapons and their delivery systems.

A STCE curriculum and modules for training purposes have been developed to assist the evaluation of standard operating procedures and work practices in this area, allowing the tailoring of capacity building and technical assistance activities to address any outlined gaps in countries' strategic trade controls enforcement systems.

In the past months, training of frontline officers has also begun, with the aim of providing Customs officials with the required information and know-how on how to detect dual-use goods. Future trainers were also targeted in order to strengthen the training capacities of the WCO's human resources.

Under Programme Global Shield (PGS) – an initiative to monitor the trade in 14 chemicals that could be diverted for use in the illegal manufacture of improvised

explosive devices (IEDs) – officers have been trained to detect and handle these chemicals, and certain countries were provided with presumptive field test kits for frontline officers, as well as electronic chemical detection devices.

Other streams of work relate to small arms and light weapons, passenger controls (the utilization of advance passenger information (API) and passenger name record (PNR) data), and the prevention of terrorist financing. Regarding passenger controls more specifically, guidelines on the use of API/PNR have been released, and workshops are planned across the globe to test these guidelines as well as collect best practices from participating countries.

In the field of operational activities, the WCO is currently coordinating a combined operation targeting small arms, light weapons and cash smuggling.

## Revenue Programme

### **Post-Clearance Audit (PCA)**

To supplement the WCO Guidelines for Post-Clearance Audit and the WCO Diagnostic Tool on PCA and Infrastructure, an additional tool – Implementation Guidance on PCA – has been developed and made available, and is expected to be updated regularly with new and additional inputs from WCO Members. Another new tool is under development: the PCA “How to Audit” Typology. It will gather technical skills currently being applied by auditors around the world, and already contains more than 20 practical cases.

### **Operation Gryphon II**

Initiated and coordinated by the WCO, 101 Customs administrations took part in GRYPHON II, a two month operation focusing on Customs controls associated with shipments of tobacco products which began on 1 March 2016 and ended on 30 April 2016. GRYPHON II yielded impressive results with 729 million cigarettes, 287,000 cigars, and 250 tonnes of other tobacco products seized.

## Drug Enforcement Programme

### **Project AIRCOP**

Launched in 2010 to build drug enforcement capacities at international airports, Project AIRCOP has been responsible for the setting up of Joint Airport Interdiction Task Forces (JAITFs) in 16 countries (Barbados, Benin, Cameroon, Cape Verde, Côte d’Ivoire, the Dominican Republic, Gambia, Ghana, Guinea Bissau, Jamaica, Mali, Niger, Nigeria, Panama, Senegal and Togo). In addition, four other countries, two in Africa (Ethiopia and Mozambique) and two in South America (El Salvador and Peru), have recently been evaluated with a view to the setting up of JAITFs.

### **UNODC-WCO Container Control Programme (CCP)**

The CCP is a joint initiative between the United Nations Office on Drugs and crime (UNODC) and the WCO. Port Control Units (PCUs) established under the CCP are, at present, fully operational at 55 ports in 30 countries, and funding for the integration of another 24 WCO Members into the CCP is now available.

Given the success of the CCP, a separate joint programme on air cargo control has been established, and specialized units to target suspicious shipments in this transport segment are already operational in Amman, Jordan, and in Karachi, Pakistan, with more to come.

### **Operations**

Several operations targeting drug smuggling were organized between July 2015 and June 2016:

- Operation CATalyst, which targeted the trafficking of new psychoactive substances (NPS), gathered 94 administrations in October 2015. In preparation for the operation, a seminar on Combating NPS was organized in Seoul, Korea during May 2015;

- Operation SKY-NET II, which aimed to combat the trafficking of drugs and precursor chemicals via postal and express courier channels, gathered 108 administrations in November 2015. A workshop was organized in Shanghai, China, during October 2015;

- Operation COCAIR V, which aimed, in particular, to assess and test the skills of the JAITFs put in place in the framework of Project AIRCOP, gathered 32 airport teams of 30 administrations in December 2015. Two seminars were organized in Santo Domingo, Dominican Republic and Douala, Cameroon during November 2015;

- Operation Westerlies 4, which aimed to stop trafficking activities in methamphetamine and other drugs by air passengers at international airports worldwide, gathered 97 administrations in May 2016. Two regional training workshops were organized during April 2016 for the South American and Caribbean region, and the African region.

- Operation African Wings III was implemented in June 2016, targeting private aircraft in the West and Central African region. The WCO participated in the Operation Coordination Unit (OCU) which was set up in Dakar, Senegal.

## IPR, Health and Safety Programme

### **Actions**

Extensive capacity building activities in this area have been conducted, such as regional or national seminars and diagnostics, as well as two large-scale operations coordinated by the WCO: Operation Action IPR A/P from 23 November to 4 December 2015, gathering countries from the WCO Asia/Pacific region; and Operation Seascape, with a focus on the South and Central American region, conducted in April 2016.

### **Interface Public-Members (IPM)**

IPM is the WCO online database that enables rights holders to provide Customs officers in the field with real-time data and information on their products. Both web and mobile applications underwent a facelift with some new data fields being added (such as authorized exporters, importers and manufacturers), as well as a “news” section which keeps users updated on the latest events in the field of anti-counterfeiting.



### **Environment Programme**

#### **INAMA Project**

Launched in October 2014, the INAMA project, undertaken in conjunction with the WCO Secretariat's Capacity Building Directorate, aims to strengthen the enforcement capacity of targeted Customs administrations in Sub-Saharan Africa, while focusing on the illegal trade in wildlife, particularly endangered species listed in the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES).

The project's capacity building activities are organized into three components:

- Institutional assessment – this component is based on the “Institutional Assessment Tool (IAT) on Enforcement of the Convention on International Trade in Endangered Species of Wild Fauna and Flora.” Participants assess their own capacity building needs at the national level;
- Intelligence – this component builds on common needs identified, with basic and advanced training on intelligence being designed to improve Customs' capacities in all the relevant phases of the intelligence cycle, namely the collection, evaluation, collation, analysis, dissemination, and re-evaluation of data. Curricula on “Operations Planning” and on “Wildlife Investigations Training” have also been developed. Over the last few years, four intelligence



training courses and one course on investigation techniques with a focus on the CITES have taken place;

- Enforcement – this component aims to enhance the capacity of Customs administrations in conducting enforcement operations through the use of a wide range of techniques, such as the conducting of controlled deliveries. To do so, practical training courses will be delivered, and field manuals supporting the daily work of frontline officers will be developed.

#### **Electronic crime**

During its last meeting, the WCO Electronic Crime Expert Group (ECEG) examined the DarkNet (an overlay network that can only be accessed with specific software, configurations or authorization, often using non-standard communications protocols and ports),

virtual currencies/bitcoins, network monitoring tools to identify streaming servers, trade-based money laundering, and the United States' Data Analysis and Research for Trade Transparency System (DARTTS) – a computer forensics system. Meeting reports and presentations on the activities of ECEG may be perused by WCO Members on the WCO website.

#### **WCO tools**

##### ***The CEN suite***

The CEN suite includes three standalone applications, namely the Customs Enforcement Network (CEN), the National CEN (nCEN) and the CEN communication platform (CENcomm), which are compatible and complimentary in nature – each supporting Customs with the digitalization of operational processes in the enforcement field.

The legacy CEN application allows WCO Members to consult a central global depository of enforcement-related information in order to produce valuable analysis and intelligence. Recently, the WCO introduced improvements to the features of the application, including updates to the underlying technology for improved performance and ease of maintenance, the reclassification of commodities for more accurate data reporting, enhancement of the detection method and risk indicator sections in accordance with the WCO Risk Management Compendium, and changes to the data download feature for more efficient data management by users.

In parallel to ensure the improvements of the CEN, the WCO launched a new version of the nCEN application in 2015, which was developed in close cooperation with the 20 Customs administrations where the nCEN has already been deployed. The new version integrates all improvements introduced in the CEN, as well as important upgrades of the electronic data input component and of the in-built information communication interface (see the article published in the June edition of the magazine).

The use of CENcomm continues to expand rapidly, making it the most desired and widely used application within the CEN suite. In 2015, the platform hosted 87 operations and projects, continuing the upward trend in activity seen in recent years (an average of 20% per year). Following the release of a new version of the CEN and the nCEN, the WCO began a modernization project for the CENcomm application which is intended to improve the overall functionality and user experience, interconnectivity, as well as protection against the latest data security threats.

#### **WCO Cargo Targeting System (CTS)**

The CTS enables user countries to capture advance electronic cargo manifest information, and to perform risk assessment, profiling and targeting.

To date, the WCO CTS has been deployed in six countries, namely the Bahamas, Georgia, Jamaica, the Maldives, Panama and Sri Lanka. Further deployments are planned in the coming months in Chile, Kenya, the Philippines and Ukraine. In addition, development of the WCO CTS' air cargo capability is nearing completion, and pilots are planned for later in the year.

#### **Compendium of Customs Operational Practices for Enforcement and Seizures (COPES)**

Not all Customs administrations have investigative powers, but all of them should implement best practices and procedures when dealing with a seizure, in order to facilitate the work of those in charge of the investigation, including the judge who will hear the case.

To provide guidance in this area, back in 2012 the WCO produced COPES, and later secured funding for training with respect to the compendium's critical content. A Project Manager was subsequently recruited in March 2015 to implement the training activities.

Training modules were developed around the following topics: risk; storage and disposal of seized goods; sourcing of information and sharing of intelligence; coordinated activities with other agencies; recording and documentation of information; definitions and types of evidence; integrity and traceability of evidence; forensics; practical interrogation techniques; the role of the prosecutor; and management of cases.

Seminars have already been held for Customs officials in almost all of the WCO's six regions. They consisted of a general presentation on the COPES project, the relevance of the topics covered given the challenges faced by administrations in regard to cross-border criminality, and the delivery of the training itself. National workshops have also been held in Peru, Senegal and Uganda for field officers working as part of multidisciplinary teams.

COPES training activities are set to intensify in the months ahead, as the WCO Secretariat has difficulty in keeping up with training requests. Enforcement teams taking part in the UNODC-WCO CCP and Project AIRCOP are likely to benefit as a result. The COPES Compendium itself will be updated, and the educational support material used during training sessions will be expanded and improved (see the article published in the June edition of the magazine).

#### **Cultural objects**

Cultural goods are the subject of a specific resolution endorsed by the WCO Council. This initiative came about as a result of a series of high-level meetings with the Heads of other international organizations having a role in the protection of cultural heritage, as well as expert level activities and coordination efforts.

The resolution calls upon countries to conduct an analysis aimed at identifying and closing the gaps in current legislation and techniques as a means of addressing this scourge. It also encourages Customs authorities to introduce new "export certificates," or to revise existing certificates, in line with the UN Educational, Scientific and Cultural Organization (UNESCO)-WCO Model Export Certificate.

Moreover, the resolution also calls for more cooperation with relevant stakeholders, such as experts in the field and cultural institutions. In this domain, Customs authorities and their national counterparts are requested to use the ARCHEO platform to link up with experts, in order to facilitate, among other things, the determination of the nature of the artefacts when confronted with a suspicious transaction. The tool will also enable authorities to exchange best practices and information on seizures.

#### **More information**

[enforcement@wcoomd.org](mailto:enforcement@wcoomd.org)

# Signing ceremonies

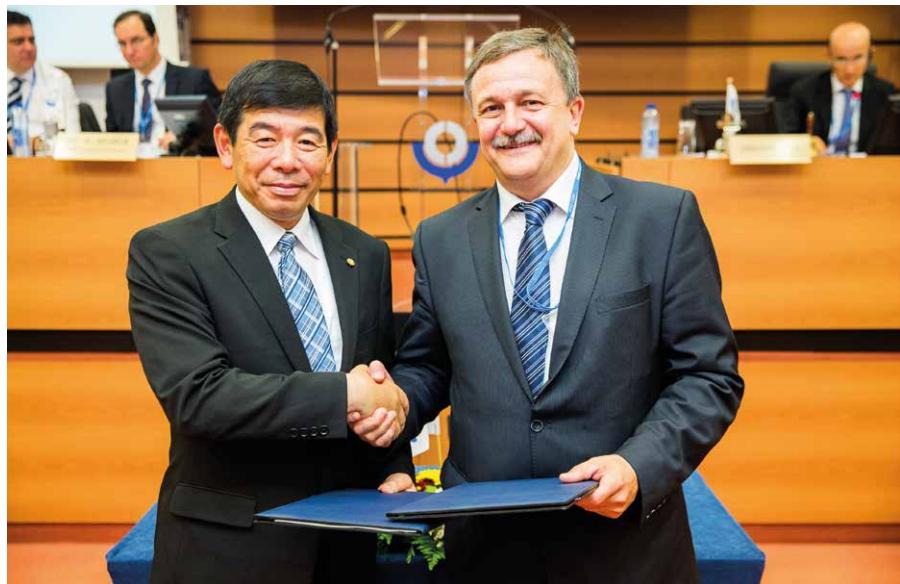
DURING THE 2016 Council Sessions, the WCO signed several Memoranda of Understanding (MoU):

- First, one with the Federal Customs Service of the Russian Federation on the creation of a Regional Centre of Best Practices for the training of specialists on progressive technologies used in Customs work;
- Second, one with Ukraine Customs on the establishment of a Regional Dog Training Centre in the city of Khmelnytskyi;
- Third, one with the Smithsonian Institution to strengthen cooperation between the two Organizations, and to boost collaboration between Customs and cultural experts and institutions on the ground to better fight illicit trafficking of cultural objects.

These MoU serve as a basis for furthering the work of the WCO, and form a vital part of the Organization's communication outreach and stakeholder engagement strategies.

## More information

[www.wcoomd.org/en/about-us/partners/mou-new.aspx](http://www.wcoomd.org/en/about-us/partners/mou-new.aspx)



## 2016 WCO Photo Competition



Digital Customs is Here



"Digital Custom is here" is the caption of this year's winning entry from Bahrain Customs.

## Election



Mr. Ruslan Davyдов of the Russian Federation was elected as Chairperson of the Council.

# Focus: Customs Brokers

## An overview of the WCO

In order to provide a clear understanding of practices relating to the role of brokers, including institutional frameworks and the regulatory/licensing requirements, and to further provide guidance to its Members, the WCO developed a Study Report on Customs Brokers.

Besides reviewing Members' practices, the Study, which is based on the results of a survey and research carried out by the WCO Secretariat, provides some policy and organizational considerations to serve as a reference point for Customs administrations who are considering the establishment or adjustment of a licensing/regulatory regime for brokers.

# of the outcomes Study Report

BACK IN 2015, a questionnaire was circulated to all WCO Members in order to ascertain Customs administrations' practices concerning Customs brokers. Ninety-nine countries (55% of the WCO membership) responded to the survey questionnaire, which touched on a number of themes such as licensing requirements, sanctions/penalties, obligations, restrictions, and cooperation mechanisms.

Ninety-five reporting administrations stated that their country has some or other mechanism for Customs brokers, agents, representatives or third parties who act on behalf of traders to handle Customs clearances and related activities. The remaining four countries did not have any requirements for such activities – as a result thereof, they did not provide any framework for the profession.

The first finding of the Study is that there is a wide range of models among countries regarding the use of Customs brokers. The function of a Customs broker also varies greatly, from the preparation of documents related to release and clearance, to the payment of duties and taxes, to providing assistance in post clearance audits, to representing clients in dispute resolutions, and to providing advice/consultancy services to traders aimed at helping them to meet various regulatory requirements.

As there is “no one size fits all” solution, the Study suggests a basket of considerations that could serve as a reference point for countries wishing to establish or adjust a regime for brokers. This article examines some of these considerations, while highlighting some of the WCO survey's findings under each consideration.

## Optional/mandatory

*Consideration: Use of Customs brokers should be made “optional” in line with the provisions of the WCO Revised Kyoto Convention (RKC), and could potentially be governed by free market principles as are other professional services, keeping in mind the national social and economic situation.*

The RKC obligates countries to make the use of Customs brokers' services “optional.” The World Trade Organization's (WTO's) Trade Facilitation Agreement (TFA) provides that, from the entry into force of the Agreement, Members shall not introduce the mandatory use of Customs brokers. However, mandatory use of licensed brokers' services is still prevalent in many parts of the world, for example in the Americas and Caribbean region or in some African countries.

Of the 99 reporting administrations, 72 stated that the use of Customs brokers was optional. Nine reported that the use of Customs brokers for Customs transactions was mandatory. Fourteen indicated that the use of Customs brokers was mandatory, except for certain specified categories of Customs clearance transactions, threshold values and goods – household goods, used cars, non-commercial samples and postal items were given as examples.

## Fees and charges

*Consideration: Fees and charges for Customs brokers should be neither fixed nor regulated by an authority, and should be left to be determined by the market. However, depending on national-specific requirements, general oversight may be required to protect the interest of traders.*

## Chapter 8 of the RKC

Standard 8.1: Persons concerned shall have the choice of transacting business with the Customs either directly or by designating a third party to act on their behalf.

## Article 10.6 of the WTO TFA

Paragraph 6.1: Without prejudice to the important policy concerns of some Members that currently maintain a special role for customs brokers, from the entry into force of this Agreement Members shall not introduce the mandatory use of customs brokers.

Following free market principles means that the engagement of the services of a Customs broker or a similar entity is a commercial decision by traders. Eighty-one reporting administrations noted that free market principles apply in their respective countries. Only in the case of 12, are fees either fixed or monitored in some way (e.g. setting out minimum fees or flat rates) by a government authority, mainly a Customs administration, and in some instances by Customs in concert with a private sector body. Such practices may have been adopted to avoid brokers overcharging for their services or to avoid cartels or monopolistic situations.

#### Individuals and companies

*Consideration: Both individuals (natural persons) and companies (legal persons) should be permitted to become licensed brokers, in cases where licensing is required. This is to ensure equal opportunities for everyone, and also to have a wider availability of brokers.*

This is, according to the survey, the case in 45 countries. In 24, only companies or legal persons can become licensed Customs brokers. At the same time, in 15 countries, licensed Customs brokers are solely individuals or natural persons. Apparently, more WCO Members have corporate entities as licensed Customs brokers than individuals, although in many cases these companies need to assign at least one Customs broker/Customs specialist. Retired/former Customs officers are also allowed to act as brokers by some countries subject to specific conditions – for example in Korea, 54% of brokers are currently former Customs officers.

#### Customs as the regulatory and licensing authority

*Consideration: Due to the nature of the activities carried out by Customs brokers, which are primarily related to Customs clearance, Customs should, to the extent possible, be the regulatory and licensing authority for Customs brokers, where applicable. Responsibility for conducting examinations for brokers, where applicable, may also be entrusted to Customs. Where needed, Customs could – together with brokers' associations or any other private*

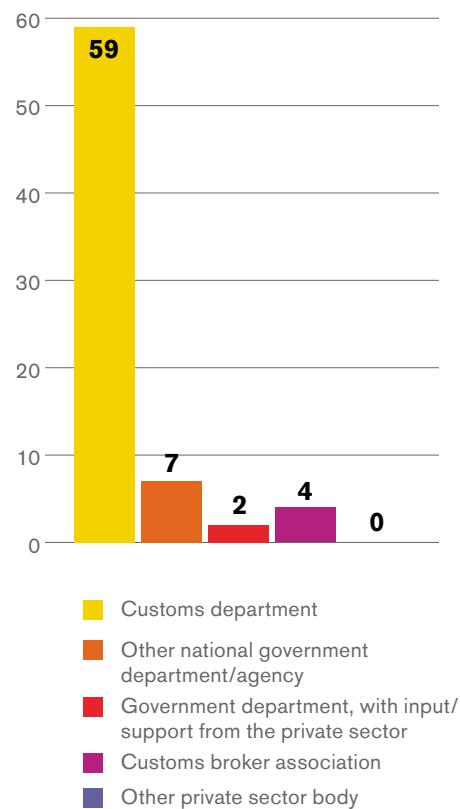
*body – also be entrusted with oversight authority in respect of the business ethics and professional conduct of Customs brokers.*

In 80 countries, Customs has the responsibility of such an authority. Eight reporting administrations indicated that this authority is vested with another government department or agency, such as the Ministry of the Economy in Moldova, and the Professional Regulation Commission in the Philippines. At the economic community/Customs union level, such authority often lays with the respective community/union (e.g. Economic Community of Central African States, or ECOWAS). In the case of two countries, a private sector body such as a trade association or a Customs agents chamber is the regulatory and licensing authority (e.g. British International Freight Association, or BIFA, in the United Kingdom).

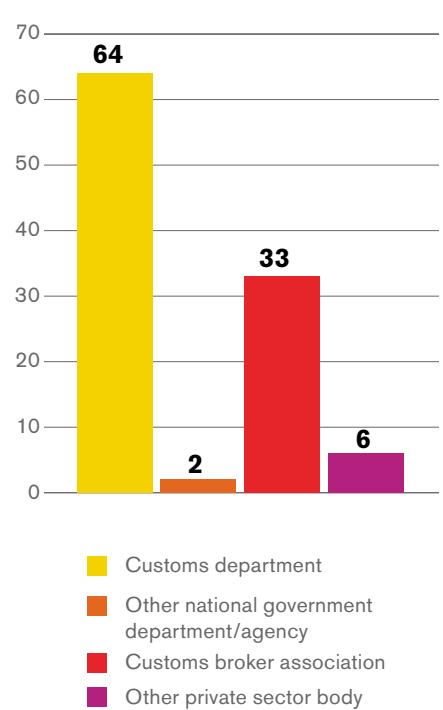
Fifty-nine reporting administrations that do have an examination as part of the licensing process have delegated the responsibility of the examination's content and administration to their Customs authority. Seven countries have other national government departments/agencies responsible for this, for instance the Ministry of Finance's Training Institute in the Dominican Republic, the Human Resource Development Service in Korea, the International Business and Customs Institute of Riga Technical University in Latvia, a Tribunal (comprising one representative each from the Ministry of Economy and Finance, the Customs Directorate and the Brokers' Association) in Uruguay, and the Customs Broker's Board in Trinidad and Tobago.

Two reporting administrations stated that in their country, a government department is the responsible body, but with the input and support of the private sector (e.g. Professional Regulation Commission with inputs from the Chamber of Customs Brokers in the Philippines). Four reporting administrations have given this responsibility to a Customs brokers association, apparently to optimize government's limited sources.

#### Authority responsible for content and administration of brokers' examination



#### Oversight authority for business ethics and professional conduct of Customs brokers



## Licensing requirements and penalties for brokers

*Consideration: Regulatory and licensing criteria, where applicable, should be transparent, non-discriminatory and simple, and may specifically include sanctions and penalties for misconduct and violations, including provisions dealing with informal/unauthorized brokers, in order to ensure effective compliance with Customs and other government agencies' requirements.*

The RKC and the WTO TFA requires that national legislation and rules setting out licensing requirements for Customs brokers should be transparent, non-discriminatory, and reasonable.

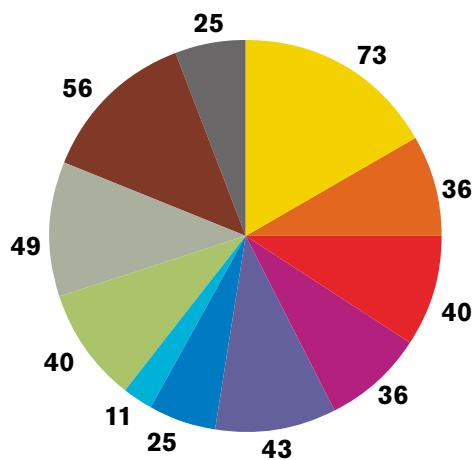
Of the 95 reporting administrations which have set out some sort of mechanism for Customs brokers, 84 require Customs brokers, and wherever applicable third parties, to meet certain requirements before being allowed to handle Customs clearances. Detailed results on the requirements as well as their use are presented in the chart below.

### Requirements for traders

*Consideration: Where licensing requirements, if any, are foreseen for traders who are permitted to carry out Customs formalities for the clearance of their own goods, they need not necessarily be as stringent as the licensing requirements for Customs brokers; however, some minimum prerequisites such as knowledge of Customs and related laws, a good compliance record, and financial solvency could be prescribed.*

In countries where traders are allowed to handle their own Customs clearance formalities, they are in general subject to requirements broadly similar to those of Customs brokers. In 19 of the reporting countries, traders can handle their own Customs formalities with no requirements from the government or Customs. In some cases, though, such a facility is restricted to manufacturers and government agencies only.

## Licensing requirements



- Knowledge of Customs and related laws (individuals/employees)
- Knowledge of trade-related transport and finance matters (individuals/employees)
- Demonstrated compliance record
- Financial capacity/solvency
- Minimum educational qualification (individuals/employees)
- Minimum work experience (individuals/employees)
- Minimum number of hours of training (individuals/employees)
- Electronic transmission capability
- Financial guarantee – surety bond, security deposit
- Incorporated/established in the country, citizenship and/or residency
- Other

### Article 10.6 of the WTO TFA

Paragraph 6.3: With regard to the licensing of customs brokers, Members shall apply rules that are transparent and objective.

## Examination

*Consideration: In order to test the Customs knowledge of brokers and ensure that they keep themselves abreast of the latest developments, Customs administrations should consider designing suitable assessment/verification systems, for example, an examination which could be either written or oral.*

Sixty-five reporting administrations stated that they have an examination system for verifying/testing Customs brokers' knowledge of Customs and related laws/regulations, prior to licensing a Customs broker. Twenty countries did not have an examination requirement. Ten countries, including some who do not have an examination system, employ additional means for verifying the Customs knowledge of brokers.

A sample of the methods used to verify brokers' Customs knowledge include: the conducting of interviews (Australia and the Democratic Republic of the Congo); the completion of an approved course of study (Australia); a Customs diploma programme (Fiji); a specific training programme (Malta); five years of work experience in Customs matters (Mexico); and a "fit and proper person assessment" based on education, work experience, and industry knowledge (Seychelles).

### Obligations and liabilities

*Consideration: Obligations and liabilities of brokers may include representing their clients under proper authorization, advising their clients on various compliance requirements, carrying out due diligence on their clients and the information submitted to Customs, and not lending their licence or permitting any other person or agent to use it under any circumstances. They may also be jointly and severally liable for the payment of duties, taxes and other charges on behalf of their clients.*

#### Chapter 8 of the General Annex to the RKC

Standard 8.2: National legislation shall set out the conditions under which a person may act for and on behalf of another person in dealing with the Customs and shall lay down the liability of third parties to the Customs for duties and taxes and for any irregularities.

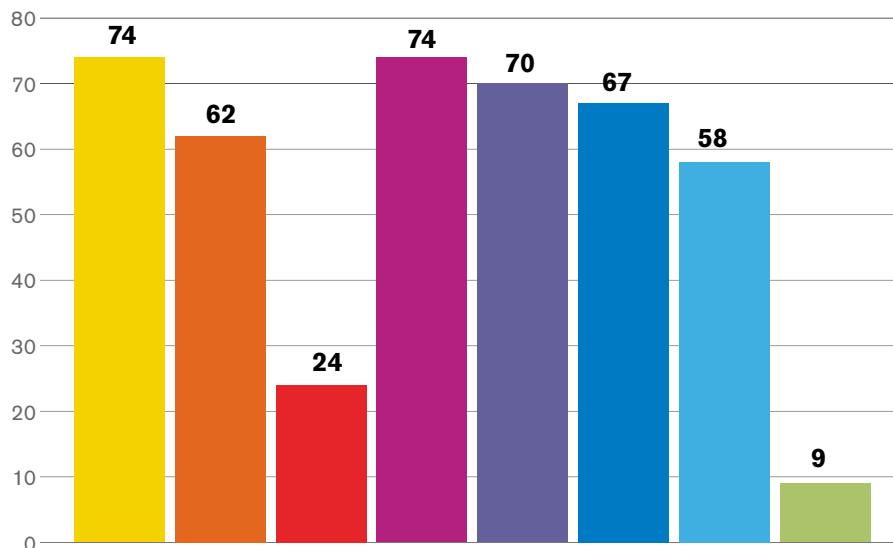
### Challenges

*Consideration: Challenges posed by some brokers, including informal/unauthorized brokers, could be met to some extent by increased use of information and communications technology (ICT), the application of demonstrative sanctions and penalties in appropriate cases, and through constant dialogue with traders and with such brokers.*

According to countries' differing regulations, suspension, termination, fines and penalties, and prosecution are all potential sanctions that could be imposed on Customs brokers/third parties for violations or misconduct. Usually, the nature of a sanction would depend on the gravity of the offence. For example, in cases of minor infractions, the Canada Border Services Agency (CBSA) would simply provide advice and guidance to brokers to rectify their mistakes.

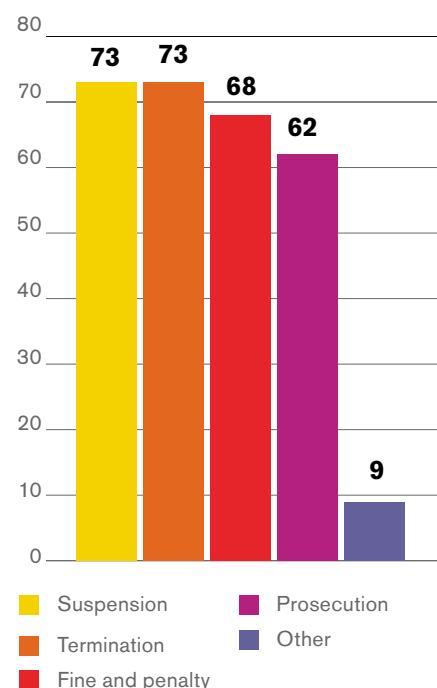
Asked about informal or unauthorized Customs brokers, 29 reporting administrations indicated that it was not a very serious problem, while 13 stated that it was a very serious problem in their country. In terms of measures being taken against such practices, one country is reportedly trying to limit the entry of informal brokers by insisting on the wearing of uniforms and the display of identification (ID) cards, in order to "sanitize" operations at Customs ports, as well as by imposing penalties and sanctions. Another country indicated that their Customs administration was also cross-checking with the tax authority, in order to verify that the person who issues the bill for broker services is authorized to do so.

### Obligations/liabilities of licensed Customs brokers



- Act under proper authorization/agency agreement from/with the trader
- Advise clients on various compliance requirements
- Verify antecedents of their clients
- Exercise due diligence on the correctness of any information/declaration filed
- Liable (jointly and severally) for the payment of duties, taxes and other charges on behalf of the client
- Maintain and preserve records for a specified period for Customs inspection/audit
- Maintain high professional standards, transparency, efficiency and business ethics
- Other

### Sanctions/penalties for violations/misconduct by Customs brokers/third parties including informal//unauthorized/unqualified brokers



### Chapter 8 of the General Annex to the RKC

**Standard 8.5:** The Customs shall provide for third parties to participate in their formal consultations with the trade.

### Cooperation

*Consideration: Opportunities for cooperation between Customs and brokers could include: Customs modernization and trade facilitation initiatives; implementation of bilateral/multilateral agreements; compliance with Customs and other government agencies' requirements, including due diligence and data quality; enhancing supply chain security; enhancing the professionalism and business ethics of brokers (e.g. capacity building and joint training activities); and carrying out performance measurement (including conducting Time Release Studies). Where appropriate, Customs brokers could also be involved in the National Committee on Trade Facilitation set up/maintained under the WTO TFA.*

Bilateral consultation, including through a brokers association (in a few cases by way of a Memorandum of Understanding, or MoU – e.g. Bhutan, Moldova, and Uruguay), is the most prevalent mechanism stated by 76 reporting administrations. Sixty-six countries have a broad consultative process involving all trade stakeholders, including Customs brokers. Seventeen have started to consult Customs brokers, as part of their

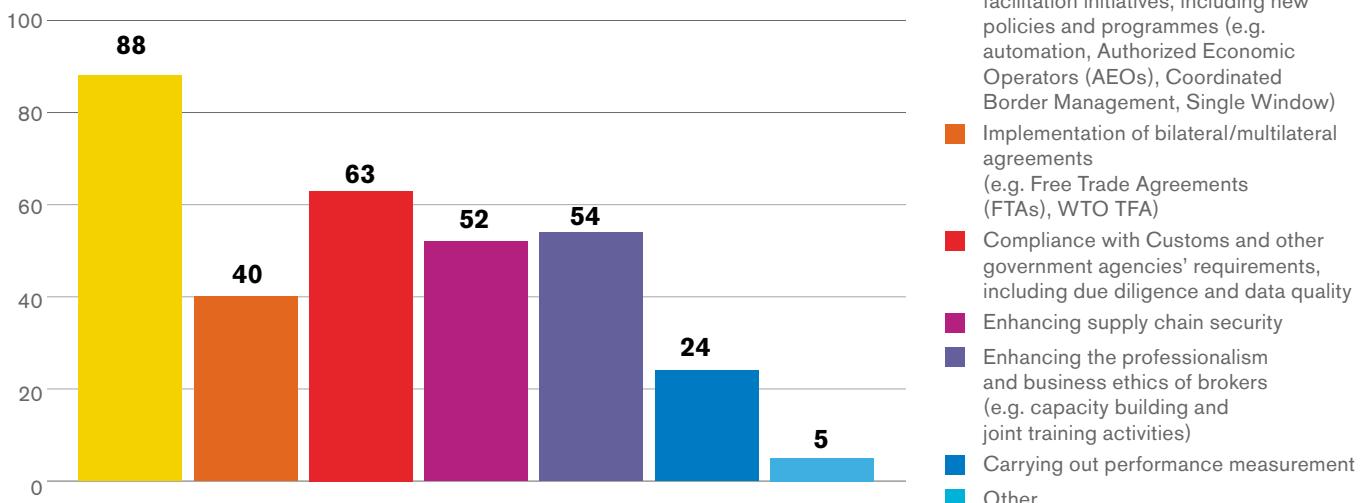
National Committee on Trade Facilitation established under the WTO TFA or any other similar existing body.

### AEO/trusted trader programmes

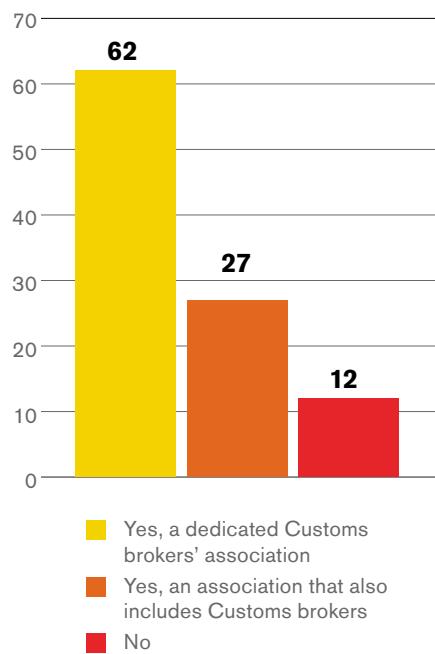
*Consideration: The remit of authorized economic operator (AEO)/trusted trader programmes should be expanded to include brokers, with well identified tangible benefits.*

Fifty-eight reporting administrations who have implemented an AEO/trusted trader/compliance programme also include Customs brokers in such programmes. The benefits extended to Customs brokers in these programmes vary from one country to another. For instance, in the case of Japan, benefits include the pre-arrival filing of an import declaration, and the facility to pay duties after the release of the cargo. Benefits provided to such brokers in other Customs authorities include a reduced data set for summary declaration, simplified clearance, self-assessment of declarations, access to training courses and pilot projects, service outside of office hours, extended licence validity period, reduced guarantees, and a “coordinator” facility.

### Cooperation areas with Customs brokers



## Country having a Customs brokers' association



### Brokers' associations

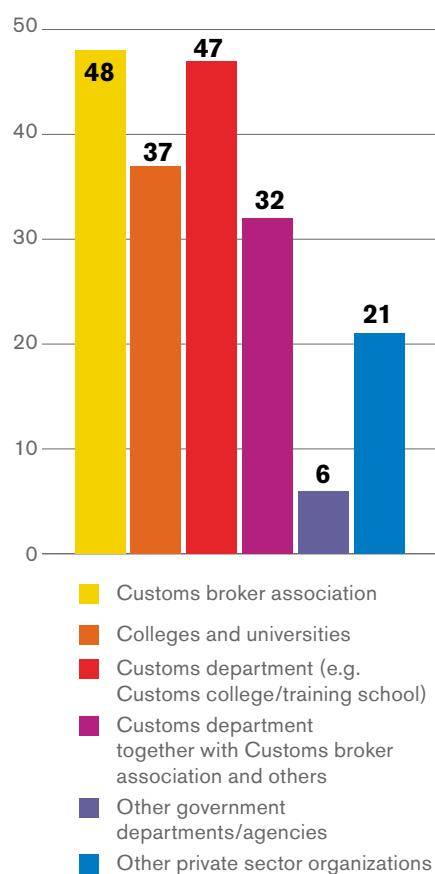
*Consideration: Consideration could also be given to establishing/recognizing a brokers' association at the national/regional level, as such associations can provide support to their members while assisting Customs administrations with the fulfilment of their regulatory/licensing responsibilities. These associations can also provide valuable training, capacity building, and an oversight framework which, given the limited resources some administrations may have, might add to the overall capacity of brokers. However, Customs administrations should support Customs brokers, including through brokers' associations, by informing/educating them about the regulations and requirements, including, where appropriate, those of other government agencies.*

In a similar vein, 85 reporting administrations noted that they had not measured the release times of those who use a Customs broker against those who do not. Six countries who did carry out such studies had mixed results.

### Extent of use

*Consideration: Consideration could also be given to ascertaining the extent to which Customs brokers are used in the Customs clearance process. Several Members reported a high percentage of use of brokers despite this being optional in their jurisdiction. Outcomes of such studies might necessitate policy changes not only in terms of adjusting licensing requirements, but also in setting up an effective oversight and capacity building mechanism.*

## Organization responsible for training and professional development of Customs brokers



### Compliance rate

*Consideration: Consideration could also be given to measuring the compliance rates of traders who use a Customs broker against those who do not, alongside studies that measure the release times of traders who use a Customs broker against those of traders who do not. Such studies, conducted at regular intervals, could provide valuable insights into the role and responsibilities of Customs brokers, and identify potential areas for further improvement.*

Eighty-two reporting administrations stated that they have not measured the compliance rates of traders who use a Customs broker against those who do not. Seven countries who have conducted such a study did not indicate any clear finding on whether the compliance rate was better with the use of brokers or otherwise.

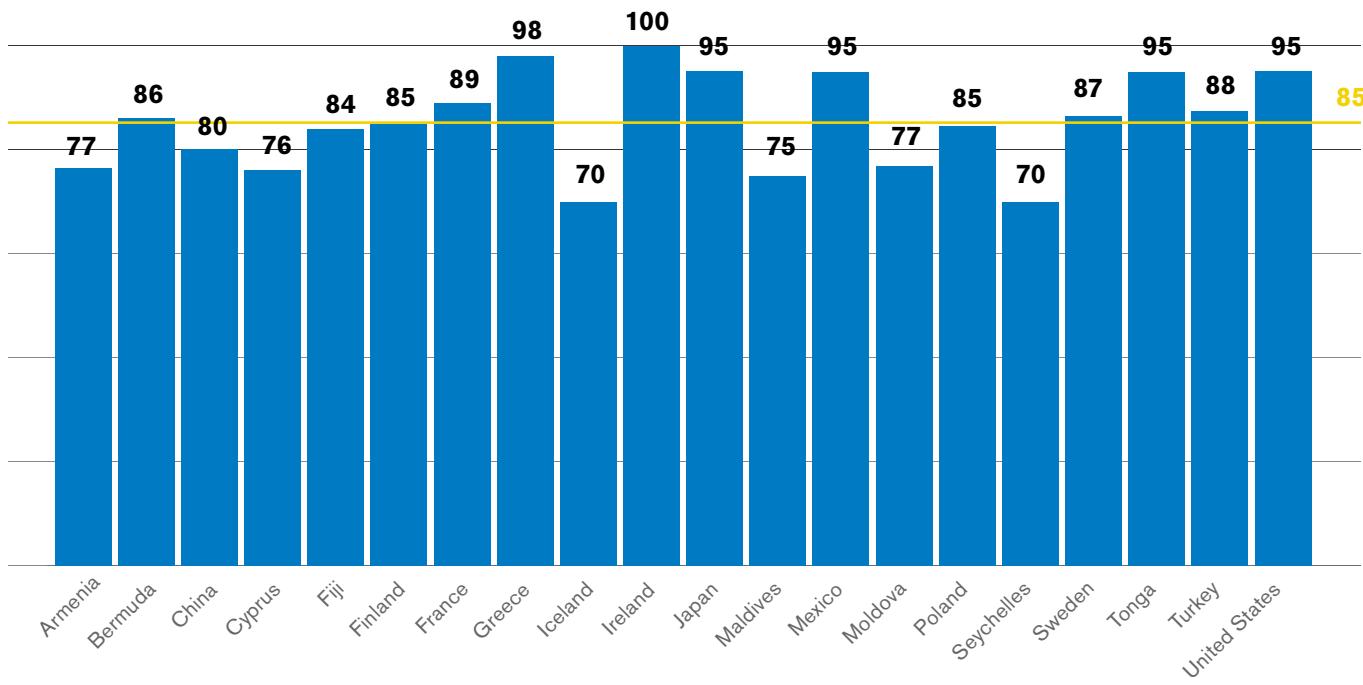
Twenty reporting administrations, where the use of a broker is optional, have ascertained the extent to which Customs brokers are used. In those countries, the average percentage of broker usage was 85.26%, even reaching 99.99% in some cases.

This brings to light the possibility of eliminating any “mandatory” use of brokers to comply with the RKC, rather letting usage be decided by traders/individuals based on market principles – as is the case with most other professional services. This also makes a good business case for those countries that are apprehensive about the social and political issues surrounding the elimination of the mandatory use of brokers.

### More information

[www.wcoomd.org](http://www.wcoomd.org)

## Customs brokers usage percentage by country





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# Some thoughts about Customs brokers: the WCO survey and beyond

**By the International Federation  
of Customs Brokers  
Associations**

THIS IS A TIME WHEN THERE IS A HIGH LEVEL OF INTEREST WORLDWIDE IN THE USE OF CUSTOMS BROKERS, ESPECIALLY THE VALUE OF CUSTOMS BROKERS IN CREATING EFFICIENCIES FOR MOVING GOODS ACROSS BORDERS IN A COST EFFECTIVE WAY, AND IN SECURING REVENUE WHILE PROTECTING THE PUBLIC INTEREST.

Yet, customs brokers around the world spend a considerable part of their time explaining what they do. It isn't that the explanation is difficult, but it is certainly not universal, since the requirements to become a customs broker and the services provided by them often vary from country to country, and are prescribed by national legislation.

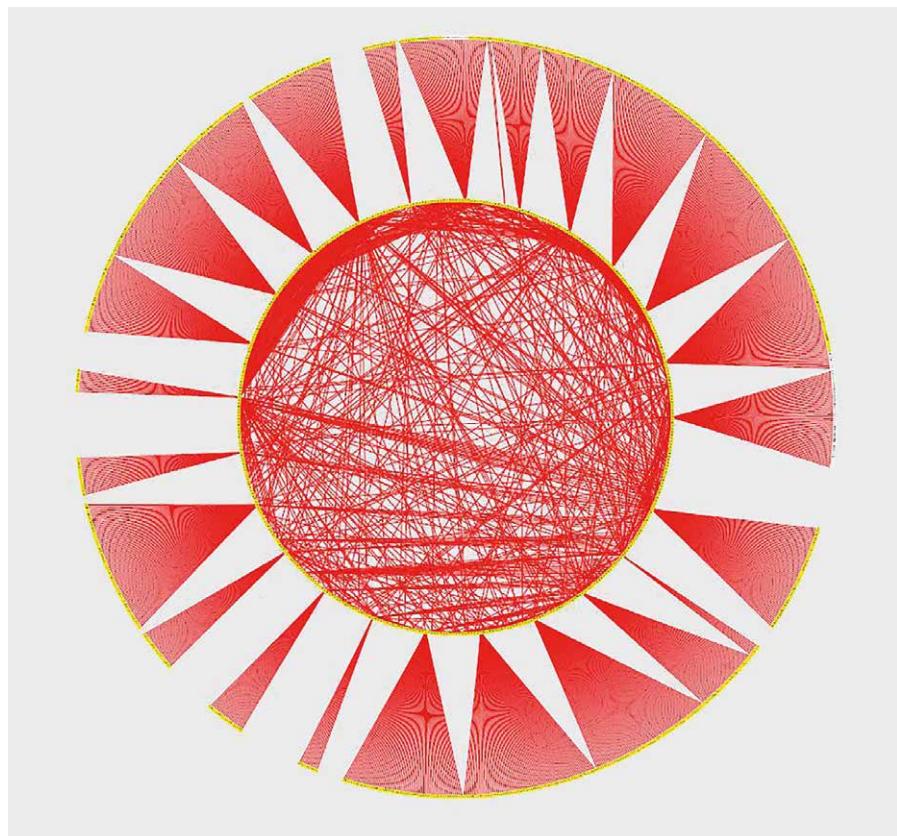
The definition of a customs broker depends on many things, such as national regulations (if any), a country's business marketplace, the role of other logistics service providers, and something as fundamental as geography.

The International Federation of Customs Brokers Associations (IFCBA) has thrived; not because of the differences among customs brokers, but because of what they have in common.

## Welcoming the WCO Survey

Customs brokers welcomed the news last year that one of the WCO's priorities was a survey about customs brokers. We were then delighted to learn that a very significant number of WCO Members participated in the survey, enthusiastically sharing their knowledge and experience on the regulation and practices of customs brokers in their countries.

The survey responses and analysis contribute to the body of knowledge about customs brokers, and confirm the importance of the subject for customs administrations and the private sector alike. They also raise rich questions for further exploration. And, from an IFCBA perspective, we were pleased that the survey results were consistent with feedback from, and the priorities of, IFCBA members in some of the largest trading



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countries in the world, including our members in developing countries.

## Customs brokerage licensing frameworks

In fact, the analysis of the WCO survey results and the commentary in the report reinforces the principles outlined in the IFCBA best practices model on customs broker regulation which was first endorsed seven years ago after considerable research and discussion. At the time, there was an important conversation about the mandatory use of customs brokers at the World Trade Organization (WTO) as the WTO Trade Facilitation Agreement (TFA) was being crafted.

In 2009, the IFCBA articulated the principle that "the IFCBA supports the establishment of transparent, accountable and consistent broker licensing regimes by relevant government agencies," and provided guidance in the following key areas, critical to the development of effective customs brokerage licensing frameworks:

- scope of practice (what only licensed customs brokers can do that other third parties cannot);
- regulation of entry (development of knowledge through education and examination);
- regulation of practice;
- the role of national customs broker associations.

Each of these areas is multi-layered, but at the heart of the detailed regulatory framework is the belief that the public interest is best served by government regulation of customs brokers.

## Benefits of using customs brokers

Governments in many countries are going through periods of dramatic change, with comprehensive regulatory review and modernization programmes, coupled with the challenges posed by global financial weakness and pressures to reduce deficits as well as cut spending, resulting in demands to do more with less.

More than ever, it is recognized that Customs administrations do not have the capacity to deal with thousands of individual companies which import or export goods, and most of those companies do not have the necessary capacity to deal directly with the requirements of Customs and other government agencies in moving goods across borders.

The existence of licensed Customs brokers not only allows governments to allocate scarce resources more efficiently, it also saves governments money. There are many examples of how Customs brokers represent a net transfer of costs from the public to the private sector by taking on functions like data entry, management and analysis, and communicating information about complex regulatory requirements to thousands of clients.

Customs brokers are uniquely placed to help Customs administrations achieve improvements, including efficiencies in the application of regulations, the development of programmes that optimize the use of technology, and the provision of support for the application of supply chain security standards.

As the agenda and priorities of Customs administrations have expanded to include border security, Customs brokers can be seen as the original ‘trusted traders,’ regulated by government through such things as security background checks, review of financial viability, and examination of expert knowledge. In addition, as early participants in authorized economic operator (AEO)/ trusted trader programmes, Customs brokers can assist in building a safer and more secure supply chain.

#### **Knowledge, capacity and strategic alignment**

Over the past decade, little has remained the same in the international trade environment. The marketplace has expanded beyond expectations as a result of the proliferation of free trade agreements (FTAs), and the fact that traders are facing competitive pressures which require them to focus on their core business, and make strategic decisions about how to best manage their businesses in this changing environment. How borders ‘work’ is an important consideration in investment

decisions, in profitability outcomes, and in a country’s competitiveness on the global stage. From a Customs broker perspective, three areas are especially important as we look forward:

- building knowledge;
- building capacity;
- strategic alignment.

Knowledge is an important asset for Customs brokers, and is critical in providing value to clients. The IFCBA is trying to better understand how knowledge is delivered, as an entry level requirement and in ongoing professional development. We see the potential for partnerships with Customs administrations in developing and delivering training, and believe that this provides benefits beyond Customs broker licensing to areas like compliance management and risk management. In addition, we believe that there is an important role for national associations of Customs brokers in this area – building capacity and strengthening the knowledge base. We also recognize that there is more that we can do in building capacity around Customs brokers and their regulation.

The IFCBA has worked on capacity building initiatives in Latin America and Asia, in partnership with the Canada Border Services Agency (CBSA), the World Bank and the WCO itself. Through this work, we have learned how important it is to improve the understanding of national challenges and differing priorities, and to offer insights and support in areas such as training, business tools (for example, agreements between importers and brokers), stakeholder engagement models, and border processes, including coordinated border management (CBM) and the Single Window concept. The WCO survey results provide many ideas for future work that we can do to build and strengthen the capacity of WCO Members in these areas.

There is also the question of the strategic alignment of the objectives of the WCO, its Members and Customs broker associations – both national associations and the IFCBA – that is a positive way forward. In many countries, Customs brokers are the original trusted traders. They are regulated by government and one of the objectives of that regulation is, as we have said, the protection of the public interest.

Customs brokers are uniquely placed to help Customs administrations achieve improvements, including efficiencies in the application of regulations, the development of programmes that optimize the use of technology, and the provision of support for the application of supply chain security standards.

#### **Stakeholder engagement and Customs-business partnerships**

Customs brokers are also a natural starting point for work on stakeholder engagement. Customs brokers in many countries have a strong bilateral relationship with their Customs administration, but they also have relationships with other government agencies and with other stakeholders. This multilateral positioning and reach can be of great value in opening and facilitating dialogue, and in building political will.

The interaction of Customs brokers with Customs administrations is another area of exploration which has delivered useful insight in the area of stakeholder engagement and Customs-business partnerships.

#### **Future research and collaboration**

Because things are constantly changing in the world of WCO Members, and in that of Customs brokers, the IFCBA is strongly in favour of future research activities. A collaborative effort with the WCO would provide additional insight and guidance related to good practice. The following areas have been identified in the WCO survey and in discussions with WCO and IFCBA Members as possibilities:

1. distinction between registration and regulation of Customs brokers;
2. Mechanisms providing authority to act on behalf of importers/exporters;
3. scope of practice of regulation – i.e. what functions Customs brokers are licensed to perform;
4. rationale for Customs broker regulation;

5. consequences if unauthorized third parties perform Customs broker functions;
6. the regulatory authority – i.e. should it be Customs or another government agency;
7. mandatory use of Customs brokers;
8. requirements for companies which clear goods themselves and do not use third parties;
9. components of licensing – i.e. knowledge, financial capacity, and automation;
10. requirements for licence renewal;
11. trends in numbers of Customs brokers and the use of Customs brokers;
12. exploration of the linkages between the use of Customs brokers and compliance;
13. Customs brokers and stakeholder engagement.

The chance to take regular snapshots of Customs broker practice is always

informative, and the IFCBA does this from time to time. We also constantly strive to better understand the business needs of Customs brokers and their clients, so that we can help to meet those needs. We always remember that Customs brokers provide a window to the needs of small and medium-size enterprises (SMEs), and, in fact, many Customs brokers are SMEs themselves.

A final area of inquiry is the value of the Customs broker in the marketplace, and continued development of the Customs broker as a knowledge expert and business innovator. The value proposition of the use of Customs brokers is particularly important and intriguing for future research. There is additional work to be done to better understand why most importers around the world use Customs brokers, and how Customs brokers can directly contribute to trade facilitation and national prosperity.

#### The road ahead

The IFCBA celebrated its 25<sup>th</sup> anniversary last year, which happily coincides with renewed interest in Customs brokers on the part of the WCO and among its Members. We look forward to continued collaboration to explore rich areas of inquiry, and further develop areas of good practice. We encourage those countries without a well-developed Customs brokerage community to consider the establishment of one. The IFCBA exists to meet the needs of its members, and to support and promote the value of Customs brokers. By doing that, our members facilitate economic growth by making the flow of goods across borders more efficient and compliant for all parties.

#### More information

<http://ifcba.org>

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# An overview of Japan's Customs brokerage legislation

By **Shoichi Sudo**,

DEPUTY DIRECTOR, CUSTOMS AND TARIFF BUREAU, MINISTRY OF FINANCE, JAPAN

In Japan, about 920 companies or individuals are engaged in Customs brokerage as of April 2016. The Japanese Customs broker regime has the following characteristics: the use of a broker is optional; brokers require a licence to operate; brokers must employ qualified staff; and brokers may apply to join the authorized economic operator (AEO) programme which was introduced in 2008.

CUSTOMS BROKERS ARE specialists in import and export procedures, and their use, while already high, is increasing in Japan. Although each country's clearance system

differs, there is no doubt that the use of these specialists contributes positively to the Customs clearance process, ensuring better compliance rates and enhancing

supply chain security. This article provides an overview of the Customs broker regime in Japan.

## Customs brokers and registered Customs specialists

To engage in Customs brokerage in Japan, a company or an individual must obtain a licence and be registered or employ people registered as Customs specialists – a status which is granted to professionals who have passed a specific examination. In companies offering brokerage services, only these professionals may examine and process documents relating to a Customs clearance.

The licence can be revoked, for example, if it is found that the broker passed the examination by deception, or if the broker is sentenced to a term of imprisonment or receives a fine for violating the Customs Brokerage Law.



Currently, there are about 9,000 registered Customs specialists nationwide. All of them have passed a qualifying examination which is held once a year. In 2015, while about 7,500 people applied to write the examination, only about 760 passed. Such a demanding examination ensures a high quality of service for traders, and a better compliance rate for Customs.

Clearing goods has become more complicated, especially when it comes to classifying them, determining the rules of origin which apply, and calculating their Customs value, particularly with the entry into force of an increasing number of Economic Partnership Agreements (EPAs) or Free Trade Agreements (FTAs) in recent years. The number of cases deemed 'difficult' has been increasing as the trade environment becomes more complex and diverse, leading to growing expectations on Customs brokers.

#### Optional use

Although Japan introduced a Customs broker regime, the use of their services is 'optional' for importers and exporters who may choose to handle the Customs

clearance process on their own without having to comply with any requirement or any examination. Even though their service is optional and is an additional cost for traders, about 98% of all Customs clearances in Japan are done by Customs brokers.

#### Supply chain coordinators

There is a reason for the high rate of use of Customs brokers. In Japan, few Customs brokers limit their activities to Customs brokerage only. Most of them also offer logistics services, such as warehousing and/or transportation.

Importers and exporters actually use their brokers as logistics coordinators. Indeed, goods go through many stages on their route from a manufacturer to a consignee. For example, when cargo is imported into Japan, it is first placed in a Customs controlled area, where it is declared for importation, and thereafter released. Then, the cargo is picked up from the Customs controlled area and transported to the consignee. It is hard for importers to commission different operators to handle each process, so most of them generally commission one logistics operator to handle the whole process.

to an AEO-certified Customs broker, the importer will still be able to enjoy specific benefits, even if the importer is not an AEO. Such benefits include the possible release of goods before the declaration and payment of duties and taxes. The importer can also be certain that the broker will meet specific compliance requirements when it comes to security.

#### Review on Customs brokerage legislation

In March 2016, Japan Customs revised its Customs-related laws and regulations. One amendment specifically concerned the Customs Brokerage Law, in particular the licence-granting procedure. Under the previous legislation, a Customs broker could only do business within the jurisdiction of the region where it was registered – the reason being that it was the Director General of the regional Customs office who issued Customs brokerage licences.

Following the amendment of the Customs Brokerage Law, which will take effect in the autumn of 2017, Japan's Finance Minister will now give permission at the national level, enabling Customs brokers to work nationwide with a single licence.

#### AEO and Customs brokers

In 2008, in order to both secure and facilitate global trade, Japan Customs introduced its AEO programme, and included Customs brokers in the list of professions which could enter the certification scheme. Being involved in the international movement of goods, Customs brokers are one of the key players in maintaining supply chain security, as are manufacturers and freight forwarders.

The requirements for a Customs broker to be an AEO are the same as those for freight forwarders: for example, AEO brokers should have at least three years' experience, no violations of Customs-related laws, the capability to use the e-system for Customs procedures, establishment of a compliance programme, etc.

About 130 Customs brokers (14%) are certified as AEOs. In cases where an importer delegates the import clearance

#### Japan Customs Brokers Association

The Japan Customs Brokers Association (JCBA), which is managed by Customs brokers, has an important role to play in the development and maintenance of the skills of Customs brokers' staff. The JCBA shares information on Customs procedures with its members, and hosts workshops and training courses. The JCBA holds several committees such as the Customs Specialist Committee or the Air-Cargo Committee.

It also has an important role in communicating any reform or revision of the legislation to its members, as well as with each regional Customs brokers association. Furthermore, the JCBA can participate in the policy review process by submitting proposals and comments on behalf of its members.

#### More information

[www.customs.go.jp/english/index.htm](http://www.customs.go.jp/english/index.htm)

# Cameroon's experience concerning licensed Customs brokers

## By Cameroon Customs

IN CAMEROON, a licensed Customs broker (LCB) plays a very important role in the national supply chain. The national directory of LCBs lists almost 200 brokers, with the number changing as licences are withdrawn or brokers cease their activities.

Under the current regulations it is compulsory to use an LCB. However, diplomatic missions, international bodies, owners of imported second-hand vehicles, public authorities, and oil companies (where their crude oil exports are concerned) are permitted to lodge their own Customs declarations.

The profession is governed by the Community Customs Code (Art.112 to 119) of the Central African Economic and Monetary Community (CEMAC), of which Cameroon is a member. The Code defines a Customs broker as "any natural or legal person who is professionally engaged in completing Customs formalities in relation to the declaration of goods on behalf of other persons, either as his/her main profession or as a normal complement to his/her core business."

Underlying the status of Customs broker are certain requirements related to professionalism and compliance with ethical standards. The legal framework for the licensing of Customs brokers, and for engaging in the profession, as well as provisions aimed at combatting illegal Customs brokering, are specified in this article.

### Licensing

There are two types of indefinite licences for LCBs in Cameroon: a national licence; and a CEMAC Community licence.

### National licence

National licences are issued by the Director General of Customs, after the views of the National LCB Advisory Committee have been sought. In Cameroon this Committee, established under the CEMAC Community Customs Code, is made up of representatives from:

- professional bodies of LCBs, stevedoring companies (responsible for loading and unloading cargo), and consignees;
- the Chamber of Commerce, Industry, Mining and Crafts;
- government authorities – the Directorate General of Treasury, the Directorate General of Taxation, and the Directorate General of Customs (the latter being an autonomous administration which is separate from the other administrations cited).

The Committee, chaired by the Director General of Customs, processes applications for Customs broker licences, and checks that the applicant satisfies the conditions laid down by the CEMAC Customs Code. The national licence authorizes the holder to carry out certain Customs operations only, namely the submission of Customs declarations for home consumption (home use), and for the outright exportation of goods.

### *CEMAC Community licence*

All Customs brokers who hold a national licence may then apply to the CEMAC Community authorities for a CEMAC Community licence, which those authorities will issue after seeking the views of the National LCB Advisory Committee of the applicant's country of residence. The Community licence, valid throughout the CEMAC territory, entitles the holder to complete all formalities related to all types of Customs operations on behalf of other persons, regardless of the Customs procedure involved. This is a full-service brokerage scheme.

### Engaging in the Customs broker profession

The licensing conditions involve checks on the applicant's academic, civil, tax, and judicial profile as specified by the Customs Code, and the lodging of security in an amount of 25,000,000 CFA francs (approximately 38 000 euro) for a licence to engage in the Customs broker profession.

All LCBs which are "legal persons" must include certain documents in their licence applications, including, in particular, evidence of the professional experience and academic attainment of one of their employees, known as the "lead declarant", who will be the recognized Customs contact person and take primary responsibility for Customs operations.

The LCB's lead declarant must have an undergraduate (Bachelor's) degree in a subject related to transport, logistics or international trade, coupled with at least five years' experience in the completion of Customs formalities. The lead declarant's tax file must show that he/she is up-to-date (all tax returns submitted, all taxes paid, etc.), and that he/she does not have a criminal record.

In addition, all Customs brokers must, within three months from the date when their licence takes effect, provide evidence that they:

- have dedicated premises in which to conduct their business;
- are registered with the Registry of Commerce, and listed on the commercial tax roll;
- are members of a Customs brokers' trade association.

LCBs must retain on their premises, for three years:

- a record of the Customs operations that they have carried out;
- the documents relating to each clearance operation.

An LCB may act in his/her own name or as an agent for the owner of the goods. He/she draws up the declaration personally, and presents the goods for examination. Any change in an LCB's business status (change of sponsor, lead declarant, business name, etc.) must be notified to the Customs administration within a two-month period.

## Illegal engagement in the Customs broker profession

Some people who offer their services to economic operators illicitly, by using a false identity, assume the role of an LCB in order to complete the formalities associated with foreign trade. Thus, they will initiate goods clearance operations, and illegally collect Customs brokerage fees from users. These practices are carried on with the active connivance of certain genuine Customs brokers who, in return for payment, will "domicile" or agree to take responsibility for the declarations initiated by these clandestine operators.

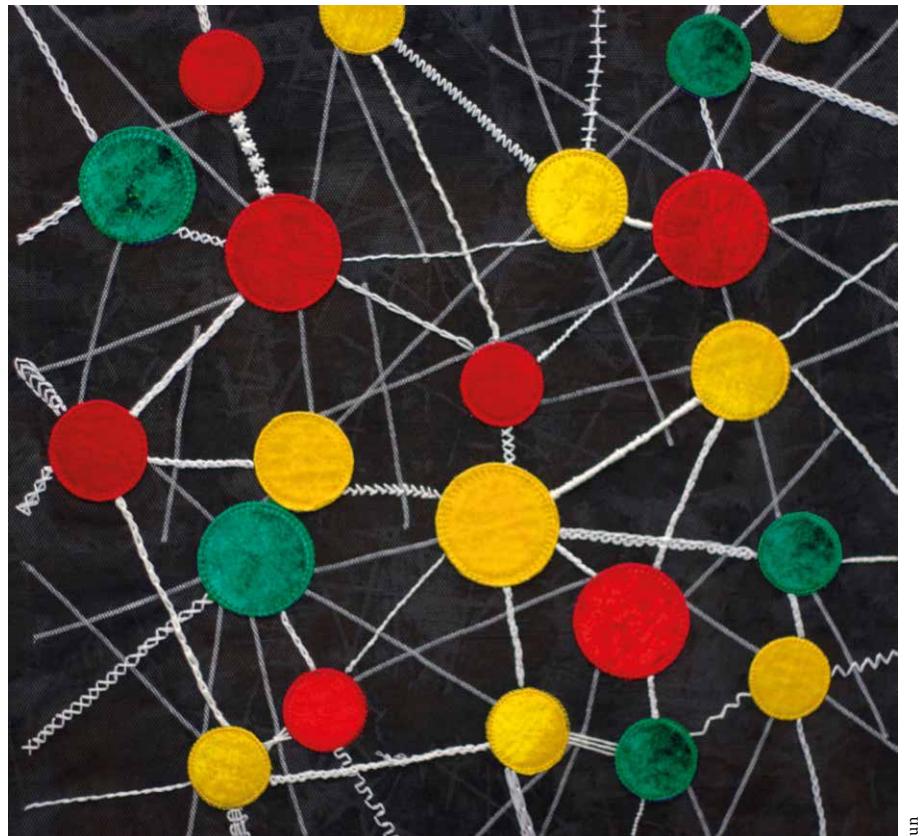
To tackle this situation, Cameroon's Directorate General of Customs has taken the following measures:

- assigning an electronic code for the initiation of Customs declarations to licensed Customs brokers only, as a means of monitoring their activities more closely;
- giving the staff of LCB firms an access card admitting them to the Foreign Trade Operations Single Window building, where foreign trade stakeholders (banks, Customs, etc.) operate under one roof;
- systematic application of administrative and financial penalties (suspension of business or withdrawal of licence) to LCBs which have been accomplices in the illegal validation of Customs declarations.

## Framework for improving the profession and ensuring compliance with professional standards

Given the major role played by LCBs in terms of protecting the interests of the Treasury and facilitating trade, Cameroon's legal framework provides for ongoing capacity building for LCBs. It has also established a system of administrative and judicial penalties, with the aim of improving the LCB profession and ensuring compliance with the profession's ethical standards.

The purpose of the capacity building is to ensure that all LCBs are familiar with the features of the Customs information systems, and are aware of the regulations. Specific training is delivered



on the operation of ASYCUDA, Customs procedures, the WCO Harmonized System (HS), the World Trade Organization (WTO) and its various instruments (Customs valuation, the Trade Facilitation Agreement (TFA), etc.), as well as various developments in international trade. Another aim is to ensure that Customs procedures are transparent.

These capacity building initiatives are accompanied by the development of dialogue and partnership with the profession. The National LCB Advisory Committee is a forum for exchanges with all of the LCB trade associations, permitting consultations on the improvement of the profession, and the enhancement of professionalism. Ad hoc consultations also take place frequently, outside the Advisory Committee. Testament to the success of this partnership is the fact that licence withdrawal penalties are imposed in a concerted manner within the Committee; another example is the introduction of awards for the most deserving LCBs (a professionalism award, an expeditiousness award, a tax compliance award, etc.).

Under the penalty system applicable to LCBs, there are "suspension of business" or "withdrawal of licence" measures for infringements of the tax and Customs

legislation, the failure to provide sufficient financial security for engaging in the profession or serious breaches of professional and ethical standards. The penalties are applied systematically, and the problems encountered relate primarily to:

- the failure to maintain a proper record of the Customs operations carried out;
- engaging in licensed brokering based on false bank guarantees;
- the illegal validation of declarations for the benefit of clandestine operators;
- non-compliance with the fee framework;
- engaging in brokering with lead declarants whose profile is not compliant (evidence of professional experience and university degrees not furnished, etc.).

## Administrative checks

The Directorate General of Customs has introduced annual administrative checks on LCBs, focusing on compliance with the profession's ethical framework. A team of Customs inspectors from the division responsible for legislation is responsible

for implementing the checks. The team's visits are pre-announced, and all LCBs are aware of the dates when the checks will take place.

The checks cover, among other things:

- whether the licence is in order – the aim here is to tackle clandestine Customs declarants and, in particular, the case of entities whose company name indicates that they are LCBs, but which have not in fact been properly licensed and are exploiting the ignorance of users;
- whether a bank guarantee has been lodged in respect of a licence to engage in the profession;
- how the records of Customs operations are maintained, and the archiving system;
- LCBs' compliance with the system for invoicing fees, to avoid practices involving "dumped prices" for services and unfair competition – there is a legally-established framework of fees, to avoid abuses.
- the practice of validating declarations without following up on them, under which LCBs use their electronic code to lodge declarations on behalf of a clandestine Customs broker, without the relevant Customs operations being entered in their records, and with no account being taken of the tax effect induced by the operation – remittance of value-added tax (VAT);
- compliance with the obligations imposed by the trade association.

Any shortcomings observed may result in measures involving suspension or licence withdrawal in the case of blatant

infringements, especially those relating to, for example, non-compliance with the trade association's ethical framework, unlicensed brokering, or failure to lodge a bank guarantee in respect of the licence. Any person who declares goods on behalf of others without having LCB status is, of course, subject to financial and judicial penalties.

The pooling of information by the tax and Customs administrations is underway, as part of the development of a data interface application. This will allow for more effective checks on the operations of LCBs. In addition, users and the business community have been made aware of the "clandestine declarants" issue, but this activity is difficult to eradicate. At present, those involved in this malpractice have more than one trick up their sleeves!

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# A global Customs broker's insights into the profession's challenges, successes, and best practices

**By Dana L. Lorenze,**

SENIOR VICE PRESIDENT, GLOBAL CUSTOMS,  
EXPEDITORS

## The opportunity

AS ENHANCED TRADE facilitation and refined Customs risk management strategies make possible the opportunity for common Customs frameworks and modernization efforts, such as regional Single Window initiatives, it is critical to educate both the public and private sector on the benefits available through active support and participation. Only through such awareness can we hope to succeed in bringing together the myriad political, operational and legal innovations necessary to capitalize on this opportunity.

Trade compliance and trade facilitation success are more likely to be enhanced when Customs brokers, multinational traders, Customs administrations, and participating government agencies have a strategic framework for these initiatives to take hold. Professional Customs brokers have a unique perspective given their broad exposure to all parties engaged in the supply chain, their operational experience, and their exposure to various systems and tools to manage Customs declaration complexity in multiple countries. As one such broker, it is Expeditors' pleasure to share some insight into the profession's challenges, successes, and best practices in this regard.

Expeditors is a global logistics company employing over 15,300 trained professionals in over 331 locations across six continents. The company satisfies the increasingly sophisticated needs of international trade through customized solutions and seamless, integrated information systems. Its services include

Customs brokerage, the consolidation and forwarding of air or ocean freight, vendor consolidation, cargo insurance, time-definite transportation, order management, warehousing, distribution and customized logistics solutions.

## The benefit

Multinational traders face the challenge of meeting compliance and service obligations while maintaining the cost required to deliver value to the market. Global security concerns, economic uncertainty, and varying Customs and other government agency approaches and processes represent true business challenges. A drive toward a more common Customs framework and process across the global economy would make it easier for the private sector to manage global trade compliance and risk through clear, consistent and common rules.

Automation is an important part of the development of a common Customs process, and makes it possible to establish common rules that are easily understood. Automation can greatly contribute to a targeted risk management approach that facilitates trade, and improves revenue collection, compliance and security.

To make the business case for the investment required to participate in modernization efforts, the private sector will need to demonstrate quantifiable returns. Such returns will likely include reduced manual resources and administrative costs occasioned by consistent processes. In addition, common Customs processes should contribute to consistent and predictable release cycles that help traders reduce inventory

carrying costs and working capital needs, and ultimately, improve profitability.

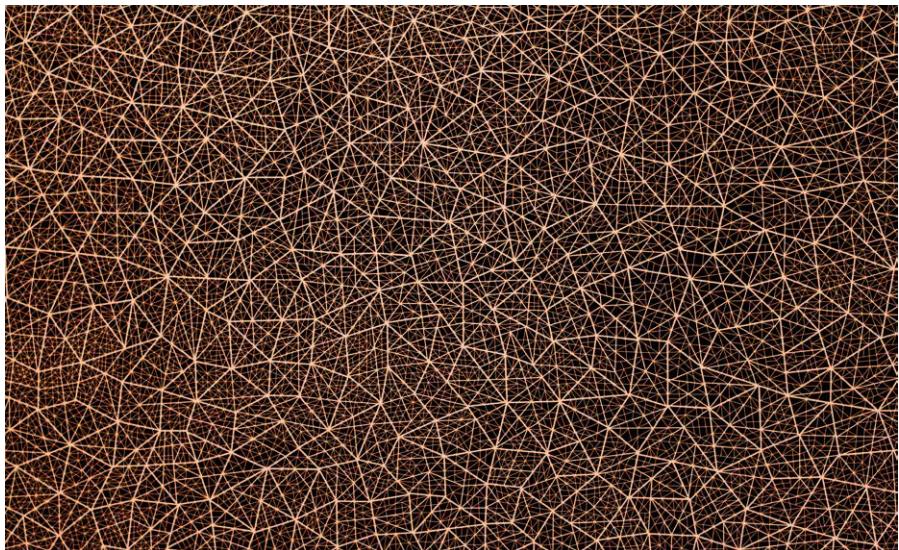
Traders should recognize that modernization efforts will take time, and that they should utilize a staged approach. A patient, staged approach will enable them to validate over time that the Customs process has been simplified, and that inefficiencies or variables that were previously manual are not amplified through automation.

From a public sector perspective, the benefits of a common Customs framework and modernization efforts are relatively manifest. For effective border coordination, Customs is seen as a nation's indispensable border control authority for managing international trade, and for processing import and export activities at a nation's border.

Customs is often the governmental "single window" for receiving and distributing data and information related to importations and exportations. Customs administrations may benefit from modernization and the use of a common framework for automation, both allowing for earlier risk assessment, effective capacity building, and improved revenue collection.

## The need

To further a common Customs framework and modernization efforts, we will need a shared strategy for consistent, uniform, and limited data models across regions. A common data standard and structure would minimize redundancy. We will also need knowledgeable resources from the private and public sector to address policy, regulatory concerns, programming requirements, business analysis, training,



To be sure, risk management efforts may not always coincide with smooth processes, and technology does not solve all problems. Cargo holds happen due to system mismatches. System holds cannot be easily rectified when few know how to solve complex system or process issues, or if there is no deeper understanding of the root cause of the actual problem.

Stakeholders will need to hold back from blaming the new system as the cause of a problem that previously existed, but which was solved manually prior to the transition, such as the manual border agency processes in many countries. In addition, the public sector will need to support process mapping at a country and agency level before systems can be implemented.

#### The call

Unfortunately, there is no uniform acceptance of the need for a more common Customs framework. There is a lot of work to do in tying up all the moving parts together, but it is work worth pursuing. We must review, pilot and test the policy, regulations, process, and technology at each stage in a controlled manner across regions and government agencies to ensure that the technology is seen as an improvement.

Professional and highly qualified Customs brokers are uniquely positioned to help with Customs modernization efforts due to their intersection between the public and private sectors, and their corresponding understanding of Customs' responsibilities and processes, as well as the operational and supply chain issues affecting trade. We believe that this unique perspective is imperative for the success of any common Customs framework and modernization efforts.

*Interested readers may obtain source references relating to this article directly from the author, Dana L. Lorenze.*

#### More information

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[www.expeditors.com](http://www.expeditors.com)

outreach, troubleshooting, process change, and communication at all levels.

Single Window and trusted trader programmes require change, and implementation takes commitment in time and resources from all parties to be effective. Success is more likely when the framework allows for implementation in stages, where stakeholders test, analyse, and review progress at each step. When private and public participants work together, the outcome should lead to release time predictability and consistency, improved compliance and security, better revenue collection, reduced supply chain costs, and improved performance overall.

From the public perspective, there should be a clear, unambiguous, and sincere mandate from governments. For improvements to take hold, we will also need a practical path for escalation and resolution, and a clear and practical work programme with key milestones aligned with appropriate resources.

To work through potential obstacles, it is important to understand that technology development may sometimes move faster than policy, regulation, or stakeholder preparedness. Stakeholders will need to align policy, regulations, data, and system functionality early and continuously at multiple levels.

When disagreements arise regarding the hierarchy of data, holds or timing, inconsistent communication among stakeholders can add to the cost and time required for implementation. A particular challenge exists when there are competing policies and missions among stakeholders, or when resources are not aligned or are not a priority.

In sum, we believe there are several preconditions to the success of global and regional modernization efforts among the public and private sectors:

- the imperative for change must exist;
- there must be interagency cooperation, along with a governmental mandate to collect and share data between Customs and other participating government agencies;
- as described above, there must be considerable public and private sector cooperation;
- all stakeholders must recognize the need for investing in modern technology;
- stakeholders should develop a flexible and staged approach;
- ensure that the technology is reliable;
- there must be an alignment of policy, regulations, process, and technology at all levels in trade, and in the public sector.

Julie Kenward

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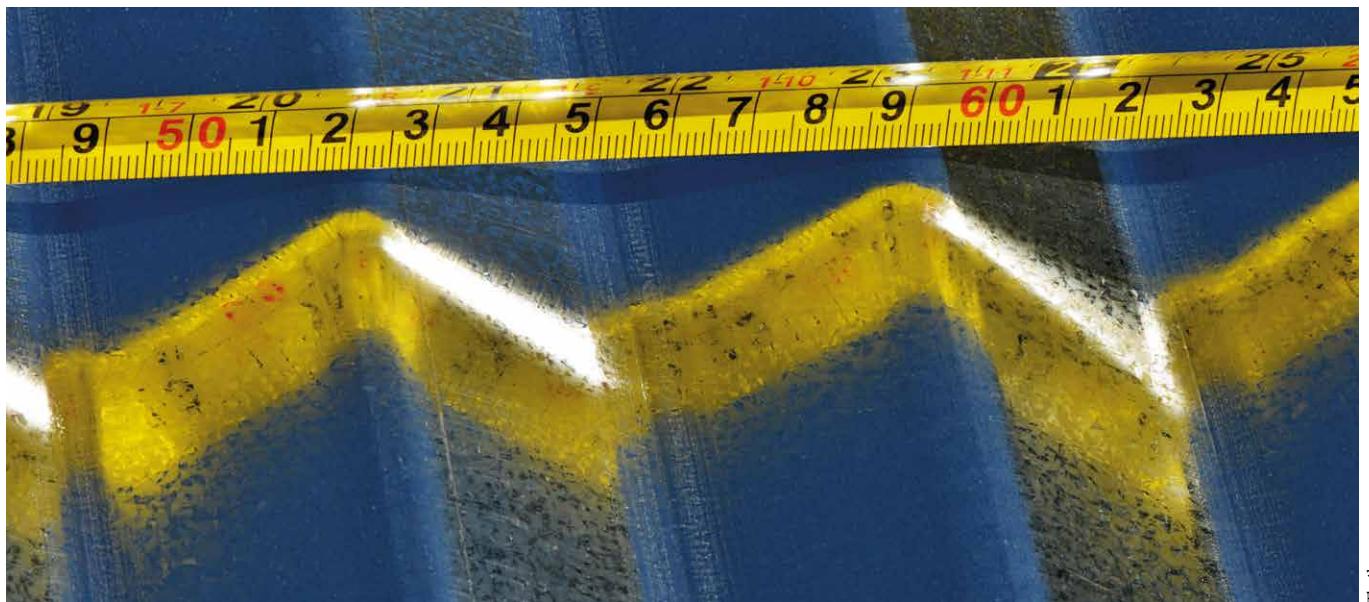


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# Assessing Single Window performance: an overview of the peer review exercise undertaken in five African countries

**By the African Alliance for e-Commerce**

In the 20-plus years since first being established in Singapore and Sweden, Single Windows (SWs) have remained the central focus of border clearance strategies. The implementation of such an environment is generally seen by trade experts around the world as a very practical means of improving border clearance performance. Although the SW is but one aspect of a myriad of mechanisms to improve the effectiveness of trade facilitation, it is quite an important one. This article presents an overview of a project undertaken by the African Alliance for e-Commerce (AAEC) to assess the impact of SW architecture on trade transactions in five African countries.

CREATED IN 2009, the AACE groups SW operators in Africa with a view to promoting the concept of a national and regional SW, and has established a platform for exchanging SW implementation experiences. Eighteen operators are members of the Alliance.

With SW solutions implemented by its members having reached a certain level of maturity after more than 10 years of operation in some countries, in 2014 the AACE decided to conduct an exercise in five selected countries in order to evaluate the impact of existing systems on the cross-border process.

To do so, a peer review mechanism was chosen. Representatives of countries involved in the exercise, namely Cameroon, Ghana, Madagascar, Mauritius and Senegal, reviewed their respective systems with the support of World Bank experts.

## About Single Windows

Most SWs are unique, having been developed according to different needs and requirements, and customized to suit specific contexts. Nevertheless, they can

be grouped into distinct categories. The AACE identified three main models:

- SWs for clearance formalities – the form that matches most the definition of UN/CEFACT Recommendation No. 33 on establishing a Single Window;
- SWs for logistics coordination – also known as Cargo or Port Community Systems, and mainly used in port operations, they focus on the swiftness and reliability of logistics from the announcement of a vessel's arrival to the physical delivery of the goods to a consignee;
- SWs for business-to-business (B2B) transactions – the less common form of a SW, often used as a complement to the two previous models, is a platform that connects different business parties to a trade transaction.

#### About the review

The aims of the performance reviews were to:

- understand the different SW models;
- identify similar concepts and functionalities between the models;

- identify areas of improvement;
- propose recommendations for improvement and evolution;
- identify lessons learnt;
- establish a roadmap for a regional SW.

The SW environments of the countries involved were first evaluated against the strategic objective of facilitating trade, or more specifically, facilitating the formalities and exchange of information. The questions covered the major aspects of SWs, and were conceived in such a way as to be of relevance to all countries. Below are some examples:

- the scope of the services covered by the SW (what the SW does);
- the level of the utilization of SW Services (who uses SW services);
- the level of process optimization (business process reengineering);
- the feedback of actors on the changes induced by the SW;
- the impact of the SW on the cost of operations;
- the level of transparency.

Evaluation was also conducted, based on indicators related to the time taken to process imports and exports, as well

as transit, transhipment and logistics operations. The aim was to measure, based on data extracted from the Customs automated system and the SW system, the end-to-end:

1. import process of a country's strategic products;
2. export process of a country's strategic products;
3. transit process of the main product;
4. transhipment process of a container;
5. logistics process of a container.

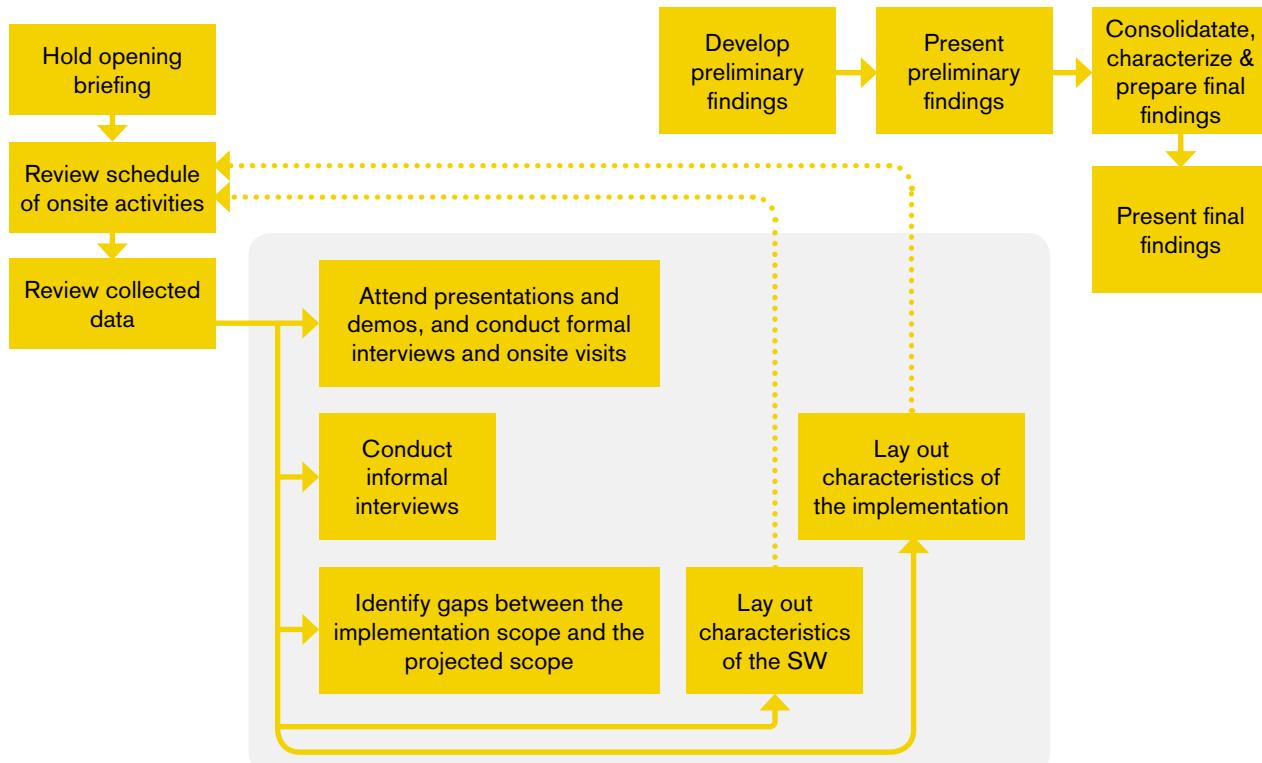
#### Peer review mechanism

The review methodology defined three steps:

**Step 1: 'Country Self-Assessment'** – A questionnaire was submitted to, and filled in by, each participating country;

**Step 2: 'Peer-to-Peer Team Review'** – A team composed of international and independent experts, as well as government representatives, was established and tasked with validating the self-assessment forms. The methodology employed is decomposed into a sequence of activities illustrated in the following figure:

#### Overview of the peer review mechanism steps



Step 3: ‘Path of Improvement’ – The results of the assessments, along with the experiences of each country, including best practices, were identified and shared among AAEC countries during a Conference. A roadmap for improvement, developed by the World Bank and pair countries experts, was also provided to each country.

#### **Impact on trade**

The evaluation shows that the implementation of a SW system in the five assessed countries has had a significant impact on transaction processing times. Clearance formalities were handled faster by the government bodies and other actors involved, such as banks. Costs of transactions also diminished as traders or their Customs clearing agents were no longer obliged to physically visit the agencies involved in the clearance process, and to submit paper documents. The most significant gains for end-users are:

- a reduction in waiting time for a cargo release;
- a reduction in processing times taken by agencies involved in the clearance process;
- a reduction in costs for traders and governmental services due to the elimination of paperwork;
- easy archiving of documents;
- better statistics and traceability capacities;
- enhanced possibilities to track a shipment and inform traders about the clearance process;
- better allocation of staff to more value-added functions;
- better capacity to deter the use of falsified documents as it has become easier to authenticate documents.

As for calculating the return on investment (ROI) in the technology, this issue will be addressed in the next round of assessment.

#### **Areas to improve**

The SWs which were evaluated do not yet deliver their full potential, mainly because they focus on the submission of data and the information process only. The business process and services were developed with the objective of replacing paper documents.

This limitation is understandable, considering the level of maturity and ‘readiness’ of the organizations and trade environments involved.

Whilst dematerialization is an important efficiency gain for end-users, it does not impact on other areas of interaction between end-users and government agencies, and does not support internal collaboration and information-sharing processes. The SWs are now a channel for submitting information and documents, replacing the previous manual paper-based transactions. However, little else has changed with regards to the decision-making process and internal processing by administrations.

Very little innovative and forward thinking has occurred to take these SWs to complete maturity. Enabling internal communication and collaboration during the clearance process, as well as the sharing of strategic information among agencies, is not yet possible through the SWs which were assessed. Internal data could be further integrated to support and possibly automate decisions or parts thereof. Goods inspections could be coordinated, and inspection results and risk assessments shared to reduce delays.

Moreover, the SWs support very little interactions beside the submission of documents by the trader to an administration. All five SWs assessed have functionalities to provide transaction status updates and to allow messaging between the actors, but these services can still be improved to increase the user benefits from the system and to fully move to a transparent and paperless trade environment. It could, for example, enable a user to seek information prior to a transaction, or to get an explanation from government authorities having rendered a decision, or to communicate with those involved during the decision making process.

**The Single Windows which were evaluated do not yet deliver their full potential, mainly because they focus on the submission of data and the information process only. The business process and services were developed with the objective of replacing paper documents. This limitation is understandable, considering the level of maturity and ‘readiness’ of the organizations and trade environments involved.**

#### **More information**

[www.african-alliance.org](http://www.african-alliance.org)  
[www.swguide.org](http://www.swguide.org)  
[www.conferencesw.org](http://www.conferencesw.org)

# Improving cocaine profiling for better law enforcement in Italy

By Maria Monfreda,

CENTRAL DIRECTORATE FOR PRODUCT ANALYSIS AND CHEMICAL LABORATORIES, ITALIAN CUSTOMS



Slovenia Customs

A basic need of any law enforcement agency is to be able to positively identify controlled substances in seized drug samples, as well the purity of the drug, which will support legal proceedings and, hopefully, result in successful convictions. Research aimed at shedding light on the chemical profile of seized drugs is also of great relevance in determining their characteristics, such as their place of origin and processing, as well as trafficking methods. Combined with the results of criminal investigations, this data could be used to establish connections between drug gangs and suppliers, and to trace drug distribution networks. This article presents an initiative undertaken by the Italian Customs Laboratory to go beyond the usual tests for identification and quantification purposes, and to undertake cocaine profiling using a rapid method based on infrared spectroscopy, and more specifically, Fourier Transform Infrared (FT-IR) spectroscopy.

COCAINE IS THE most widely used narcotic drug, making the determination of the geographic origin of illicit cocaine the focus of intense investigation by the forensic community. The Drug Enforcement Administration (DEA) in the United States (US) has created a cocaine signature programme which provides for in-depth signature analyses to be performed on samples obtained from bulk seizures throughout the US and from around the world. The applied analytical methodologies enable evidence to be given on how and where the coca leaves were processed into a cocaine base (determining the geographical origin), and how and where the cocaine base was converted into cocaine hydrochloride salt (determining the processing origin).

In Europe, a cocaine signature programme such as the one created by the DEA does not exist, and therefore determining the origin of seized cocaine is highly hypothetical. In most cases, only the country of provenance is known. Even though drug profiling is not yet officially done by the Italian Customs Agency, its Directorate for Chemical Laboratories decided to perform a study using about 30 cocaine samples coming from large Customs seizures, corresponding to a total weight of about 1,000 kg.

## Infrared spectroscopy

The aim of this study was to verify whether a “fast profiling” method, based on infrared spectroscopy, could be used as a useful tool to enhance and speed up controls carried out by the Customs authority, and to move these controls to the field where the seizures actually take place thanks to the fact that FT-IR spectroscopy equipment is a mobile identification system.

Most mobile laboratory teams are furnished with scientific equipment, characterized by smaller overall dimensions than those of fixed laboratories, but with excellent accuracy in relation to analytical responses. Among other equipment, most mobile team will use FT-IR spectroscopy – the method of

Work also remains to be done on the harmonization of the methodological approaches on drug profiling among countries, including on the use of FT-IR spectroscopy. The complete characterization of a drug sample coming from the illegal market, done for comparative purposes, may need various analytical steps, and the methodological approaches used differ greatly sometimes. As a matter of fact these procedures are often difficult to standardize.

infrared spectroscopy that is now more commonly used – to determine the chemical composition of samples.

As the infrared spectrum of a molecule is literally its “fingerprint,” the pattern of peaks in the infrared spectrum of a substance is unique to that substance. If two molecules have different chemical structures they will have different infrared spectra.

FT-IR spectroscopy has been applied as a fast method in characterizing commodities and in discriminating between several commodities, such as defective and non-defective coffee beans prior to roasting for example. However, it is underutilized in many forensic laboratories in the field of drug profiling.

Other devices, such as mass spectrometry coupled with gas-chromatography, are usually used for drug profiling. They have a higher discrimination power, i.e. they can identify most of the substances present in a mixture, while FT-IR recognizes fingerprints of pure substances. However, these techniques are time consuming.

#### **The test**

For purposes of the study, the Italian Customs Laboratory first did time consuming analyses in order to detect minor alkaloids and residual solvents in the drug samples. Then the laboratory used Attenuated Total Reflectance FT-IR (ATR/FT-IR) to analyse the drug. Finally, the results of the two methods were compared.

First, the cocaine samples were analysed. More specifically, information on the chemical signature of samples (analysis of

minor alkaloids and residual solvents) was collected. The results were then analysed against both knowledge coming from scientific literature and information about the provenance countries of the seizures.

This allowed the laboratory to make a hypothesis about the geographical origin of samples: 92% of the cocaine might be of Colombian origin; 6% of Bolivian origin; and the remaining 2% shows elements of similarity, although not totally identical, with the samples of Bolivian origin.

The results of these analyses were used as a starting point for the development of a "fast profiling" method, based on ATR/FT-IR spectroscopy and statistical tools. First, only pure samples were analysed as this technique is best performed on pure substances. Second, the variation in the fingerprint of pure cocaine samples "cut" with adulterants or diluents was evaluated.

Eventually, the FT-IR method for comparative analyses of cocaine seizures proved to be very fast and effective. Even if the new method was developed by analysing samples that were free of adulterants or diluents, it still works when the sample contains 50% of cocaine and only one added substance, and 60% of cocaine with more than one added substance.

The method can be usefully employed for the comparative analysis of large seizures too, because, although they sometimes contain added adulterants such as levamisole (a synthetic compound used as an anthelmintic drug – especially in animals, and in cancer chemotherapy), the concentration of cocaine is often still high enough for the method to work.

#### **Conclusion**

Drug profiling is not yet one of the Italian Customs Laboratory's official duties. Drugs are only analysed for identification and quantification purposes at the moment. However, this study showed that it is possible to use ATR/FT-IR spectroscopy as a fast profiling method.

Some of its advantages include shorter analysis times (the entire sample analysis is typically completed in less than a minute), reduced sample preparation, and rapid assessment of possible heterogeneities in a big seizure due to the different origins of the respective seizure samples.

Work also remains to be done on the harmonization of the methodological approaches on drug profiling among countries, including on the use of FT-IR spectroscopy. The complete characterization of a drug sample coming from the illegal market, done for comparative purposes, may need various analytical steps, and the methodological approaches used differ greatly sometimes. As a matter of fact these procedures are often difficult to standardize.

However, one should not forget that the stakes are high. Ensuring a uniform approach by different laboratories will enable them to compare their results, and open possibilities, from an intelligence perspective, on who was involved, how the drugs were made, where they came from, and what routes they travelled.

#### **More information**

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## Homecoming: after 15 years, CBP returns to the World Trade Center

**By Marcy Mason,**

A WRITER WHO COVERS TRADE FOR US CUSTOMS AND BORDER PROTECTION

AS FAR BACK as Colleen Piccone can remember, the World Trade Center was always a part of her life. Growing up on Staten Island in the early 1970s, she watched from across the New York Harbour as the Twin Towers were being built. After graduating from Brooklyn Law School, she started working at 6 World Trade Center for the United States (US) Customs Service, one of US Customs and Border Protection's (CBP's) legacy agencies.

"It was my first legal job," said Piccone, who is now CBP's Associate Chief Counsel in New York. It also was the only place at US Customs that Piccone had ever worked until 11 September 2001. But on that day, she wasn't in the building. She was headed to San Diego for training when her flight was grounded in Las Vegas after the Twin Towers were attacked.

Others such as Nina Rohan, a National Import Specialist Associate who had worked 21 years at 6 World Trade Center for the US Customs Service, were there that day. "We had a seminar for staff working with the clothing industry. They came in from all over the country," said Rohan. But just as the meeting was getting underway, there was a loud 'KABOOM' and the room started shaking. The seminar host made a joke, recalled Rohan. "You didn't know we had earthquakes in New York," he said. Everybody was laughing, and then all of a sudden we heard a voice yell, 'Get out! Get out now!'"

Denise Faingar would have been at the building that day, but she was out sick. Faingar, a Supervisory Import Specialist at the time, was at her mother's home on Long Island while her mother, who also worked for US Customs, was at 6 World Trade Center at the seminar. "I worried terribly for her and all of my colleagues," said Faingar, now one of CBP's National

Commodity Specialist branch chiefs. Faingar's mother called. She and her coworkers had gotten out of the building safely, but that is all that Faingar knew. "I tried to contact her after the second building was hit and couldn't reach her. Just the waiting and not knowing what happened was agonizing," said Faingar.

Immediately following the attacks on 11 September, the US Customs Service was displaced. Some employees moved to Newark, others to JFK International Airport, and within weeks the New York Field Office was relocated to midtown Manhattan at One Penn Plaza. Miraculously, every employee of the Customs Service had survived. However, it was the first time in the agency's 212-year history that the customhouse, the government building for collecting duties and clearing vessels, was not headquartered in lower Manhattan. Even the original customhouse, built by the British before America's independence, was located on the southern tip of Manhattan.

**Immediately following the attacks on 11 September, the US Customs Service was displaced. Some employees moved to Newark, others to JFK International Airport, and within weeks the New York Field Office was relocated to midtown Manhattan at One Penn Plaza. Miraculously, every employee of the Customs Service had survived.**

"There was a strong feeling among many that the government needed to reconstitute a presence in lower Manhattan," said Robert Perez, CBP's Director of Field Operations in New York. But it wasn't until 2014 that a final decision was made for CBP to move back to the newly reopened World Trade Center.

Earlier this year, after a 15-year hiatus, CBP's New York Field Office returned to its roots, moving to the 50<sup>th</sup> and 51<sup>st</sup> floors of the soaring, 104-story One World Trade Center. With its spire, it is the tallest building in the Western Hemisphere. Moreover, the building, a gleaming monolith, rises from the ashes of 6 World Trade Center. "The building sits on the very footprint of our former customhouse," said Perez. "It sends a great message of resiliency, and instills a sense of pride. It's so much more than just a building or just an office; it's really a celebration of everything that CBP stands for and why it was created."

But then there are the challenges of getting people to work in a building that was a target. "A lot of people have a legitimate fear," said Piccone, "but I think it was really important for us to come back, especially being part of the Department of Homeland Security. If we're not coming back, who is? But then it dawned on me that there are a lot of mixed feelings about coming back," said Piccone. "I'm very proud that in the end, about 75% of the employees at One Penn Plaza did come back. Everybody was given an option. Nobody was forced to come back. It was done very, very sensitively."

At first, Todd Smith had some concerns about returning. "I definitely was a little

apprehensive," said Smith, CBP's Deputy Associate Chief Counsel in New York, who was at 6 World Trade Center on 11 September. "Initially, the word was that we were going to be on a lower floor, but then it turned out that we were up higher. It really took going through the move and settling in here to realize that it's a great place to work. It's a very comfortable atmosphere. Coming in and working here day-to-day, I really don't think about it very much anymore."

Leon Hayward had no reservations about working in the building. "Looking at how this place was being built, I knew that it was going to be very safe," said Hayward, the Assistant Director of Field Operations for trade and cargo security at the New York Field Office.

The building uses a layered approach to security. For example, street traffic isn't allowed near the building, there's no underground parking, a vehicle receiving area will be located two blocks away, and delivery vehicles coming to the building will be screened. "They'll go through the same kind of screening that we apply to vehicles that cross the border into the US," said Hayward.

Inside the building, security is also rigorous. One elevator bank is dedicated solely to government-leased floors, but CBP took it a step further and programmed the elevators. "We made sure that only our employees had access to our floors. That was a requirement that we put in," said Perez.

One of the best perks of the building is its views. "We literally have million-dollar views," said Hayward. "From my

office I can see every other skyscraper in Manhattan as well as the Hudson River as it flows into the New York Harbour. Sometimes it's a little hard to remember to turn around and go back to work once I've looked out the window and seen what's in front of me."

Hayward's wife, Rosemarie, a National Import Specialist, wasn't sure she wanted to come back. She had worked at the World Trade Center when she started her career in the mid-1990s. "I just kept thinking I can't expect my husband to go there and not go myself," she said. But then she had second thoughts.

"When the anniversary of September 11 came rolling around, I felt anxious. I thought about asking if I could be placed somewhere else, but then I realized if I lived in fear, I wouldn't do any of the things I should do in life," said Rosemarie. "I'm not going to let fear run my life. So a lot of days, I don't think about where I am. I just go in, do my job, go home, and not think that I'm on the 51<sup>st</sup> floor of Building One. I'm going to just live my life and try to enjoy each day."

Nina Rohan yearned to go back. "For the longest time, I wanted to go home to the World Trade Center, but then when I got there, I had mixed feelings. I didn't expect to feel the way I felt," said Rohan. "It's like they say, 'You can't go home again.' Well, you can go home again. It's just going to be different, and it doesn't feel the same."

Little by little, though, Rohan is getting back into a routine. "Now I stop at the old deli I used to go to and get a cup of coffee. I've been finding places again," she said. And there are other pluses. CBP's new



Marcy Mason

CBP staff wait patiently for the elevator on the 50<sup>th</sup> floor of One World Trade Center



Marcy Mason

Million-dollar views from CBP's offices at One World Trade Center

offices are sleek, high-tech and modern. "There's a lot of window space and a lot of light coming in. Our old place was dark. Everything here is new, light and airy," said Faingar. "In a word, it's energizing."

The neighbourhood, although still in a construction mode, is vibrant too. "It's a nicer part of the city. Everything here is brand new," said Smith. "There are a lot of good shops and restaurants. The downside is it's costing me 12 dollars to get a sandwich for lunch. Everything is ridiculously expensive," said Smith. "But it's just a much nicer experience to go out at lunchtime and in five minutes, I can be out by the Hudson River."

The National September 11 Memorial (also known as the 9/11 Memorial), a large, public plaza directly south of One World Trade Center, is a solemn reminder of the tragedy that took place on the site 15 years ago. Two square-shaped, recessed pools with waterfalls cascading down the sides are designed in the footprints of the towers that went down. Engraved along the rim of the pools are the names of every person who died in the 1993 and 2001 terrorist attacks on the World Trade Center, the Pentagon, and United Airlines Flight 93.

"Sometimes there is a flag by a name or a flower. I try to make it a point every day to see the name that somebody has

put a marker by that day," said Piccone. "Because with our rapid news cycle, everything becomes old news very quickly. But I think for our mission, for the people who work here, it is a constant reminder of how important what we do is." Beyond that, the site has personal significance for everyone. "For me, my life has come full circle," said Piccone. "The World Trade Center has always been a part of my life, and it's just like coming home."

#### **More information**

[www.cbp.gov](http://www.cbp.gov)

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# Georgia, Europe's first nCEN

## By the Georgia Revenue Service

IN A MODERN globalized world, Customs services require efficient and convenient tools to capture seizure data, data which will enable to strengthen its risk management capacities. The Georgia Revenue Service (GRS), which gathers the Tax and Customs Administration and the Sanitary and Phytosanitary Border Control Agency under the same roof, is no exception in this regard, and to do so more effectively, it decided to implement the National Customs Enforcement Network (nCEN) – an application developed by the WCO.

The application gives Customs administrations the ability to collect, store, analyse, and disseminate law enforcement information more efficiently at the national level, in order to establish robust intelligence capabilities, enhance profiling at the strategic, tactical and operational level, and boost information-sharing both regionally and internationally.

The nCEN consists of three independent databases. The principal database of national seizures and offences comprises data required for analysis, as well as means of conveyance, routes, and the possibility to view photos depicting exceptional concealment methods. Two supplementary databases contain information on suspect persons, methods of conveyance, and business entities of interest to Customs, thereby facilitating a structured investigation process.

After some preparatory work and negotiations, the decision to implement the nCEN was officially taken in 2014 and an agreement was signed with the WCO in January 2015, making Georgia the first country in the WCO Europe region to implement the tool. The GRS provided the hardware necessary for the installation and took care of the language adaptation of the application – the translation was undertaken by a special group of Customs analysts and information technology (IT)

experts. The software, training and all other costs were covered by the WCO from donor funding.

A train-the-trainers session was held in March 2015, ahead of the launch of both the training and production servers in December 2015. User accounts were created on the training server for 26 Customs officers working at different types of Customs places of entry (land, air, sea, and rail crossing points), as well as at Customs clearance zones and within the Container Control Units set up under the framework of the United Nations Office on Drugs and Crime (UNODC)-WCO Container Control Programme (CCP). This enabled the officers to get acquainted with the tool, and to quickly move to the production server.

Once the nCEN became operational on 1 January 2016, the 26 trained officers were tasked with reporting seizure data into the application's databases (seizures, suspects



Georgia Customs

# country

and company cases). Once data is entered, it is validated by system administrators located at the GRS. Among other things, these administrators are responsible for:

- ensuring general communication and information flow between nCEN users and Customs' headquarters;
- validating cases (data quality checks);
- managing the application user database (creation of new users, deactivation of users, users' role and functions management, and password resets);
- transmitting non-nominal components of their data to the global WCO Customs Enforcement Network (CEN) database (the transfer is made with a click of a button).

After 10 months of utilization, the GRS is now able to provide some positive feedback

on the nCEN. The application has 42 active users, and has proved to be a powerful platform for capturing data on seizures, suspects and companies. Seizures at each border crossing point, at Customs clearance zones, and as part of the CCP are reported into the system. As of 14 September 2016, 625 seizures and 137 company cases have been reported into the system.

Users deem the application to be user-friendly, and the in-built mail system, known as the Information Communication Interface (Icomm), enables smooth and efficient information flow among users and external "connected" parties, such as the WCO for sending seizure information to the Global CEN database or other countries using the nCEN application.

No data analysis has been made at this stage, but the process is made easy since the captured data can be extracted in different formats. The processing and analysing of

data for risk management purposes will be made at the end of each year, and the GRS hopes to create new risk profiles in order to keep abreast of the practices and modi operandi of criminals and fraudsters.

The GRS will be pleased to share more about its nCEN implementation experience with any countries interested in knowing more about the tool, and what the implementation required. In addition, a GRS officer has enrolled in the nCEN trainer accreditation programme, and is now at the disposal of the WCO to assist other administrations in implementing the application. Indeed, having implemented the nCEN, the GRS is of the firm opinion that the tool has impacted positively on its operations, and has definitely strengthened its risk management capacities.

**More information**  
[www.rs.ge](http://www.rs.ge)  
[customs@rs.ge](mailto:customs@rs.ge)

# Dubai Customs launches the UAE's innovative AEO programme

By Eman Badr Al-Suwaidy,

DIRECTOR, CUSTOMS DECLARATION MANAGEMENT & OWNER, AEO PROGRAMME PROJECT, DUBAI CUSTOMS

The United Arab Emirates (UAE) is one of the world's largest and fastest growing trading hubs, as a result of its accelerated and extensive modernization initiatives in recent years, the quality of its infrastructure, the intellectual power of its workforce, and a genuine drive to achieve its goals. Against this background, the UAE has officially rolled out its authorized economic operator (AEO) programme.

APPROXIMATELY 20 MILLION containers are processed by the UAE seaports every year. In fact, the Port of Jebel Ali in Dubai is the largest port in the Middle East and North of Africa (MENA) region and the 9<sup>th</sup> largest globally, while Dubai Airport is the busiest international airport in the world with 75 million passengers. In addition, the UAE manages four million tons of airfreight annually.

Managing this increasing flow of goods requires smart working methods to achieve more results with the same or even less resources. An AEO programme provides Customs with a new control strategy based on a strong partnership with legitimate and compliant stakeholders in the global supply chain, marking a shift from transaction-based controls to system-based controls.

Dubai Customs kicked off the implementation project of its AEO programme in September 2015, with the programme being officially launched in October 2016. This rather short implementation time, compared to other AEO programmes around the world, has been made possible by utilizing international standards contained in the WCO SAFE Framework of Standards, taking into account best practices from other AEO programmes, and benefiting from international experiences – all backed by an efficient in-house business model which takes on board the accumulated expertise of Dubai Customs officials and their fine-cut know-how of the ins and outs of the supply chain.

## AEOs in the UAE and the GCC

The UAE consists of seven Emirates, each with a separate Customs administration collectively governed by the Federal Customs Authority (FCA). Within the UAE, a national AEO Committee, chaired by the FCA, has been established to coordinate AEO implementation in all seven Emirates. Dubai is the first to implement the programme, which will be implemented by the other Emirates.



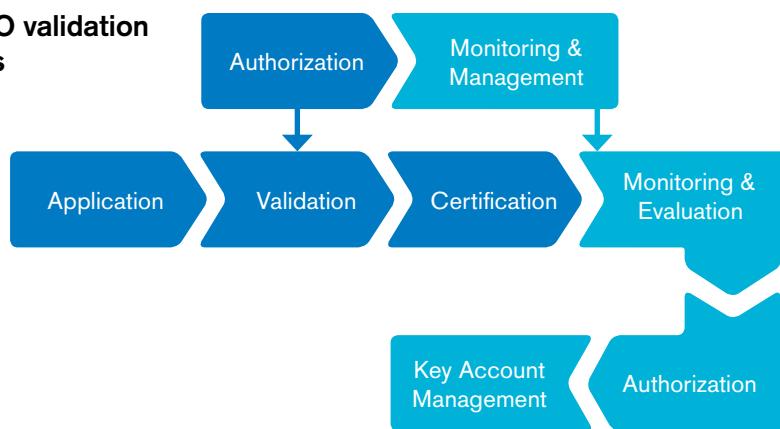
As the UAE is part of the Gulf Cooperation Council (GCC), the Customs authorities of each Emirate are responsible for applying the GCC Common Customs Law and the Unified Guide for Customs Procedures. The UAE AEO programme has been designed and prepared for regional implementation at the GCC level. The objective is to have the programme implemented by all the GCC countries – a scheme which can be compared to the AEO model used in the European Union (EU), where all 28 EU Member States operate under the same Customs legislation and the same AEO programme.

A GCC AEO model that enables the harmonization of AEO programme characteristics, common AEO status recognition, Customs-to-Customs information exchange between GCC countries on trader identification codes, AEO status, and any changes in the risk profile of a company can facilitate and create opportunities for a strong AEO programme in the Middle East region.

#### **A holistic approach**

The UAE AEO programme takes a modern and holistic approach by including both compliance and security, along with all modes of transport and Customs procedures. Any actor in the supply chain that has a relationship with Customs may apply for AEO status. Small and medium-sized enterprises (SMEs) are especially targeted, as their development is crucial to the national economy.

#### **The AEO validation process**



There are no tiers or levels in the UAE AEO programme, as is the case with some of the established AEO programmes that, among other things, differentiate between traders with differing security compliance levels, thereby offering different baskets of facilitation measures. Dubai Customs believes that in a modern AEO model, the distinct circumstances and operational environment of each AEO need to be addressed individually. Companies applying for AEO status will be thoroughly validated and assessed to ensure that their level of compliance and security meet AEO requirements. There are two main components in the AEO validation process:

- An “authorization process” component;

- A “monitoring & management” component, which includes the concept of Key Account Management and continuous, system-based, monitoring and evaluation of the client, as well as re-validation.

The AEO Authorization starts when the company electronically submits an application for the AEO programme. Customs ensures that the company is eligible and meets the basic eligibility criteria. If it does, the process continues with a tailor-made Self-Assessment Questionnaire (SAQ) being filled in by the applicant in order to provide Customs with detailed information about the entity’s overall status and “under the hood” operations.

Dubai Customs performs an analysis and risk assessment based on the SAQ and additional available information. Then, a detailed and thorough examination of the applicant is performed, validating its compliance, financial viability, record keeping, and security measures and practices. Several onsite visits are carried out by Customs, including several meetings and discussions with the applicant.

Depending on the outcome of the validation, a decision is taken by Customs whether the applicant meets



Michael Theis

the eligibility criteria or if any further actions or measures need to be taken. This is a collaborative process with the purpose to foster compliance and enhance security. If it is deemed that the applicant does not meet the requirements, the request for AEO status will be denied. Otherwise, an AEO certificate will be issued which gives right to extensive and tailored benefits. The certified company will, for example, be provided with a dedicated Key Account Manager who will assist it with any issues related to Customs.

As AEOs need to be continuously monitored and evaluated while ensuring that each AEO gets the benefits, Dubai Customs has developed an individual control plan for each AEO that defines when and how control measures should be taken. A thorough re-validation will occur within three years to ensure sustained levels of compliance and security.

The whole AEO process is electronic and supported by information technology (IT) solutions for managing applications, validations and certifications. The Customs IT systems have also been updated to enable the differentiation of AEOs and non-AEOs, the former benefitting from a lower risk score, faster clearance, and given the highest priority status by Customs and other government agencies.

#### **Extensive benefits package**

Forty-seven benefits will be provided in different phases to AEO-certified companies. These benefits are intended to motivate companies to join the programme and maintain the status. Without clear and tangible benefits, and a demonstrable positive return on investment (ROI), companies will be reluctant to join the AEO programme, and, once in it, may elect to withdraw due to the fact that the additional costs sustained by them in meeting prescribed AEO requirements may become greater than the benefits realized.

The direct benefits (benefits with explicit/direct government/Customs participation) include:

- faster clearance through prioritization and lower risks, etc;

- enhanced administrative management through dedicated Key Account Managers;
- financial benefits, such as the provision of self-guarantees and possible penalty mitigation;
- better coordination with partnering government agencies – the Key Account Manager will assist the company with other government agencies' requirements, such as pre-approvals and permits related to a Customs clearance.

Indirect benefits (benefits without explicit/direct government/Customs participation) include:

- increased marketing opportunities, as companies may choose to rather buy products and services from AEO-certified parties;
- decreased number of negative incidents and disruptions in the supply chain, thanks to an adequate set of security measures.

#### **Mutual recognition**

The UAE aims to sign mutual recognition arrangements (MRAs) with a significant number of national and regional AEO programmes as a way of promoting trade and providing benefits to local and foreign AEO traders. To achieve this goal, an MRA strategy and a national MRA model have been developed using a comprehensive set of criteria (e.g. trade volume, diplomatic relations, and more) to methodologically prioritize prospective MRA partners.

#### **Measuring success**

During the positioning phase and the extensive research that accompanied it, it became clear to Dubai Customs that an efficient AEO programme should ensure that businesses can receive genuine and tangible benefits, while avoiding an arduous validation process, aggregated onsite validations, unclear guidelines, and complex certification criteria.

Measuring the outcome of any projects is a requirement of the Dubai Government. Key Performance Indicators (KPIs) have, therefore, been developed to enable compliance, speed, predictability, and

cost savings in the clearance of goods to be measured. Customs expects that an AEO will save 25% in operational costs.

An AEO Centre of Excellence (CoE) will be established with the aim of undertaking research in the AEO area, in cooperation with leading academic institutions. The CoE will also be responsible for KPI measurement, as well as for marketing the programme and further developing it. The idea is to ensure that the foreseen benefits are actually delivered, and to develop new benefits in the future. The results of the KPIs will be made public.

#### **Way forward**

As mentioned earlier, Dubai Customs is determined to develop the AEO concept to new levels using innovative solutions. Transshipments, free zones, Customs-to-Customs integration, and "single or pan government" AEO status are some of the areas that will be addressed in the future.

Let's take for example transshipments, a regime applied to a significant number of consignments flowing through Dubai and the UAE. The Customs administrations of the UAE have a great opportunity to enhance the visibility and security of the transshipment regime even further by efficiently using the AEO programme, along with innovative solutions. Actors that are AEOs and involved in the transshipment process, such as exporters, forwarders, carriers and cargo terminal operators (CTOs), will benefit from a secure transshipment lane. This Secure Transshipment Hub scheme and solution are still concepts subject to further development.

Feedback and research reaching Customs forecasts a considerable bundle of benefits to businesses engaged in international trade activities in the UAE and Dubai, which will surely secure a measurable contribution to the enhancement of supply chain security, and facilitate Customs transactions in the UAE. The AEO programme will definitely result in a rather unique and unmatched Customs service for businesses, by saving them costs and efforts, while incentivizing trade activities in the UAE.

#### **More information**

[www.aeo.ae](http://www.aeo.ae)



# Cooperation: a cornerstone of the EU's Customs Union

**By Roel van 't Veld,**

SPECIALIST POLICY ADVISOR, EU AFFAIRS, CUSTOMS ADMINISTRATION OF THE NETHERLANDS

TO ENABLE A Customs union to operate properly, active cooperation between Customs authorities within the union must be established. This cooperation is not necessarily limited to legal issues touching on "core" Customs domains, e.g. regulating import and export formalities or establishing a common tariff. An effective Customs union must also provide for Customs authorities to cooperate on law enforcement issues, in order to ensure security and safety within the union, and the effective and efficient fight against crime.

## About the European Union

Such is the situation within the European Union (EU), a politico-economic union currently comprising 28 Member States, whose Customs union came into being on 1 July 1968, when the remaining Customs duties on intra-Community trade were abolished and the common Customs tariff was introduced to replace national Customs duties in trade with the rest of the world. In 1993, Customs controls at EU internal borders were abolished, making long queues of commercial vehicles at border crossings a distant memory.

Responsibility for Customs policy is at the level of the EU. It is one of the areas in which the EU has exclusive competence. However, implementing the Customs union relies on close partnerships with and between Member States.

The Council of the EU, which represents the Member States' governments, decides on what duties to impose, and is jointly responsible with the European Parliament for overseeing Customs cooperation between Member States and between Member States and the European Commission (EC).

The presidency of the Council rotates among the EU's Member States every six months. During this six-month period, the presidency chairs meetings at every level of the Council, helping to ensure the continuity of the EU's work in the Council.

Member States holding the presidency work together closely in groups of three, called "trios." The trio sets long-term goals, and prepares a common agenda determining the topics and major issues that will be addressed by the Council over an 18-month period. On the basis of this programme, each of the three countries prepares its own more detailed six-month programme.

## Customs Cooperation Working Party

Within the Council, technical work is mandated to a large number of Council working parties. Two of them are dedicated to the work of Customs:

- the Customs Union Group (CUG), a working party closely related to the trade and competitiveness areas, which discusses and decides upon matters regarding Customs policy and legislation;
- the Customs Cooperation Working Party (CCWP), which coordinates operational cooperation among national Customs administrations, and works on aligning the work of Customs with the priorities of the law enforcement community while ensuring that Customs' valuable knowledge on international goods transport is used to the fullest extent.

Apart from the Member States, delegates from the EC and other EU agencies, such as the Anti-Fraud Office of the EU (OLAF) and the European Police Office (EUROPOL), take part in the discussions of the CCWP.



Dutch Customs

### Dutch presidency

The current trio chairing the Council is made up of the presidencies of the Netherlands, Slovakia and Malta, with the Netherlands being the first to have taken the six-month presidency from 1 January to 30 June 2016. As such it has been planning and chairing meetings of the Council and its preparatory bodies, including the CCWP.

More specifically, the CCWP was chaired by the Customs Administration of the Netherlands with the support of a small staff from the Secretariat of the Council. A dedicated team of six people [see photo above] organized a total of 10 meetings, including a high level meeting gathering Directors General of Customs which was organized jointly with the CUG.

### Initiatives related to the fight against terrorism and organized crime

Under the Dutch presidency, its main priority regarding the CCWP was to ensure that the Working Party played a pivotal role in areas relating to Customs, and justice and home affairs. Several of the activities carried out during this period in relation to Customs' involvement in the fight against terrorism and organized crime are listed below.

#### Terrorism

As a result of the attacks in Paris and Brussels, the fight against terrorism was high on the agenda of the Dutch presidency. Customs authorities play an important role in protecting society by preventing terrorist organizations from obtaining the means to carry out

their attacks, i.e. getting their hands on firearms, explosives or finances.

Part of the mandate of the CCWP is to approve business cases for Joint Customs Operations (JCO). During the Dutch presidency, an enforcement operation was started to fight the smuggling of firearms, jointly by the Customs authorities and police services within the EU. The operation is currently in its final stage. Ahead of the operation, experts from the WCO provided valuable insight on the international dimension of these crimes to the operation's participants.

At the CCWP, the fight against terrorism funding was also addressed through discussions on the role of Customs in stopping the trafficking of illicitly obtained cultural goods and endangered wildlife. Among other things, experts exchanged best practices on their Customs administrations' fight against wildlife crime.

The CCWP also started working on effective cooperation and coordination between Customs and the newly established European Border and Coast Guard Agency (EUBCG). In due time, a coordinated border management strategy will be established and discussed at the CCWP, and the WCO will be consulted during this process.

#### Organized crime

Ensuring cooperation with other law enforcement agencies on a policy and practical level plays an important role in the fight against organized crime. The

European Multidisciplinary Platform against Criminal Threats (EMPACT) was set up to implement the EU's priorities on the fight against organized and serious international crime through investigations and operations. These priorities reflect the fields which require the concerted activity of EU law enforcement institutions, according to the Serious and Organized Crime Threat Assessment (SOCTA), carried out by EUROPOL.

To underline the pivotal role of the CCWP in this domain, the Dutch presidency worked to ensure that Customs authorities were better engaged in the decision-making by senior justice officials. This led to the closer involvement of Customs in the development of joint activities in the fight against organized crime, in the context of EMPACT's priorities.

#### Excise fraud

The fight against excise fraud remains an important issue for the EU. Not only does excise fraud pose a threat to the EU's financial interests, it is often linked to organized crime. The CCWP dedicated a substantial part of its time to discussing ways to tackle this particular type of fraud, and decided on new operations that would be organized.

OLAF presented the main actions that had taken place and that were still ongoing in the fight against cigarette smuggling and other forms of illicit trade in tobacco products. The WCO also presented its ongoing activities in this area.

#### Information exchange

Ensuring the exchange of information between EU Member States' appropriate bodies is an important factor for making law enforcement cooperation work. A major theme in the Dutch presidency was to improve data exchange between Customs and tax authorities, both at the national and EU levels.

During a meeting gathering Directors General of Customs, tackling cross-border tax fraud and value-added tax (VAT) fraud was discussed. As a follow up, two joint groups of Customs and tax experts were established: the first one will look into combatting VAT fraud when goods are imported into one Member State while

A major theme in the Dutch presidency was to improve data exchange between Customs and tax authorities, both at the national and EU levels. Two joint groups of Customs and tax experts were established: the first one will look into combatting VAT fraud when goods are imported into one Member State while VAT is due in another; and the second one will examine VAT fraud related to e-commerce transactions, especially when it comes to returned goods.

VAT is due in another; and the second one will examine VAT fraud related to e-commerce transactions, especially when it comes to returned goods.

#### Way ahead

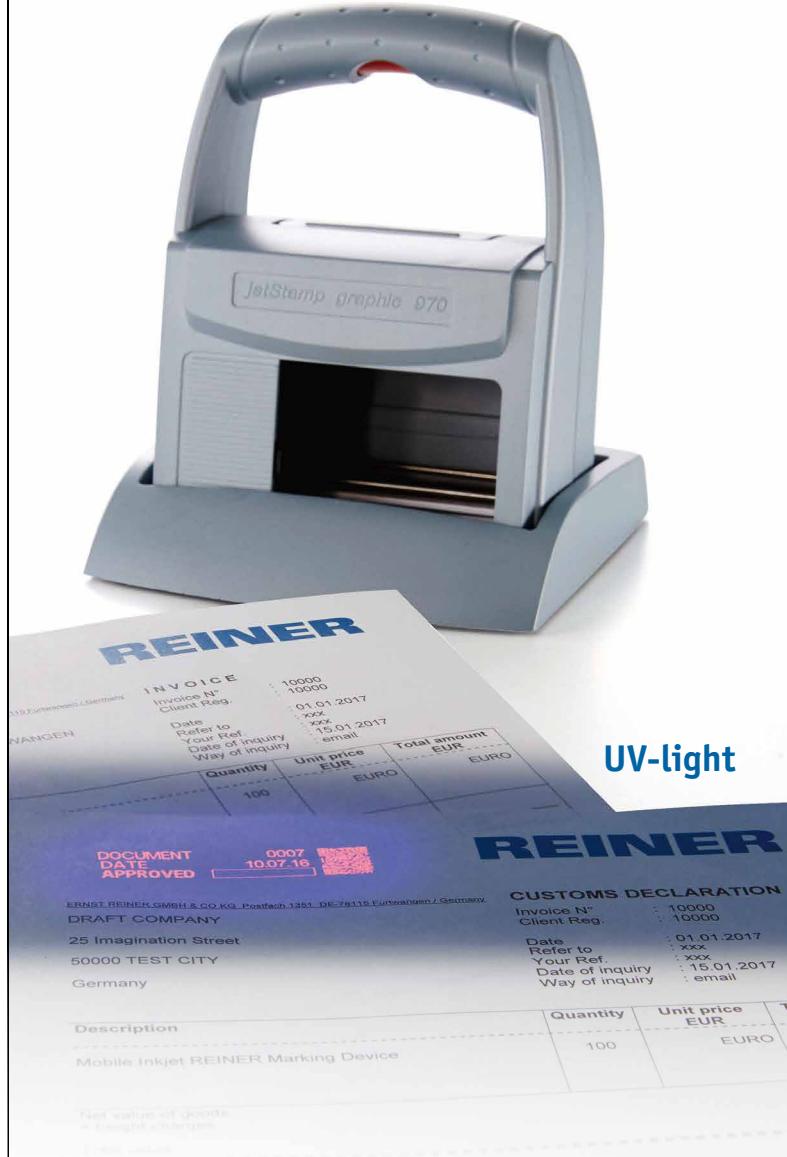
In total, the CCWP met 10 times during the Dutch presidency and many topics not covered in this article were also discussed, from the development of a Customs law enforcement training catalogue, to the creation of a roadmap for enhancing information exchange (including interoperability solutions), to governance issues pertaining to the CCWP itself. In the end, it is not the presidency that makes the CCWP successful – the presidency is only there to facilitate its work, while the involvement of EU Member States ensures its success.

In the six months of the Dutch presidency, a number of project groups comprising different Member States started working on tackling risks in areas concerning excise, cash smuggling, firearms, and small parcels. On 1 July 2016, the Slovak Republic took over the rotating presidency with an ambitious agenda to continue the work initiated under the Dutch presidency, based on a common agreement between members of the trio. During the Slovak, and later the Maltese presidency, enhancing cooperation between Customs authorities and other law enforcement agencies in combatting cross-border terrorism will again be at the forefront of the CCWP's agenda.

#### More information

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[www.consilium.europa.eu/en/council-eu](http://www.consilium.europa.eu/en/council-eu)



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## **“The looting of cultural heritage has been happening since the very existence of cultural heritage, it is not anything new, but what we see now is that looting has become highly organized”**

**Molly Fannon,**

DIRECTOR OF THE OFFICE OF INTERNATIONAL RELATIONS, SMITHSONIAN INSTITUTION

EVERY YEAR, THOUSANDS of artefacts disappear from museums, churches, private collections, public institutions or archaeological sites. From antique weapons to paintings, from coins to watches, from religious objects to archaeological finds, tens of thousands of specimens forming part of the world's archaeological and cultural heritage are stolen or looted.

Trafficking in items dating back to previous generations began thousands of years ago. However, over the past few decades, the phenomenon has, unfortunately, become a problem of epidemic proportions.

Estimates of the size and profitability of black markets in looted, stolen and smuggled works of art and antiquities are notoriously unreliable, but specialists agree that this is one of the world's biggest illegal enterprises, worth billions of US dollars, which has naturally attracted interest from organized crime as well as military and terrorist groups.

Combating this illegal trade requires the dedicated mobilization of Customs administrations as well as specific

knowledge to identify illicit transactions. Yet, enforcement authorities face many difficulties due to a lack of expertise in determining the quality of the objects they come across, together with the problem of assessing their value and the authenticity of their provenance.

Hence the need for cooperation with relevant stakeholders, including professionals and experts committed to the protection of cultural heritage. To understand how this cooperation works in practice, we spoke with Molly Fannon, the Director of the Office of International Relations at the Smithsonian Institution, and asked her about the Institution and its activities, with a focus on the illicit trade in cultural goods and cooperation with law enforcement authorities.

During the 2016 Council Sessions, the WCO and the Smithsonian Institution signed a Memorandum of Understanding (MoU) in which both parties agree to consider joint projects and activities, such as the development and delivery of training or the supply of information and expertise to field officers, aimed

at helping them to identify cultural heritage objects.

*What is the mission of the Smithsonian Institution and what type of professionals does it have on its staff?*

The Smithsonian Institution was established in 1846 with funds given by a man named James Smithson to the United States (US) government. He was a British scientist and someone who had never set foot in the US before. He left his entire estate to the US government to create an organization dedicated only to the increase and diffusion of knowledge with the world.

That gift created the world's leading museum, education and research complex. Today, the Smithsonian Institution has 21 museums. We just opened our 21<sup>st</sup> museum, the National Museum of African American History and Culture, on 24 September of this year.

We have the largest collection of items with more than 159 million objects. But, as the Smithsonian's first Secretary, Joseph Henry, said in 1852, “the worth and



importance of the Institution is not to be estimated by what it accumulates within the walls of its building, but by what it sends forth to the world."

Today, we work in more than 150 countries, doing everything from astrophysics research to under water deep sea archaeology and exploration, from climate change science to biodiversity conservation, from anthropological research to modern art, everything under the sun...The key to all we do, our motivation, is to safeguard the world's memory; the memory of life on earth from prehistoric time to the memory of cultures around the world, and to share this knowledge with the world.

Because we have such diverse museums and research centres, we also have, as you would imagine, very diverse staff. More than 6,000 employees, including more than 500 PhD level scientists, work at the Smithsonian. They work in partnership with colleagues all over the world and have built a global network of scholars in order to help us achieve our mission.

The sheer number and diversity of the objects in our collections has enabled our staff, among which are researchers, anthropologists, conservators and curators, to develop specific knowledge in the cultural heritage of most of the world's regions – we have, for example, staff specialized in pre-Columbian art.

To understand the object and learn how to conserve it, they have at their disposal the most advanced technology in the world such as advanced microscopes, chemical analysers or even pet scans or 3D scanners,

which enable them to see inside an object or get the exact shape of an object or an inscription. Thanks to our own staff and the network of professionals they have built, we can say that there are very few areas where we do not have specialization.

*Despite difficulties in obtaining accurate global statistics on the scale of the problem, have you recently witnessed any specific developments in the illicit trade in cultural goods?*

In terms of the size of the issue, there is general consensus among experts in this area that the threat has not been this large since World War II (WWII). The actual level of destruction really is highly debated right now between scholars and other practitioners who are involved, but what is not debated is that the destruction of cultural heritage is funding terrorism in parts of the world. The Wall Street Journal, for example, reported recently that the revenue from the Islamic State's (ISIS) illegal trade in antiquities is second only to its revenue from oil.

What we see, which are especially troubling developments, is the systemization and professionalization of the looting. The looting of cultural heritage has been happening since the very existence of cultural heritage, it is not anything new, but what we see now is that looting has become highly organized!

For example, when you look at satellite imagery of sites like Dura Europos in Syria, you see an enormous growth in the 'looting paths.' In documents which were secured by the US State Department in Syria, we learn that the ISIS has issued

'official' looting permits to looters, allowing theft from archaeological sites and then collecting tax on looted goods. So we know that looting is being used in a systematic way for financial gains.

Let's not forget that the aim is also to terrorize people, to erase their memory. The Czech historian Milan Hübli wrote some enlightening lines back in 1971 on this subject. He said, "the first step in liquidating a people is to erase its memory. Destroy its books, its culture, its history. Then have somebody write new books, manufacture a new culture, invent a new history. Before long the nation will begin to forget what it is and what it was. The world around it will forget even faster."

On the flip side, we have also seen an enormous outpouring of support from the global community, and a demand for action to combat this threat. The fact that the WCO signed a MoU with the Smithsonian is part of a pattern of what we see as many organizations standing up and waking up to the severity of the crisis, to the fact that cultural heritage really matters for a wide range of reasons.

In June this year, 21 dedicated cultural professionals from 18 different countries participated in the First Aid to Cultural Heritage course organized by the Smithsonian and the International Centre for the Study of the Preservation and Restoration of Cultural Property (ICCROM). They came to Washington, D.C. for a month to learn how to coordinate their response to protecting heritage in times of crisis. This is a testimony to the diversity of support out there in terms of combatting this issue. There is also an

overall acknowledgement that we have gotten to the point of a crisis in this area, and that once a cultural object is lost, it is often lost forever. So, the time for action is now.

***Why should governments and enforcement authorities spend time and money on the cultural sector, and why does it matter?***

All governments have to weigh different priorities. They might consider that stopping the trafficking in guns or spending money on economic development or education is more important than protecting a painting or an archaeological object. I'll talk about why the cultural sector also matters. But, let me first share a story with you...

Just after the earthquake hit Haiti in 2010, the Smithsonian, with many partners especially USAID and the State Department, launched a major project in response to the disaster. We had very close ties with our cultural heritage colleagues in Haiti, given our long history of working together. The then Minister of Culture in Haiti, Olsen Jean Julien, explained that after saving people's lives, the next thing to save was their reasons for living.

I will talk in a second about why cultural heritage is valuable to the economy, but let me first highlight that it has enormous intrinsic value: it represents what we all are as people; it helps nations come together; it helps a community to get a sense of its identity; it helps us negotiate differences, often in a peaceful way; and it gives us resilience as societies.

So, countries coming out of conflict are increasingly looking to restore cultural institutions and to recover cultural heritage that they might have lost or that might have been damaged during the warfare. We have seen it in Colombia, where the Smithsonian is partnering with the National Center for Historical Memory to build a new National Museum of



Satellite imagery of Dura Europos, a 150-acre site in Syria dating to 300 B.C., shows how it looked in 2012.

Photo: FBI



Dura Europos as it appeared in 2014, covered by looters' pits.

Photo: FBI

Memory, and in Bosnia and Herzegovina, where highlighting shared heritage is also an opportunity to bring communities together.

Of course, as I mentioned, real economic value should not be underestimated. The cultural sector is an enormous driver of economic growth. The 2015 study by CISAC estimated that the sector worldwide contributes around 2.25 billion US dollars to the global economy. It is an amazing employer; and is particularly an enabling employer of women. In most developing countries, handicraft is second only to agriculture in terms of employment. Culture contributes to the tourism and education sectors. There are, therefore, a lot of reasons to invest in the protection of cultural heritage.

***How do you support enforcement authorities in their fieldwork in general and in the area of cultural goods in particular?***

We have provided support to actors involved in the fight against illegal trafficking in wildlife by tailoring sophisticated DNA barcoding tools so that they can be used more easily, and by harnessing our collections of millions of species to develop a global DNA reference library. In Kenya, for example, our scientists have worked with the National Museums and with the Wildlife Service on DNA barcoding. The objective is to be able to prove that confiscated wildlife items were sourced from Kenya, and to be able to identify the exact location where the items were sourced.

Because we are a trust instrumentality of the US federal government, we have a long partnership with the Department of Homeland Security (DHS), the Department of Defense, and the Department of State. Among other things, we help support and deliver training to US Customs and Border Protection through an agreement with the State Department and DHS. Since 2008, our museum curators, our conservators, and many other professionals have trained more than 350 Customs officers to recognize looted cultural objects. We do it once or twice a year, and hold our training sessions inside our museums so that Customs officers are able to interact with the collections and visit our laboratories. They also get to know our staff, making it easier to know who they can call upon if they come up with a case and need assistance.

Recently, one of our anthropologists worked with to analyse 100 objects that DHS agents had discovered and which appeared to be of pre-Columbian origin. DHS needed to know whether the objects were authentic or whether they were fakes as the importer was claiming. It came out that more than 90% of the objects were authentic pre-Columbian artefacts. They were priceless. Many of them had never been seen before by the anthropologist working on the case, although she had more than 40 years' experience. If they had successfully been imported into the US, a lot of knowledge would have been lost about that pre-Columbian era. Had those objects disappeared, that would have been a whole part of our memory gone.

The objects were removed from their original site, and often what is most important for archaeologists and other scholars is studying objects in context: how they relate to each other; and how they relate to where they have been found. Once they are removed from their context, a lot of knowledge is nearly impossible to put back in place. So, it is not like there was nothing lost, but there would have been a greater loss had DHS agents not

seized those objects and sent them to our museum for study.

We envision expanding our partnership with US enforcement officials and taking that model of partnership global. One of the reasons we are so excited to work with the WCO and its Members is that we can learn from our experience in training together, and bring that sort of training experience to Customs officers all over the world. The goal is also to partner with local cultural organizations and museums around the world, so that they can be part of the solution too.

*You also cooperate with museums around the world. Can you describe some of the activities undertaken under such cooperation frameworks?*

At the Smithsonian, we cooperate with museums and peer institutions all the time around scholarship and research, to build capacity and undertake training programmes. These are reciprocal learning programmes as we learn from each other in developing master plans, collection management plans, and education programmes.

We also work with museums and ministries of culture in countries which are coming out of some sort of natural disaster or man-made disaster. In Haiti, after the earthquake, we gathered 30 partners and organized a response. Over a few years, we trained our Haitian colleagues and worked alongside them to rescue more than 30,000 pieces. We also trained more than 100 new Haitian cultural professionals. Just last year, a new centre in Port de France was created to continue this work. We are working in Nepal in a similar way.

What we are increasingly seeing is a desire from all of our colleagues around the world in the museum sector to play a part in solving the real crisis we are facing when it comes to the preservation of the world's cultural heritage today. Through our new partnership with the WCO, we

hope to help bridge these communities of law enforcement professionals and cultural experts, so that together we can all address this global crisis.

*The Smithsonian Institution has a vast collection of artefacts. What due diligence does it carry out to ensure that they are not stolen or looted?*

We acknowledge that museums, especially in the past, have been part of the problem. Museums often had objects in their collection that might not have been acquired through the proper channels. So, the Smithsonian takes due diligence to ensure that objects have not been stolen or looted very seriously.

For example, for all new acquisitions, each of our museums has set up a collection management policy which requires documentation of the provenance, of the kind of chain of custody of those objects over time. Each has its own unique policy as museums' collections vary so widely. These policies are made available to the public.

As a general rule, we only collect items when there is a good faith intention to keep them in our collection for a long time. We also have multiple programmes across our museums to carry out provenance research. Provenance is the history of ownership of an artwork or an artefact which provides really important information about the attribution, which is the authorship of the object. We follow guidelines such as those of the American Alliance of Museums or the Association of Art Museum Directors, especially concerning objects that may have been confiscated during WWII for example.

We have a specific programme which aims to identify the provenance of all objects in collections that were created before 1946 or acquired after 1952, that underwent a change of ownership during the period of WWII, and that might have been in central Europe during that time. All the

# Customs Connection

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provenance research is made available to the public. Our Freer and Sackler Galleries of Asian art also initiated, in 2008, a comprehensive provenance research programme for their entire Asian art collection. We repatriate objects when necessary and when possible, and have repatriation objects officers who deal with how to send objects back.

*Cooperation is once again a key word, but is it always straightforward?*

What we have learned over the last eight years working with Customs officials is that while Customs officials and museum professionals might speak different languages, might think about the world in different ways, and perhaps have different priorities on the surface, they have the same goal in mind, which is to protect what global citizens value as

natural and cultural heritage. If we take the time to know one another, we will find that we complement each other's skills and can establish very productive relationships.

I think that in most countries, a partnership already exists, at the national level, between Customs and national museums or with ministries of culture. But, should a WCO Member need help in establishing a dialogue with such institutions, we would be delighted to discuss options with them, and perhaps make recommendations. In most cases, the Smithsonian would already have relationships and contacts at the national level, and we would be able to help the conversation get started.

**More information**  
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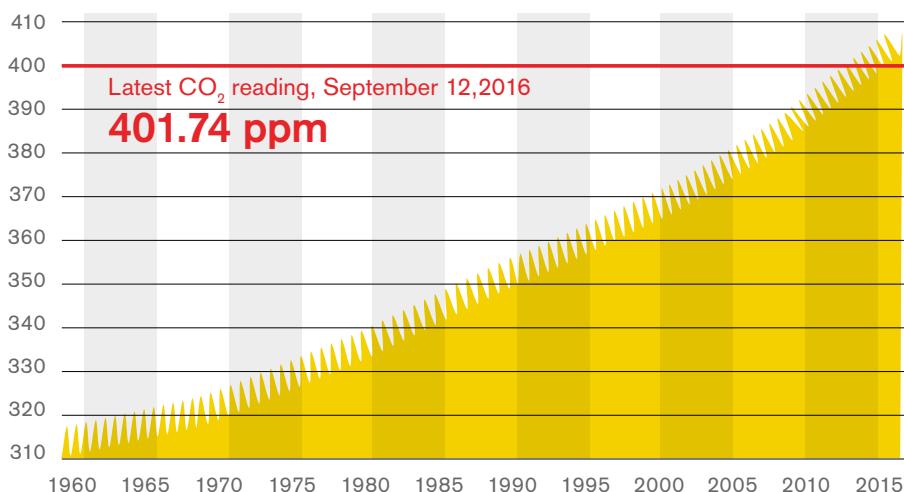
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# Global warming, international trade, and the quantification of carbon emissions: production-based and consumption-based accounting

**By Robert Ireland,**  
HEAD OF THE WCO RESEARCH UNIT

Global warming is on a dangerous trajectory. Human-induced carbon dioxide pollution and deforestation are steadily increasing levels of atmospheric CO<sub>2</sub> concentration which is resulting in, among other things, higher global average temperatures and extreme weather events. This article opines on the latest global warming data, mitigation policies, and the two major methods of carbon emissions quantification (production-based and consumption-based), particularly the synergies between consumption-based accounting and international trade.

Carbon dioxide concentration at Mauna Loa Observatory



## CO<sub>2</sub> atmospheric accumulation

Dr. Charles Keeling of the Scripps Institution of Oceanography at the Mauna Loa Observatory in Hawaii began to measure the atmospheric CO<sub>2</sub> concentration in 1958. On 12 September 2016, the concentration of CO<sub>2</sub> was 401.74 parts per million (ppm) in the sky above Hawaii; the chart above from Scripps reflects the rise in average annual atmospheric CO<sub>2</sub> concentration from 1958 to 2016. The current levels of atmospheric CO<sub>2</sub> concentration have increased by 43% from the approximate rate of 280 ppm in the 1880s (evidenced by carbon isotope analysis) when the inexorable escalation caused by human industrial activity began. The last time the Earth's atmospheric carbon concentration was over 400 ppm was at least two million years ago – before humans existed!

## Global warming

The United States (US) National Aeronautics and Space Administration (NASA) recently announced that in early 2016, global average temperatures reached a point approximately 1.3 degrees Celsius higher than pre-industrial levels. As reflected in Tables 1 and 2, nine of the top ten warmest years since at least 1880 have occurred in the 21<sup>st</sup> century. 2015 is currently the warmest year on record, and 2016 is on track to become the warmest.

Table 1 – Top ten warmest years on record, 1880-2015, average surface temperatures

Rank	Year
1	2015
2	2014
3	2010
4	2013
5	2005
6	2009
7	1998
8	2012
9	2007
10	2006

Sources: US National Oceanic and Atmospheric Administration (NOAA) and US NASA

Table 2 – Number of warmest years per decade, 1880-2015, average surface temperatures

Decade	Number of years in top ten
2010s	5
2000s	4
1990s	1
1880s-1980s	0

Sources: US NOAA and US NASA



### Extreme weather events

While scientific models predict that global warming will increase the number of extreme weather events, peer-reviewed research indicates this is already happening and intensifying. In its 2014 report, the Intergovernmental Panel on Climate Change (IPCC) summarized that “changes in many extreme weather and climate events have been observed since about 1950. Some of these changes have been linked to human influences, including a decrease in cold temperature extremes, an increase in warm temperature extremes, an increase in extreme high sea levels, and an increase in the number of heavy precipitation events in a number of regions.”

### Policies to mitigate global warming

Carbon emissions and atmospheric carbon accumulation will not diminish significantly without government intervention. In particular, public policies must shift energy sources from coal and petroleum to renewable energies (solar, wind, geothermal, and hydropower) and nuclear power. To support this, governments should implement a combination of strategies. Although no individual policy will comprehensively and adequately reduce carbon emissions, there are several that in combination could make significant contributions, including:

- infrastructure development (such as renewable energy transmission lines);
- strengthened carbon pollution regulations (such as vehicle emission standards);
- public investments and subsidies in low-carbon technologies;
- reducing or eliminating fossil fuel subsidies;
- international trade policies (such as lower tariffs on low-carbon technologies);
- reforestation;
- carbon pricing.

While it should be only one of several global warming mitigation policies, governments of major emitters should signal a CO<sub>2</sub> price so that carbon pollution becomes more expensive, and thus incentivizes conservation and transitions to low-carbon energies. The two general policy options for carbon pricing are a ‘carbon tax,’ and an ‘emissions trading system’ (ETS) which is also known as a ‘cap-and-trade’ system.

In evaluating carbon pricing under both an ‘effectiveness’ and ‘efficiency’ criteria, a carbon tax is probably preferable to an ETS because it likely results in more consistent carbon prices that can be increased more easily when necessary. Under a ‘political feasibility’ criterion, however, an ETS is

probably more acceptable to politicians and constituents, which is why most governments are choosing ETS.

The performance of the largest ETS has been discouraging. The European Union’s (EU’s) ETS has experienced sharp volatility and sizable price declines. The extremely low price (4.38 euro per carbon ton on 1 August 2016) has largely been attributed to an oversupply of carbon allowances. More recently, this has been exacerbated by the long-term weakness of the EU’s economy, and fears concerning Brexit (the referendum of 23 June 2016, whereby British citizens voted to exit the EU). Accordingly, the EU ETS is failing to signal a potent and predictable carbon price to incentivize lower CO<sub>2</sub> emissions.

### Production-based and consumption-based accounting of CO<sub>2</sub>

The traditional way to measure a nation’s carbon emissions is by calculating the total generated from within its national territory. Under this methodology, the carbon emissions from the production of goods that will become exports are allocated to the exporter country not the importer country where the goods are ultimately consumed or used. The United Nations Framework Convention on Climate Change (UNFCCC) and the



Augustin Ruiz

In combination with carbon pricing, some countries might opt to implement carbon tariffs to reduce carbon leakage. Carbon tariffs predominantly, but not exclusively, entail a tax on the embodied carbon of imports. Partially because these actions could face World Trade Organization adjudication, proponents frequently call them 'border tax adjustments', which are an acceptable equivalence mechanism under WTO law.

IPCC have largely used this production-based accounting.

Consumption-based accounting takes a different approach. Goods that are consumed but not produced in Country 'A' are allocated to Country A's account, not Country 'B' where the goods were produced. Thus, the carbon emissions generated by the manufacture of goods in Country B but imported by Country A would be considered to be Country A's carbon emissions. In other words, the carbon emissions resulting from the production of goods intended for international trade are allocated to the importing country not the exporting country.

$\text{CO}_2$  under this delineation is sometimes called 'embodied carbon,' which has been defined by Kejun, Cosbey, and Murphy (2008) as "carbon dioxide emitted at all stages of a good's manufacturing process, from the mining of raw materials through the distribution process, to the final product provided to the consumer." Consumption-based accounting and its implications are gaining prominence in academic fields too. Economist Christian Lininger's 2015 book 'Consumption-Based Approaches in International Climate Policy' is a classic reference manual on this topic,

and brings together the many strands of consumption-based accounting.

#### The implications of consumption-based accounting of $\text{CO}_2$

Consumption-based accounting introduces an alternate method of quantifying carbon emissions by specifically incorporating international trade into the calculation. Moreover, it can reduce the 'carbon emissions score' of some large export-heavy nations, and increase the carbon emissions score of some large import-heavy nations. If an export-heavy nation is not credited with the carbon emissions triggered by their manufacture of goods that are purely intended for export, their carbon emissions score is lower.

In parallel, countries that have experienced reductions in domestic industrial manufacturing (such as cement, chemicals, steel, and paper) and simply import such goods would have their carbon emissions score increase because their consumption becomes part of the assessment. Some critics contend, however, that the implications of using consumption-based accounting are deleterious for emerging economies, particularly if worries concerning 'carbon leakage' are dealt with by 'carbon tariffs.'

#### Carbon leakage

Carbon leakage is the concept that if a country adopts robust carbon mitigation policies (such as a carbon tax) unilaterally, industries with high-carbon emissions will then shift to countries that do not have similarly strong carbon pricing mechanisms. For instance, a steelmaker may shift its production from an abating (the one that is purposely and successfully reducing its  $\text{CO}_2$  emissions) country to a non-abating country, in order to enjoy more lax environmental laws and lower costs. Consequently, there would be no global reduction in carbon emissions; the volume has merely switched countries.

Carbon leakage also raises several issues, including business competitiveness and climate mitigation policy. Regarding business competitiveness, carbon leakage could mean that high-carbon businesses will fail in an abating country, and similar businesses will thrive in a non-abating country. As for climate mitigation policy, global carbon emissions may not decrease because they have merely shifted from an abating country to a non-abating country.

Thus, even if an abating country reduces its carbon footprint, a non-abating country will experience carbon emission increases. Accordingly, the gains made by an abating country are canceled out, and

result in no climate mitigation globally. Christian Lininger has described carbon leakage as “an effect that may occur if not all regions of the world abate: emissions may not be reduced on a global scale, but merely shifted from abating to non-abating regions.”

The government of an abating country may subsequently decide to act to dilute carbon leakage in order to keep certain manufacturers in their country, and ostensibly to lower global carbon emissions. Conceptually, although it has not happened yet, this could be pursued with carbon tariffs.

#### Carbon tariffs

In combination with carbon pricing, some countries might opt to implement carbon tariffs to reduce carbon leakage. Carbon tariffs predominantly, but not exclusively, entail a tax on the embodied carbon of imports. Partially because

these actions could face World Trade Organization (WTO) adjudication, proponents frequently call them ‘border tax adjustments’ (BTAs), which are an acceptable equivalence mechanism under WTO law.

The WTO has described BTAs as consisting of “two situations: (i) the imposition of a tax on imported products, corresponding to a tax borne by similar domestic products (i.e. BTA on imports); and (ii) the refund of domestic taxes when the products are exported (i.e. BTA on exports).”

Discernibly, carbon tariffs are controversial. Advocates contend that they will be necessary to incentivize countries with high carbon pollution and weak climate policies to change their ways, and that domestically they will be necessary to inoculate against accusations of harm to business competitiveness. Conversely, critics

assert that they are merely another form of eco-protectionism.

#### Conclusion

Some policy analysts are raising the profile of the still-unconventional notion of measuring CO<sub>2</sub> emissions with consumption-based accounting rather than production-based accounting. Advocates suggest that it is a more accurate system, and would better incentivize CO<sub>2</sub> abatement.

Such an approach also draws from the perspective that international trade is both a contributor to global warming, and an intrinsic component in the many solutions that exist. Consequently, regardless of what policies are being adopted, and by whom, international trade and border management are being incorporated into the global warming policy framework.

#### More information

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# Calendar of Events

## November

- 3 - 4 Information Management Sub-Committee (IMSC), 71<sup>st</sup> Meeting
- 9 - 11 Working Group on Revenue Compliance and Fraud, 3<sup>rd</sup> Meeting
- 14 - 15 ATA/Istanbul Administrative Committee
- 16 - 17 Revised Kyoto Convention Management Committee, 15<sup>th</sup> Meeting
- 21 - 22 WCO/IATA/ICAO API/PNR Contact Committee, 10<sup>th</sup> Meeting
- 23 - 24 WCO/UPU Contact Committee
- 28 - 30 WCO Counterfeiting and Piracy (CAP) Group, 13<sup>th</sup> Meeting

## December

- 5 - 7 Policy Commission, 76<sup>th</sup> Session (Russian Federation)
- 12 - 16 Harmonized System Review Sub-Committee, 51<sup>st</sup> Session

## January

- 9 - 13 Data Model Project Team
- 17 - 20 Scientific Sub-Committee, 32<sup>nd</sup> Session
- 23 - 24 Global RILO Meeting, 20<sup>th</sup> Meeting
- 25 - 26 CEN Management Team (CENMaT) Meeting, 16<sup>th</sup> Meeting
- 26 International Customs Day

## February

- 6 - 7 Technical Committee on Rules of Origin, 35<sup>th</sup> Session
- 20 - 21 Audit Committee, 11<sup>th</sup> Meeting
- 22 - 23 Technical Experts Group on Air Cargo Security, 11<sup>th</sup> Meeting
- 27 - 28 Private Sector Consultative Group
- 27 - 28 Administrative Committee for the Customs Convention on Containers, 1972, 17<sup>th</sup> Meeting
- 28 SAFE Members Only Meeting

## March

- 1 - 3 SAFE Working Group, 17<sup>th</sup> Meeting
- 2 - 3 Regional Offices for Capacity Building (ROCBs)/Regional Training Centres (RTCs), 12<sup>th</sup> Meeting
- 6 - 7 Agreement on Trade Facilitation Working Group, 7<sup>th</sup> Meeting
- 7 - 9 Capacity Building Committee, 8<sup>th</sup> Session
- 9 - 10 Integrity Sub-Committee, 16<sup>th</sup> Session
- 13 - 14 Harmonized System Committee Working Party
- 15 - 24 Harmonized System Committee, 59<sup>th</sup> Session
- 27 - 31 Enforcement Committee, 36<sup>th</sup> Session

*It should be noted that WCO meetings are mentioned for information purposes and are not all open to the public. Unless otherwise indicated, all meetings are held in Brussels. Please note that these dates are indicative only and may be subject to change. The WCO meetings schedule is regularly updated on the WCO website.*



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