

Reforming the Regulatory Procedures for Import and Export: Guide for Practitioners



Small and Medium Enterprise Department
The World Bank Group
June 2006

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ACRONYMS

ACV	Agreement on Customs Valuation
APEC	Asia-Pacific Economic Cooperation
ASEAN	Association of Southeast Asian Nations
ASEZA	Aqaba Special Economic Zone Authority
ASYCUDA	Automated System for Customs Data
BOT	Build-Operate-Transfer
CCTV	Close Circuit Television
CFCs	Chlorofluorocarbons
CITES	Convention on International Trade in Endangered Species of Wild Flora and Fauna
COMESA	Common Market for Eastern and Southern Africa
CPCs	Customs Procedures Codes
CRF	Clean Report of Findings
CSD	Container Security Device
CSI	Container Security Initiative
C-TPAT	Customs-Trade Partnership Against Terrorism
CUSCAR	Customs Cargo Message
CUSDEC	Customs Declaration Message
CUSEXP	Customs Express Message
CUSRES	Customs Response Message
DFID	U.K. Department for International Development
DG	Director General
EDI	Electronic Data Interchange
EFT	Electronic Funds Transfer
EU	European Union
FDA	Federal Drugs Administration
FDI	Foreign Direct Investment
FOB	Free On Board
GDP	Gross Domestic Product
GFP	Global Facilitation Partnership for Transportation and Trade
GPS	Global Positioning System
HS	Harmonized System
ICAC	Independent Commission Against Corruption
ICT	Information and Communications Technology
IFC	International Finance Corporation
IMF	International Monetary Fund
IMO	International Maritime Organization

ISO	International Organization for Standardization
ISPS	International Ship and Port Facility Security
IT	Information Technology
JICA	Japan International Cooperation Agency
OECD	Organization for Economic Co-Operation and Development
OSS	One Stop Shop
PDF	Project Development Facility
PEP	Private Enterprise Partnership
PSI	Pre-Shipment Inspection
SAD	Single Administrative Document
SADC	Southern Africa Development Community
SARS	South Africa Revenue Services
SGD	Single Goods Declaration
SWIFT	Society for Worldwide Interbank Financial Telecommunication
UNCEFACT	United Nations Center for Trade Facilitation and Electronic Business
UNCTAD	United Nations Conference on Trade and Development
UNECE	United Nations Economic Commission for Europe
UN/EDIFACT	United Nations Directories for Electronic Data Interchange for Administration, Commerce and Trade
UNDP	United Nations Development Program
USAID	United States Agency for International Development
VAT	Value Added Tax
WB	World Bank
WBG	World Bank Group
WCO	World Customs Organization
WTO	World Trade Organization

PURPOSE OF GUIDE

Efficient import/export procedures are critical to facilitating trade and creating an environment conducive to economic development, growth, and direct foreign investment.

The purpose of this guide is to assist World Bank (WB) and International Finance Corporation (IFC) staff, in particular Business Development Officers/Task Managers in the IFC field offices, as well as any other task managers, implement trade facilitation and Customs reform programs.

This guide has been written from a non-technical perspective to be as practical as possible. It draws upon a host of technical documentation prepared by various international organizations involved in Customs reform and trade facilitation programs. It identifies key areas necessary to implement efficient and effective import/export procedures based on internationally recommended best practices.

Examples of how some developing countries have successfully implemented particular reforms are referenced throughout the guide. The authors have not included many case studies and examples of individual countries, given the extensive and recent literature that exists on this. The WB published in 2005 the *Customs Modernization Initiatives: Case Studies*, which includes many country case studies; and the *Customs Modernization Handbook*, which provides numerous examples of specific reforms in different countries.

This guide will assist task managers working to implement Customs reforms in determining:

- Whether a country's import/export procedures are inefficient;
- What symptoms to look for, and how to quantify the problems;
- Where to find internationally accepted best practices to benchmark existing import/export procedures;
- How to determine which parties or agencies are responsible for which bottlenecks;
- Where to start, with whom to talk, who are the counterparts;
- Who to win over or get on board;
- Key elements of any project to be undertaken;
- Dangers/problems to be aware of; and
- Where to get further assistance.

EXECUTIVE SUMMARY

Over the past decade, world trade has grown more than twice as fast as world Gross Domestic Product (GDP). Those countries able to create an environment conducive to direct foreign investment and able to trade most efficiently and effectively, attain the highest levels of growth and development. While increased trade openness through lowering of tariffs by both developed and developing countries has fostered trade, it is clear that open trade regimes will only foster trade integration when there are complimentary policies in place. **Removing non-tariff barriers and implementing trade facilitation and Customs reform programs are equally important objectives for promoting economic development.** This is especially important since border formalities have become increasingly complex due to the policy and procedural requirements directly associated with international and regional trade commitments, World Trade Organization (WTO) accession, and European Union (EU) membership. The additional border formalities being imposed to secure the international supply chain following the terrorist attacks of Sept. 11, 2001, represent further serious constraints on the free flow of goods across borders.

Customs reform/modernization and trade facilitation programs are critically important if countries are to reduce trade transaction costs and enhance international competitiveness. With total trade transaction costs estimated in the range of 10%-15% of the total value of world trade, and Customs compliance costs likely 5%-7% of that sum, programs that would reduce such costs by even 1%-2% can have a huge positive impact on world trade and economic growth. Trade facilitation is currently on the agenda of the WTO Doha Round negotiations, which signifies the economic importance of such initiatives.

Faced with these driving forces for change, **Customs is the pivotal agency through which such reforms must be focused.** Customs remains the primary revenue collector in many developing countries, meaning that reform and modernization of this institution is critical to improving the fiscal situation found in many least-developed economies. Customs also is the source of extremely important trade data upon which many economic policies are based. Customs must maintain a level playing field for all traders by ensuring openness and fairness. It has an extremely important role to play in protecting society from prohibited and unsafe goods, detecting the minority of unscrupulous traders and persons carrying drugs, weapons, and other contraband, while facilitating trade for the vast majority of compliant traders and travelers. Maintaining an appropriate balance between these two competing objectives of enforcement and facilitation is not an easy task for any Customs service. With good governance now a cornerstone for economic development, redressing rampant fraud

and corruption in Customs services has also become an essential aspect of such reforms.

The purpose of this guide is to assist World Bank and IFC staff when contemplating engaging in customs reform and trade facilitation. It has been written from a non-technical perspective to be as practical as possible. It draws upon a host of technical documentation prepared by various international organizations involved in customs reform and trade facilitation programs in order to identify the best internationally recommended import/export procedures, and the capacity-building measures required to implement them successfully. Examples of how specific developing countries have successfully implemented specific reforms are referenced throughout the guide.

Customs reform and trade facilitation programs must not be limited just to the Customs service itself, but also include the requirements and participation of the myriad of other public and private stakeholders involved in international trade transactions. This includes associations representing: importers/exporters; Customs brokers/clearing agents; carriers; shipping agents; warehouse operators; freight forwarders and other cargo handling/logistics providers; commercial banks; airport/port authorities; and other border agencies, e.g., police, immigration, health, agriculture, fisheries. Customs and all impacted parties must collaborate through national consultative committees, such as Customs reform and/or trade facilitation committees.

When reforming Customs and introducing trade facilitation measures, it is essential from the very outset that every effort be made to: minimize the incidence of Customs interventions; simplify and streamline the complexity of data/documentary requirements, work/paper flows, procedures, processes and controls; and ensure that proposed reforms are in full compliance with international Customs conventions, recommended practices, and agreed standards. Only when this has been completed, should information and telecommunications systems and solutions be applied to support these Customs reforms and trade facilitation efforts.

It is critically important that capacity-building assistance to reform import/export procedures be structured bearing in mind the following key principles:

1. There must be political will, commitment, and ownership for change, as well as cooperation and partnership among all public and private stakeholders.
2. An accurate capacity-building, diagnostic needs analysis must be undertaken that recognizes that each country's program must be tailor-made.
3. Adequate financial and human resources must be found to implement the program.

4. The supporting legal framework must be modernized.
5. Transparency and predictability is a must to promote voluntary compliance.
6. An appropriate balance must be maintained between facilitation and control objectives with authorities exercising minimum intervention at time of release through the application of risk-management techniques and non-intrusive technologies, and most controls exercised on a post-clearance audit basis.
7. Integrity and other human resource management weaknesses must be redressed.
8. Procedural, document, and data requirements should be kept to a minimum, with information and communication technology applied, according to recommended international best practices and standards.
9. A monitoring and evaluation system must be put in place to measure impact.

Provided that all of the conditions mentioned above are in place and there is real commitment to engage in comprehensive reforms, **the guide provides detailed information regarding best import clearance processes that could be used to drive the reform as efficiently as possible:**

- *Cargo declaration by the carrier to Customs*—This includes the minimal manifest data required to be transmitted in advance of the ship, aircraft, or truck's arrival in the country of import, to allow Customs to select high-risk cargo requiring inspection immediately upon arrival. Additional information is required regarding various security initiatives, including the International Maritime Organization's (IMO) initiative called International Ship and Port Facility Security Code (ISPS Code) and U.S. Customs and Border Protection Container Security Initiative.
- *Temporary storage of arriving goods*—This includes the importance of having adequate airport/port infrastructure, cargo-handling and warehouse facilities to physically off-load and store goods while the importer or his agent is informed in a timely manner of the cargo's arrival.
- *Preparation and submission of the goods declaration by the importer/customs broker to Customs*—This includes the importance of creating 'single window' or one-stop-shop customer service centers where all relevant authorities can provide required services to traders; use a single, standardized document format and content for multi-agency reporting; minimize the number of approval authorities' signatures/stamps; make maximum use of information and communications technology (ICT) where Customs declaration can be transmitted to Customs, and all of

the supporting approvals for permits and certificates can be applied for and authorized electronically; and move towards paperless goods declarations, with the onus placed on the importer/broker to retain copies of all supporting documents for Customs' post-clearance audits.

- *Validation of the goods declaration by Customs ?* This is necessary to ensure it complies with all Customs and other agency requirements, including tariff classification, Customs valuation, and origin of the goods to ensure the proper amount of duty/tax is assessed. This process includes using state-of-the-art automated risk management, profiling, and process channeling techniques to identify and deal effectively with errors or omissions, as well as those consignments deemed to require detailed document and/or physical inspection. The guide discusses the various software applications and reference databases that can be applied to support Customs during this key verification process.
- *Physical inspection of goods by Customs and other agencies*—This includes making maximum use of non-intrusive technologies, such as X-ray scanning, to facilitate the cargo inspection process.
- *Collection of duty/tax*—This involves use of electronic payment/funds transfer systems that allow facilitated payment techniques to traders while increasing transparency and reducing administrative costs for Customs.
- *Release and delivery of goods*—This includes automating messaging to expedite notification by Customs and other agencies to the importer/broker and other interested parties the status of the goods, e.g., why a consignment is being withheld, or which goods can be released and delivered.
- *Post-clearance auditing of the importer's books and records by Customs*—This involves moving to the concept of authorized economic operator whereby highly compliant traders who have been certified by Customs and other agencies for expedited clearance procedures (e.g., paperless declarations, with random physical inspections performed at their premises) are subject to periodic audits to verify compliance.

The Guide also discusses in detail the **best practices related to export and duty deferral regimes, which are critically important to supporting the competitiveness of export-oriented domestic industry**, including:

- *Exemptions*—How to put in place effective systems for the approving and post-clearance monitoring inputs that have been granted full or partial exemption of duty/tax while they are being manufactured into finished products for export.

- *Drawback*—The importance of having an effective system whereby exporters may complete a simplified application and be granted a timely refund of duty/tax paid on imported inputs that are subsequently exported in finished goods.
- *Bonded Warehouses*—How bonded warehouses can be used effectively to allow traders to defer payment of duty/tax on specified goods for a period of time until they can be removed and entered into home consumption.
- *Free Zones*—Examples of various free zones, free ports and special economic zones are discussed, explaining how these areas outside the Customs territory can be used effectively to attract foreign investment and spin off economic development.
- *Temporary Admission and Transit Control*—The guide discusses how Customs can best control the goods that temporarily enter the country either for repair, further processing, or simply to be transported through the customs territory while minimizing the chances of such goods being diverted, substituted, or otherwise remaining in the country.

The Guide refers the reader to an abundance of sources where additional technical information and technical assistance may be obtained to support Customs reform and trade facilitation programs under consideration.

CHAPTER 1

RATIONALE FOR REFORMING TRADE PROCEDURES

Globalization and rapidly expanding international trade are accelerating economic growth and development in many regions of the world. Over the past decade, world trade has grown more than twice as rapidly as world GDP. It is no surprise that those countries that record the highest growth rates and levels of development are those that have been most successful in integrating into the world trading economy. Integration brings with it improved allocation of resources, intensified competition and pressures to raise productivity, as well as exposure to new technologies, designs, and products. Those countries able to trade effectively and efficiently are more likely to reap the economic benefits.

One of the reasons for this growth in world trade has been increased trade openness through lower levels of protection in both developed and developing countries. It is clear however that open trade regimes will only foster trade integration when there are complimentary policies in place. While there have been strides made towards trade openness at the multilateral level, and there is a proliferation of bilateral and regional trade agreements that progressively reduce tariffs and spur trade¹, **non-tariff barriers remain a serious impediment**. Indeed, the complexities of administering border formalities and controls have actually increased due to the greater policy and procedural requirements directly associated with international and regional trade commitments, especially those related to accession to the WTO and membership in the EU.

¹ For example, since the early 1990s, Chile has negotiated and implemented preferential trade agreements with Canada, Central America, EU, Mexico, and the U.S., as well as complementary economic agreements with MERCOSUR, Peru and Venezuela, and is finalizing agreements with Korea, Bolivia, New Zealand and Singapore. Unilateral trade liberalization has brought a gradual lowering of its almost uniform ad-valorem tariff rate from 11% in 1998 to 6% in 2003. From 1996-2003, the average growth rate for both imports and exports was around 21%, with Chile expecting for 2004 an increase of 13.8% in exports, corresponding to 23,500 million USD, way above the annual average of 18,500 USD in the years 1996 to 2002 and 20,000 million USD for imports.

REFORMING THE REGULATORY PROCEDURES FOR IMPORT AND EXPORT: GUIDE FOR PRACTITIONERS

As trade opportunities have increased, the private sector in many countries has responded by investing heavily in modernizing logistics, inventory control, manufacturing, and information technology systems. There has been a heightened awareness and quantification of the high costs associated with complying with inefficient and outdated border formalities. In recent years, there has also been a growing recognition of the importance of good governance and integrity, especially within Customs services. Parallel with globalization and liberalization of trade, competition for foreign investment has also significantly increased.

While Customs reform and trade facilitation were already gaining international importance, the attacks of Sept. 11, 2001, have made securing the international supply chain a global priority. Customs administrations around the world have been called upon to play a greater role in protecting society from a wide range of potential threats against national security.

Unfortunately, in many customs services around the world, all these added responsibilities, increased workloads, and high public expectations have not been accompanied by corresponding increases in financial and human resources necessary to reduce the high costs associated with inefficient import/export procedures at frontiers. The costs of the various non-tariff barriers and heightened security considerations remain a serious barrier to trade, investment, and economic development.

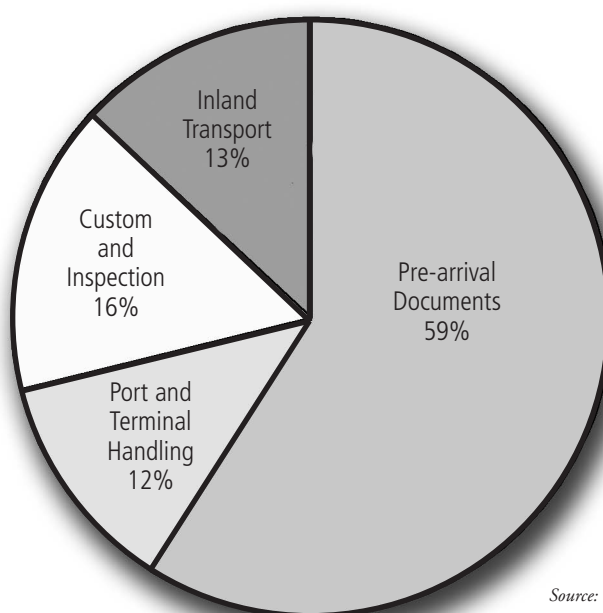
Customs reform and modernization initiatives, when combined with improvements to ports and trade related institutions, can lead to significant benefits to reducing trade transaction costs² and significantly enhance the competitiveness of a country. While there remains a lack of accurate quantitative analysis on this subject, **trade transaction costs are frequently estimated to be in the range of 7%-10% of world trade value, with Customs compliance costs likely being 5%-7%³**. With total trade transaction costs likely in the range of 10%-15% of the total value of the goods traded, the benefits of trade facilitation initiatives alone, (excluding the benefits of any

² Trade transaction costs include direct costs and indirect costs. The direct costs include: compliance costs related to supplying information and documents required for the movement of goods and related means of payment, as well as charges for trade-related services (e.g., trade insurance, port management). The indirect costs include procedural delays e.g., the time for customs clearance and cargo handling; lack of predictability in the nature, application or interpretation of regulations, formalities and contracts (i.e., lack of transparency leading to arbitrary interpretations); and lost business opportunities. See UNECE/Trade/299, ISBN 92-1-116824-4, "Trade Facilitation – The Challenges for Growth and Development", Paper by Anthony Kleitz entitled, "Costs and Benefits of Trade Facilitation", pgs. 165-166.

³ As Mr. Anthony Kleitz, Head of Trade Liberalization and Review Division at the OECD, states in his 2002 paper on the Costs and Benefits of Trade Facilitation: "There exists a significant volume of business complaints and compelling qualitative arguments for addressing trade facilitation, both at the national and multilateral level. Nevertheless, the available studies and information on the costs of inefficient trade procedures and the benefits of trade facilitation are frankly disappointing. Quantitative information is patchy, imprecise and unconvincing. Partly because we are talking about the sum of a large number of relatively small costs, it is hard to generalize about the overall costs and benefits turn out to be fairly small in percentage terms, they can still have big effects through the global supply chain linkages. There is clearly great potential for further empirical research and modeling in this area, including through work on methodologies, to demonstrate the importance of the trade facilitation agenda. In pursuing such work it will be important to pay special attention to the weaker members of the international economy to ensure that, through capacity building, they are also able to reap significant benefit from trade facilitation."

Customs reform program) have been typically estimated at between 1%-5% of the value of total world trade⁴.

The *Doing Business in 2006* report states that the process of importing goods, (that is port and inland transport), only accounts for a quarter of the time that it takes to complete the whole import process. However, the documentation procedures (pre-arrival documents) and the time spent in customs and inspections altogether account for the other 75% of the total time (see Figure 1).⁵



Source: *Doing Business in 2006*

Figure 1: Delays Encountered in Different Phases of the Import Process

As stated in the *Doing Business* report as well, the red tape and number of procedures in developing countries is a much bigger hurdle than in high-income countries. This obviously has an important impact in the transaction costs that companies face in developing countries when importing goods (see Table 1).

⁴ Note: 1994 Columbus Ministerial Declaration of Trade Facilitation cited the figure of 2%-5 %.

⁵ See *Doing Business in 2006*

REFORMING THE REGULATORY PROCEDURES FOR IMPORT AND EXPORT: GUIDE FOR PRACTITIONERS

Table 1: Days to Complete Each Stage of the Import Process

Region	Pre-arrival documents	Port and terminal handling	Customs and inspections	Inland transport to warehouse	Total time
OECD high income	8	2	2	2	14
East Asia & Pacific	18	3	4	3	28
Latin America & Caribbean	24	4	5	3	36
Middle East & North Africa	25	5	9	4	43
Europe & Central Asia	25	4	7	7	43
South Asia	24	6	7	10	47
Sub-Saharan Africa	33	8	10	9	60
World	23	5	6	5	39

Source: *Doing Business Report 2006*

The World Bank's 2004 *Global Economic Prospects* report estimated that if those countries that are currently below the world average in trade facilitation capacity could be raised halfway to the average, trade among 75 countries would increase by US\$377 billion annually⁶. A recent study of the Asia-Pacific Economic Co-operation region alone estimated that reducing such costs to just 5% by 2006 would add to this region's GDP at least US\$154 billion or 0.9% each year. The same report estimated that implementation of customs modernization and trade facilitation reforms in Singapore, Thailand, and the Philippines alone would yield a US\$3.9 billion increase in real annual income⁷.

While debate continues over the quantum of the potential benefits to be derived from implementing Customs reform and trade facilitation programs, it is clear that even the smallest cost reduction (e.g., less than 1%) in trade transaction costs of the supply chain within the global economy can result in significant positive impact on a country's level of trade and economic growth⁸.

⁶ World Bank, *Global Economic Prospects*, 2004, "Realizing the Development Promise of the Doha Agenda", Pg 179-180.

⁷ APEC Economic Committee, 2002, "Measuring the Impact of APEC Trade Facilitation on APEC Economies: A CGE Analysis, Singapore.

⁸ An important outcome of the work conducted to date has been to show the asymmetrical effects of trade procedures and trade facilitation on SMEs and on enterprises in developing countries. This is because small-value consignments tend to attract a disproportionately high cost burden, due to the fixed costs that must be paid in any case.

CHAPTER 2

PIVOTAL ROLE OF CUSTOMS

Within this setting and faced with these drivers for change, one of the most important complementary policies necessary to support economic growth, development, and poverty reduction through trade and investment is putting in place an efficient and effective Customs administration. In most countries, Customs is the oldest public institution. While primary responsibilities of Customs offices have not changed significantly throughout the years, their focus and importance have changed dramatically during the past decade.

1. Collector of Revenue

Customs collects duties and taxes on imports and occasionally on exports⁹. In many developing countries, Customs revenues remain a significant portion of total state revenue. This situation will continue for many years, despite declining tariff rates due to successive rounds of trade liberalization, given major obstacles many developing countries face in broadening their tax base to collect more revenue from income tax and consumption taxes¹⁰. In all countries, imports will continue to be a major tax base for the levying import taxes (e.g., VAT/GST, sales tax, excise tax). Customs is the only organization positioned to effectively levy tax on imports and has a key role in assessing refunds on exported goods. Customs is also the primary agency responsible for ensuring that goods imported temporarily are re-exported, and not diverted/consumed inside the country.

⁹ Few countries currently levy export duties/taxes since such measures undermine the competitiveness of a country's exports. Where such export taxes exist, it is normally Customs that must collect them.

¹⁰ For example, revenue from import duties in African countries comprise just under 30% of total tax revenue; 22% in the Middle East; 13% in Latin America; and 15% in Asian countries. In developed countries, tariffs provide only a small share of total revenue, on average less than 1% of overall import value. High import tariffs in developing countries are a key factor which hampers trade between the developed and developing countries.

2. Source of National Trade Data

Data provided on Customs declarations by carriers and importers/exporters at the time of import and export is the source upon which national statistical trade data is compiled. Customs has an important role to play to ensure that the data declared is accurate and timely to support the central statistics office, central bank, ministry of finance and other bodies in taking appropriate decisions regarding monetary, trade, transport, tourism, and other national economic policies.

3. Guarantor of a ‘level playing field’ for Trade and Commerce

If Customs does not maintain a level playing field, significant economic damage and distortions can occur in the domestic marketplace, effectively driving honest and compliant traders out of business. Customs must ensure that import tariffs are applied consistently and uniformly to all traders to prevent economic distortions. In most developed countries, Custom tariffs are used increasingly to protect domestic producers from unfair competition¹¹. Customs must ensure that imported goods are: not misclassified, under or over-invoiced or given preferences or concessionary rates in tariffs due to their origin or other reasons. Customs must also prevent goods from being smuggled into the country. Such unfair preferences reduce a trader’s duty/tax liabilities, thereby giving a trader an undue advantage in the marketplace. More recently, Customs has been called upon to protect the commercial interests of trademark and copyright holders by detaining and/or seizing at the border counterfeit goods infringing intellectual property rights. Customs is also called upon to protect domestic industry by applying anti-dumping and countervail duty/tax on those imported goods determined to be illegally dumped or subsidized, and therefore causing economic injury to domestic producers.

4. Front Line Protector of Society

Customs is responsible for preventing cross-border movement of dangerous and unsafe goods, including goods improperly labeled/marked, or deemed unsafe for consumption by authorities responsible for health, agriculture, fisheries, product consumer protection, etc. Customs protects society against drugs, weapons, illegal aliens, and trade in prohibited or restricted goods contravening international conventions, e.g., goods listed on the Convention on International Trade in Endangered Species of Wild Flora and Fauna (CITES); ozone-depleting Chlorofluorocarbons (CFC’s); to outlawed cancer-causing toxic pesticides or insecticides.

Since the events of Sept. 11, 2001, Customs’ anti-terrorism security responsibilities have been heightened. The focus and responsibilities for Customs services around

¹¹ For example, Customs duties in developed countries currently account for less than one percent of overall import value.

the world have been raised dramatically, with Customs not only being called on to control goods at the border, but also to play a key role in securing the entire international supply chain. This involves Customs being asked to certify low-risk traders who are known to be compliant, and legitimate traders who have the ability to secure their goods from the time of manufacture, through their export and transport to the country of import. By certifying authorized economic operators, Customs services in both the import and export country are better able to focus their attention on known higher risk or unknown traders that require more scrutiny before and at time of arrival of their goods in the country of import. Since security concerns related to international terrorism are unlikely to dissipate for years to come, Customs will play a vital role in combating this new type of warfare.

5. Facilitator of Legitimate Trade

Customs administrations must continually strive to maintain an appropriate balance between their often perceived to be conflicting or competing objectives of facilitating trade on one hand while enforcing laws to collect revenue and protect society on the other. Given the rapid growth and huge volume of international trade, this is indeed a daunting task¹². The objective must remain to allow the vast majority of legitimate trade to move with minimal customs intervention or intrusion. ICT must play a major supporting role, such that data required for pre-screening and release of goods is sent to the Customs administration sufficiently prior to arrival of the goods. To maintain an appropriate balance, Customs must utilize increasingly sophisticated risk-management techniques to identify that small percentage of suspected high-risk cargo that needs to be scrutinized either prior to loading in the country of export, or at time of arrival in the country of import. Given the limited time available at time of arrival to identify high-risk goods, it is critically important that Customs apply profiling or risk-management techniques on such goods before their actual arrival in the country. For those goods which Customs chooses to inspect, it is important that such verification be performed as quickly and effectively wherever possible utilizing non-intrusive inspection techniques (e.g., X-ray or other devices) to minimize cargo dwell times and related costs.

The recent initiative to include Trade Facilitation on the agenda of the WTO Doha Round has raised significant interest in both governments and the private sector. If the negotiations are successful, WTO member states would be required to make commitments to implement various trade facilitation measures designed to simplify and streamline Customs requirements, procedures, and controls in line with the currently non-binding international Customs conventions, standards, and best practices¹³.

¹² In 2002, goods with a total value of over US\$6.3 trillion crossed international border controls through the Customs controls of both exporting country and the importing country

With the advent of the Internet's cyber-marketplace, trade is now being conducted online around the world. Traders and consumers alike are demanding receipt of their goods in shorter and shorter timeframes, with overnight delivery of not just documents and other low-value goods, but increasingly spare parts, and high-value and time-sensitive products. Express courier services have effectively responded to this exponential growth in demand to move small or low-value package freight quickly and inexpensively. Huge investments by express carriers in aircraft, trucks, and package sorting facilities strategically around the world have required Customs services to adapt quickly to this phenomenal growth in trade to support consumers' demands.

6. Cornerstone for Civil Society and Good Governance

Tackling corruption in Customs has become one of the demands of developed countries and donor institutions when linking aid to good governance. Given Customs' key role in correcting fiscal and trade imbalances, corruption in Customs is seen as a major obstacle to economic growth from trade and investment, and an impediment to sustainable poverty alleviation. Attempts to reform and modernize Customs will inevitably fail or certainly be unsustainable if corruption is not dealt with in a comprehensive manner. Significant effort has been made to study the underlying causes for corruption in Customs and to develop integrity strategies to combat it. Integrity strategies must be an integral part of any program designed to modernize Customs procedures and facilitate trade.

It is clear that if governments around the world are to be successful in protecting their societies while facilitating legitimate trade, closer cooperation is essential among all border agencies. Equally important, there must be close partnerships among those border agencies and the various private sector stakeholders directly involved in the trade transaction. Eliminating non-tariff barriers that involve a myriad of government agencies and private sector stakeholders is neither a simple nor inexpensive task. Experience has shown that of all these parties, Customs is the pivotal agency to bring together all the myriad of divergent interests to tackle these serious challenges. A poorly functioning and corrupt Customs administration can effectively negate the improvements achieved in other trade-related areas. Unfortunately, for many developing and newly industrialized countries, reforms that modernize customs administrations and related import/export formalities remain an uncompleted challenge.

¹³ The WTO trade facilitation agenda has been brought as a result of an increasing commitment by governments to pursue a private sector oriented growth strategy, combined with increased private sector assertiveness and demands for better government services. Successful traders require transparent, predictable, secure and speedy clearance of their goods at time of import and export. Traders are increasingly demanding reductions in trade transaction costs that are only possible through implementation of simplified and internationally recommended harmonized and simplified Customs procedures and requirements. To reduce costs, just-in-time inventory have become the norm in many sectors. Instead of goods being placed in warehouses upon import, the transport container itself is becoming the warehouse, with goods moving directly from the container onto the production line or store shelf.

CHAPTER 3

GUIDING PRINCIPLES FOR SUCCESSFUL REFORM OF CUSTOMS PROCEDURES

Efficient and effective implementation of import/export procedures in least developed and newly industrialized countries requires a concerted effort by all stakeholders involved in the process. Unfortunately, there is neither a single or definitive set of universally accepted simplified import/export procedures, nor is there a single model for reforming Customs administrations. Each country's geography, level of development and infrastructure, legal framework, type and volume of trade, human resource strengths, and weaknesses are unique and therefore anyone contemplating reform in this area would be committing a fatal error by presuming that they have found a 'single solution or formula for all'.

There are, however, tried and tested fundamental principles that must be applied to improve chances of implementing modern and streamlined import/export procedures. The international landscape is littered with unsuccessful Customs reform and trade facilitation programs. The main lesson to be learned from these failures is that unless a comprehensive, holistic approach is taken, which redresses all the various supporting aspects of capacity building and reform, attempts to simply implement new import/export procedures will inevitably fail immediately or be unsustainable in the medium term. This section of the guide discusses in detail each of these key guiding principles (shown in Box 1) for ensuring a successful and sustainable implementation of best Customs procedures.

Box 1: Guiding Principles to Implement Customs Procedures Reforms

It is critically important that capacity-building assistance to reform import/export procedures be structured bearing in mind the following key principles:

1. There must be political will, commitment and ownership for change, as well as cooperation and partnership among all public and private stakeholders.
2. An accurate capacity-building diagnostic needs analysis must be undertaken that recognizes that each specific country's program must be tailor-made.
3. Adequate financial and human resources must be found to implement the program.
4. The supporting legal framework must be modernized.
5. Transparency and predictability is a must to promote voluntary compliance.
6. An appropriate balance must be maintained between facilitation and control objectives with authorities exercising minimum intervention at time of release through the application of risk-management techniques and non-intrusive technologies, and most controls exercised on a post-clearance audit basis.
7. Integrity and other human resource management weaknesses must be redressed.
8. Procedural, document, and data requirements be kept to a minimum, with information and communication technology applied according to recommended international best practices and standards.

1. Political Will, Commitment, Ownership, and Cooperation

1.1 Role of National Governments

The primary responsibility for the success of Customs reform and trade facilitation programs rests with individual national governments. Research conducted by various international organizations has identified the critical importance of high-level political will and commitment to the successful conduct of capacity-building programs to support such reforms¹⁴. Political will and commitment has to be demonstrated by national governments through concrete financial, material, and/or human resource investments. These investments must be a prerequisite or fundamental criterion when deciding whether to support and/or fund capacity-building activities involving Customs reform and trade facilitation. Unless there is agreement that such national support and commitment will be maintained over the longer term, capacity-building efforts are highly unlikely to be sustainable, regardless of the quality of the initial design and implementation of such programs.

It can be easy for politicians and senior government officials to express their wholehearted support and commitment for streamlining import/export procedures and reforming the various border institutions that must administer them.

¹⁴ See World Bank PREM notes series, April 2002, No. 67; Organization of Economic Co-Operation and Development (OECD) Center, Technical Paper No. 175, April 2001.

Unfortunately, experience has shown repeatedly that such endorsements and goodwill are frequently not translated into allocation of appropriate levels of human, material, or financial resources necessary to support implementation of such programs. Indeed, given the high level of political change and volatility in many developing countries, and the inherent vested commercial interests involved with border formalities and collection of revenues, it is very important to obtain bipartisan political support for such capacity-building initiatives to ensure that gains realized and improvements achieved will be resilient to inevitable policy and/or institutional changes. It is critical that the prime responsibility for capacity building in this area rest with national government and that the national government be prepared to match donor funding and technical support with their own human and financial resource commitments.

Another reason Customs reform/trade facilitation capacity-building programs fail is that there has been inadequate participation, commitment, and ownership by the Customs and other border agency personnel directly affected by these reforms. Such personnel need to be informed and personally involved from the earliest stage of any capacity-building initiative, especially in the important diagnostic stage where capacity-building needs are established. Wherever possible, Customs and other border agency staff at all levels need to be provided with an opportunity to participate in the design, implementation, monitoring, and evaluation of capacity-building efforts. Effective promotion and communication strategies need to be devised, and project implementation teams selected from all ranks of Customs and other agencies.

Governments in least-developed and newly industrialized countries rarely place sufficient priority on Customs reform or trade facilitation programs during their consultations and negotiations with international institutions. Consequently, financial lending institutions often do not consider Customs reform or trade facilitation as an important part of structural adjustment programs or as conditions for loans. In most countries, Customs reform and/or trade facilitation measures have not been initiated as separate projects in their own right, but as an element of larger efficiency-enhancing endeavors. Normally, they are undertaken only out of necessity by governments to comply with requirements for the accession to a Customs Union¹⁵, for purpose of expanding regional trade links¹⁶, or to enhance revenue collection¹⁷. Even if trade facilitation is not the primary objective, it should be certainly one of the main positive outcomes of any successful customs reform program.

Unfortunately, all too often national governments are content to allow donors or capacity- building providers to dictate the direction of reform and modernization

¹⁵ For example, Customs reform programs were only initiated by Latvia and Turkey as part of the proposed accession to the EU.

¹⁶ For example, Chile's Customs reform and trade facilitation programs were only initiated when it entered into trade agreements with neighboring countries.

efforts, rather than take a strategic approach to obtaining support. Since Customs in most developing countries is viewed simply as a revenue-collection agency, it is normally the senior policymakers in the ministry of finance that must champion the modernization of their Customs service and its import/export procedures.

1.2 Role of Customs

The national Customs administration is the key or pivotal agency to be brought on-board when considering streamlining import/export procedures. In most developing countries, it is almost always the most difficult agency to convince and obtain commitments from. Customs is responsible for implementing the contradictory objectives of both border control and facilitation of legitimate trade. Without Customs commitment and leadership in implementing institutional and procedural reforms, real progress will be difficult, if not impossible to achieve. Laws in most countries provide Customs with significant authority to establish and enforce most import/export procedures/controls. Because Customs deals on a daily basis with all government agencies and private sector stakeholders, it is ideally positioned to take a strategic approach to setting the scope and direction of reforms and to identify necessary capacity-building needs.

Many of the most important reform initiatives related to Customs can be undertaken within existing human and financial resources, without resorting to significant external funding or technical assistance. The sad fact is that management in many customs services in developing countries often simply does not possess the basic capacity to undertake even the simplest reforms and refuse to make commitment to reforms due to involvement in fraud/corruption. Management in many Customs services frequently fails to reallocate available resources to support productive capacity building or reform initiatives. One of the problems encountered in implementing institutional reform in Customs services is that director generals (DG) of Customs frequently change, with changes in government. Since reform programs require technical knowledge, strong management, continuity and commitment, successive changes in senior management can also seriously undermine progress.

In response to the lack of progress in implementing essential institutional and procedural reforms due to lack of institutional commitment, political interference, vested commercial interests, corruption, and insufficient management capacity, governments in some developing countries are recruiting expatriate Customs experts from developed countries to temporarily head-up their Customs administration (and/or other tax departments) or support their senior management teams by giving such experts operational authority¹⁸.

¹⁸ In various countries, experienced expatriate senior managers from Customs services of developed countries have been recruited to Head of Customs, or in a senior line manager position or to support the Head in an effort to ensure that institutional reforms were implemented e.g. Mauritius, Zambia, Uganda, Lesotho, Mozambique, Fiji, Bermuda.

While such an approach may be necessary under certain circumstances, it is essential that local managers be groomed and trained to take over management of the organization in the medium to long term, i.e., within 3-5 years when institutional reforms should have taken solid root.

In constructing program proposals and plans, Customs consultants, technical specialists and in-country advisors must ensure that there are specific activities designed to promote local participation and ownership. It is extremely important to cultivate such participation and encourage champions to come forward, before implementation activities commence. Wherever possible, local Customs staff should be directly involved in the initial diagnostic study and capacity-building needs analysis.

A communication strategy involving local Customs personnel and senior management needs to be developed and implemented to ensure that all ranks are fully aware and have ownership of all stages of the program, including formulation, design, implementation, and post-implementation evaluation of capacity-building efforts. Ideally, initiatives should be, and seen to be, policy driven by the most senior levels of government, managed by the DG of Customs and his/her senior management team in collaboration with other border agencies, and implemented by local implementation teams in close cooperation with the staff of other border agencies. Taking regional approaches to such programs may offer efficiencies for the provision of technical assistance and may provide a mechanism for participants to exchange approaches and experiences to avoid unnecessary pitfalls¹⁹.

The establishment of a capacity-building unit in customs headquarters is vitally important for managing such reform programs. The unit should have no operational responsibilities and be headed by a dedicated and motivated senior Customs manager that possesses the necessary authority to effectively manage such institutional and procedural reforms. The unit should be staffed with hand-picked officers who possess operational knowledge of particular Customs procedures or regimes. Where necessary, specific officers having specialized knowledge or skills may also be seconded for short-term periods into the unit.

Unfortunately, in many developing countries, Customs officers working in operational areas view being seconded into a capacity-building unit or reform project team not as career-enhancing opportunity, but as a form of punishment. In addition to the heavy workload and responsibility involved, officers can face the potential of victim-

¹⁹ For example, the Secretariats of the Common Market for Eastern and Southern Africa (COMESA) and for the Southern Africa Development Community (SADC) have been promoting regional approaches to training and capacity building for members, with programs initiated for exchanges of officers between Customs services. Unfortunately, the practical results to date have been very limited in scope and slow to materialize.

ization from corrupt elements organized against reforms that if implemented could minimize opportunities for corruption. Officers seconded into such capacity-building unit teams may be no longer eligible for regular overtime and other inducements (e.g. bribes) that exist in operational areas. It is therefore extremely important that those Customs officers seconded to implement reforms be adequately financially compensated through performance-related special allowances, other incentives or career-enhancing opportunities.

1.3 Role of Other Government Ministries

The myriad of other ministries and agencies operating at border crossings must also be brought on-board at the very outset. While the ministry of finance and the national Customs service are the most critical agencies to get on board to champion projects to streamline import/export procedures, it is critically important to recognize that neither of these authorities alone can effectively redress all the bottlenecks and constraints resulting from the actions of other agencies with important roles to play in clearing goods at the border. Other ministries play vitally important roles in the issuance of import permits or certificates. Box 2 includes some of the most common ministries involved in the clearance of imported goods²⁰.

Box 2: Usual Ministries Involved in the Process of Clearing Imported Goods

- **Ministry of Finance:** responsible for revenue mobilization and tax issues
- **Ministry of Commerce and Industry:** can be responsible for issuing import permits, certificates of origin, and others.
- **Ministry of Agriculture and Fisheries:** might be responsible for issuing specific permits related to agricultural products and inspections of specific products.
- **Ministry of Health:** usually responsible for issuing phytosanitary certificates.
- **Ministry of Transport:** can have specific responsibilities in the regulation and issuance of transportation permits and transit of goods through the national territory.
- **National Standards Bureau:** usually responsible for the inspection and laboratory analysis of certain goods (e.g., foodstuffs, pharmaceuticals, live animals, fresh fish, meat products, seeds, plant cuttings, fresh fruits and vegetables).
- **Ministry of Defense or Security Forces:** responsible for keeping weapons out of the country.

It is important to recognize that the delays and bottlenecks caused by other border agency requirements may be an even greater source of administrative costs and cargo delays than Customs formalities. It is frequently too convenient for parties involved in the trade transactions to place the blame for any delay at the border on the national Customs service because Customs is the final authority to decide whether

²⁰ The names of the ministries may vary from one country to another and not every country would involve these ministries in the import clearance process.

to release the goods. The fact is that very frequently delays are caused because the requirements of other government agencies have not been met. Until approval is granted from these other agencies, Customs will not grant release of the goods. Multiple regulatory prerogatives of other border control agencies dealing with agriculture, veterinary, health, phytosanitary and standards requirements frequently lead to duplicative requirements and controls, generating increased compliance costs, risks of error, and delays (see Box 3).

Box 3: Common Sources of Delays/Costs Associated with the Requirements of Other Agencies/Ministries

- Bureaucratic paperwork and delays related to obtaining necessary import/export permits and certificates of compliance or origin either prior to or at time of arrival;
- Policy ambiguity;
- Inordinately high rates of cargo inspection, inspection rates that often eclipse the inspection rate of the Customs service because such agencies fail to utilize risk management techniques;
- Lack of coordination between inspection officers from Customs and other agency officials when they both need to be present for any breaking of the seals on the container before the inspection of goods starts;
- High container/goods handling costs to move containers to inspection areas and for un-stuffing contents to allow other agencies to simply check product labeling/markings and/or remove samples;
- Pilferage and loss when unnecessarily large samples are removed for testing and not returned to the consignment;
- Delays caused by the time required to transport samples to laboratories that may be located long distances from the port;
- Delays/queuing while samples wait for testing at poorly equipped or insufficiently staffed laboratories;
- Lengthy delays in having test results returned from the laboratory to responsible authorities/parties; and,
- High fees charged for laboratory analyses.

All these additional delays and costs can be avoided by implementing the following mechanisms to enhance coordination among the agencies:

- Establishing one-stop-shops (OSS) and single windows to integrate the offices and staff of all border agencies under one roof with a single set of counters for customer service and supported by electronic sharing of information among these agencies;
- Concentrating documentation verification within a single agency;
- Coordinating physical inspections of cargo at one location and time, with all inspectors from the various agencies present;
- Utilizing risk management techniques to ensure that cargo inspections initiated by other border agencies and samples taken for laboratory analysis are minimized;
- Introducing controls to ensure that samples taken by officials are properly quantified and documented, with the requirement for untested/reusable samples to be returned to the consignee;

- Ensuring laboratories are properly equipped/staffed and located in or adjacent to the airport/port to minimize delays in transporting samples for analysis;
- Implementing electronic messaging between Customs and other border agencies to ensure laboratory testing results are returned quickly and non-release ‘holds’ that are placed by other agencies are subsequently removed with minimum delay; and,
- Undertaking periodic reviews of the laws governing import restrictions, licensing, permits, labeling requirements, etc. to ensure they conform to international standards.

Box 4: New Laboratory and Health Standards in Jordan

During the recent implementation of the Aqaba Special Economic Zone in Jordan, serious cargo delays/costs resulted from outdated foodstuff inspection requirements of the Ministries of Health and Agriculture. A project funded by the United States Agency for International Development (USAID) provided assistance to review all regulatory requirements and ensure their conformity with international standards. A new laboratory was also built /equipped at Port of Aqaba and appropriate technical assistance provided by an expert from the U.S. Food and Drug Administration (FDA). This project significantly reduced cargo dwell times associated with other agency inspections and laboratory testing.

1.4 Role of Government Agencies (Security, Control, and Regulatory)

Security/control/regulatory agencies, such as the ministry of transport, airport/port authorities, public or private cargo handling agencies, police, post offices, border patrol or coast guard, and immigration departments, also have an important role to play when streamlining import/export procedures. Following the events of Sept. 11, 2001, numerous initiatives have been undertaken to increase security of the international supply chain. Any of these security agencies or private cargo handling companies can be the cause of bottlenecks, delays and costs when importing or exporting goods (see Table 2).

Many of these delays/costs are hidden from the trader because they may occur before the carrier has notified the importer or owner of the goods that his goods have actually arrived in the country and before the importer/owner can initiate the clearance formalities. It is important that these security agencies’ roles, responsibilities, requirements, and operational efficiencies be seriously considered when streamlining import/export procedures to facilitate trade. Airports and ports throughput and cargo handling efficiency are affected by many variables, especially the port infrastructure to actually unload and move containers, as well as unstuff and remove cargo. Of almost equal importance however is the need for airport/ports to utilize modern information technology and communication systems to allow for more efficient airport/port management (see Box 5).

Table 2: Common Delays Associated with Security, Control, and Regulatory Agencies

The most common delays related to the involvement of these agencies in the Customs clearance process include:

- Inappropriate scheduling of vessels from the anchorage to the quaysides resulting in vessels remaining at anchorage for long periods of time and running up huge costs²¹;
- Inefficiencies at the quayside i.e., average time taken for containers to be off-loaded onto the quayside is often dependent on factors such as port volumes, size of vessels calling; and port infrastructure (including number and type of quays and gantry cranes, channel depths and breakwaters, impact of tides/weather, availability of pilots and tugs; crane operator productivity, availability of trucks/trailers/forklifts to move containers, etc);
- Inefficiencies in removal of the containers from the quayside to marshalling yards or freight stations inside or near the port where the goods may be unstuffed from containers under Customs control;
- Removal of air cargo from the tarmac to air cargo transit sheds where goods can be unstuffed from air containers awaiting clearance formalities due to lack of proper cargo handling equipment and personnel, and/or lack of warehouse space;
- Processing of trucks and rail cars arriving at land borders and moved under Customs control to inland terminals ('dry ports') where cargo can be off-loaded, un-stuffed and cleared. These delays can be caused by inadequate facilities and staff at frontier land-border crossings, as well as bureaucratic, manual, paper-based procedures/requirements, including delays/costs associated with Customs escorting of containers;
- Processing of urgently required postal and express courier consignments arriving at airports and land borders that need to be moved quickly under Customs control to inland postal or express courier centers where packages are unstuffed, sorted, inspected and cleared from Customs control. Although specially designed facilities, reporting requirements and streamlined customs procedures have been agreed at the international level, in most developing countries this rapidly expanding mode of trade is treated as any other commercial cargo, resulting in both delays in clearance in such urgently required parcels, while also overwhelming the mainstream clearance processes used for normal commercial cargo (see section on Express Courier Procedures found later in this Guide);
- Increasing security checks prior to arrival and upon arrival, on conveyances, goods, crews and travelers given heightened risks from terrorists groups, weapons of mass destruction, narcotics and firearms, illegal immigration, etc;
- Inefficiencies of the cargo handling company in moving the container/goods for inspection by Customs and/or another border agency;
- Inefficiencies and fees in arranging for cargo handling personnel and related forklifts equipment required to un-stuff the container to allow a cargo inspection to occur;
- Re-stuffing of inspected containers or loading of loose goods onto trucks for removal from the port after all clearances have been obtained; and,
- Bureaucracy and costs associated with payment of all port and cargo handling fees and receipt of the delivery note authorizing removal of the goods from the airport/port.

1.5 Role of Private Sector Stakeholders

All stakeholders involved with the trade and transport transaction must also be actively involved in the design and implementation of new import/export procedures. As

²¹ Fixed costs associated with a large container vessel waiting at anchorage can range between US\$35,000 to \$70,000 per day.

Box 5: The NAVIS Port Management System

Considered one of the premier port management software packages, NAVIS is used by many of the largest ports in the world. This comprehensive suite of software applications allows port authorities to: schedule the arrival and off-loading of vessels; prepare vessel bay plans (i.e., where each container should be loaded on the vessel given weight, destination and other considerations); monitor the unloading and loading of containers; track the physical location of all containers resting in the port; calculate and account for port charges; produce vital management reports and statistics; etc. Customs and other border agencies can also link to the system to learn the whereabouts of a particular container.

the main beneficiary of streamlined and simplified trade requirements, the private sector’s views and suggestions must be taken into consideration to ensure that reforms produce real and practical benefits and that issues related to implementation activities can be identified and resolved. For most businesses, speed of delivery of goods, predictability and transparency throughout the process, as well as security in the supply chain, are of paramount importance.

The private sector can and should influence politicians and government policy-makers to ensure that necessary resources are directed to Customs reform projects and trade facilitation programs. Industry bodies and trade associations²² can play an important role in generating and sustaining support for such reform projects as shown in Table 3.

Table 3: Private Sector Participation in the Implementation of Customs Procedures Reform

- Stakeholders should actively participate in implementation activities such as:
- Finalizing methodologies for collection and analysis of data for cargo dwell time/release time studies;
 - Providing comments on the current procedures and operational feasibility and impacts from proposed new import/export procedures;
 - Providing data and electronic messages in required standards to Customs and other border authorities to facilitate trade;
 - Augmenting donor funding or providing direct funding support for technical assistance through international or regional associations representing trade and industry;
 - Organizing training and public education campaigns to inform the trade community of changes in procedures;
 - Providing advice through consultation mechanisms on issues such as new or amended legislation, and the location, competence and working hours of Customs offices;
 - Undertaking post-implementation evaluations of reforms; and,
 - Establishing community-based information and telecommunication networks systems to facilitate information and data exchange.

²² For example: Chambers of Commerce; Customs House Brokers Association; Freight Forwarders’ Association; Express Couriers’ Association; Importers’/Exporters’/Manufacturers’ Associations; Shipping Agents’ Association; Truckers’ Association; Airport/Port Operators/Users’ Councils; Bankers’ Association; Export Processing Zone Operators’ Association; Board of Airlines.

Of course, it is important that private sector involvement in such reform efforts not be, or be seen to be, in the narrow interest of certain firms or industry interests, otherwise broad support for reforms may be jeopardized. As an important element of the reform program, the private sector should also adopt ethical business standards by setting them out in industry or sector codes of ethics. This is particularly important in such key sectors as Customs house brokers and clearing agents. Memoranda of understanding can also be signed by Customs Service with its stakeholders²³ and other border agencies to clearly set out each party's roles, responsibilities and liabilities, working relationships regarding information sharing/exchange, etc.

1.6 Cooperation with Foreign Counterparts

It is very important that Customs and other border agencies hold face-to-face discussions with their counterparts at juxtaposed border offices to coordinate hours of service and wherever possible offer joint operation of controls. It can be extremely efficient if Customs and other border agencies consider building joint or shared border facilities on land border crossings where there are no natural barriers, e.g., rivers or other obstacles separating the two countries. Such shared facilities can offer significant efficiencies, especially at remote locations, e.g., sharing of utilities, inspection sheds, X-ray machines, etc. Such joint facilities offer opportunities for agencies to more effectively share intelligence information, exchange of data between information systems, and even perform joint cargo inspections. Such cooperation with other Customs services and other border agencies should be formalized through bilateral mutual administrative assistance agreements to ensure controls are more efficiently and effectively operated. Shared facilities can produce significant efficiencies for not only Customs and other border agencies, but also traders and transporters that need to stop only at one location to complete both the export and import formalities by simply walking between two sets of offices in a 'one-stop-shop' border crossing facility.

Unfortunately, concerns of infringement of national sovereignty, security considerations, disputes over precisely where the borderline is, administrative details regarding how to share the initial capital costs, and ongoing operation and maintenance costs, often hamper the creation of such efficient common border facilities. There are examples of donors having financed the construction of separate border facilities, failing to coordinate with other donors or even considering the possibility of building a single shared facility for the two authorities concerned.

²³ The Chilean Customs have established working groups with private sector stakeholder associations representing different industrial sectors including textiles, shoes and leather, information technologies and others, in order to cooperate, exchange information and conclude memoranda of understanding.

1.7 National Trade Facilitation and Customs Reform Committee

It is important to establish committees to coordinate all trade facilitation and Customs modernization programs. A representative from the various public and private sector stakeholders should be on this committee. The chairperson of this national trade facilitation committee may be elected from any of the member organizations or associations. Sometimes, it may be more advisable, at least initially, to have the national committee chaired by a highly respected and widely experienced senior official from the office of the head of state or other executive agency. Appointing such a chairperson sends a clear signal to all concerned regarding the government's firm commitment and priority to reforming Customs and facilitating trade. It would also ensure that during the process, each agency will be more likely to accept its role and responsibilities to further facilitate trade, ensure that inter-agency cooperation exists, and resolve any inter-agency conflicts or obstacles that are bound to arise.

Various subcommittees and working groups of this national committee can be established to focus on particular modes of transport, or particularly problematic high-volume ports, airports, or border crossings.

2. Capacity-Building Diagnostic Needs Analysis

While Customs services and traders all over the world face similar strategic challenges and perform similar functions, their operating environments, administrative competencies, resource availability and development ambitions vary considerably. One of the most critical steps in implement efficient import/export procedures is undertaking an accurate and comprehensive diagnostic analysis of the existing situation and benchmarking findings against internationally accepted best practices to identify capacity-building needs.

The international community has grown increasingly concerned that many trade-related reform programs have failed because of inaccurate or insufficiently comprehensive needs assessments. Some factors causing this situation include: (i) a lack of quality diagnostic tools that can be used to provide a practical framework for undertaking capacity-building needs analysis for import/export procedures; (ii) a limited pool of highly experienced trade facilitation experts to undertake such assessments; (iii) diagnostic assessment results being driven by the requirements, competencies, and objectives of donors, or the training and technical assistance providers, rather than by the recipient countries or agencies; and, (iv) insufficient attention being paid to mission-critical but non-customs specific issues such as public sector management and administration competencies, strategic planning, management information and the collection of baseline statistics.

GUIDING PRINCIPLES FOR SUCCESSFUL REFORM OF CUSTOMS PROCEDURES

In Customs administration, unlike in many other areas of public administration, a specialized inter-governmental organization, the World Customs Organization (WCO)²⁴, has a range of internationally agreed conventions, instruments and best-practices that provide a blueprint for modern Customs administration. These include the²⁵:

- Revised *Kyoto Convention* on the Simplification and Harmonization of Customs Procedures²⁶;
- *Harmonized System Convention*, which establishes an international commodity- coding system for tariff and statistical purposes;
- *Arusha Declaration* on Integrity in Customs;
- *Capacity Building Diagnostic Framework*, which provides useful check-lists and tools to support customs reform and capacity-building activities in various areas²⁷;
- *Time Release Study*, which provides a methodology to help identify bottlenecks and difficulties for expediting the movement, release, and clearance of goods²⁸; and,
- *Trade Facilitation Checklists*, which help member Customs services evaluate their compliance with the three WTO Articles proposed to be subject to upcoming WTO Doha Round negotiations on trade facilitation.

Following the events of Sept. 11, 2001, policymakers have recognized the important role that their Customs administrations and the trade community must play to strengthen the security of international supply chains. Many of these important debates on supply chain security were undertaken through the auspices of the WCO. The role of the WCO has been further enhanced with the decision to include Trade Facilitation within the negotiating framework of the WTO Doha Development Agenda.

²⁴ The WCO currently has a membership of 164 Customs services collectively responsible for processing 98% of all world trade. Its mission is to enhance the effectiveness and efficiency of Customs administrations and to assist them in contributing to national development goals, particularly in the area of trade facilitation, revenue collection, community protection and supply chain security, thereby contributing to the development of international trade and to the economic and social well-being of a country. To fulfill its mission, the WCO develops and maintains various instruments and recommendations for the standardization and simplification of Customs systems and procedures governing the cross border movement of goods and travelers.

²⁵ See http://www.wcoomd.org/ie/En/Topics_Issues/FacilitationCustomsProcedures/facil_Initiative.htm

²⁶ The Revised Kyoto Convention on the Simplification and Harmonization of Customs Procedures (1999) has yet to come into force because there has been to date an insufficient number of signatories to the original convention that have acceded to the Revised Convention to date to bring it into force. It is expected that with the signing of a few additional countries in the near future, the Convention will come into force before the end of 2005.

²⁷ The Framework recommends that a diagnostic study should at a minimum cover: leadership and strategic planning; organizational and institutional frameworks; legal framework; human, financial and physical resources; information technology; external cooperation and partnership; change management and continuous improvement; good governance; as well as management information and statistics. The Framework also has specific sections on: preparing action plans, project proposals and costing schedules; identification of project objectives, input/activities, outputs, performance indicators, assumptions; development of a logical framework; advice regarding activity sequencing, project management and stakeholder participation; as well as monitoring and evaluation guidelines.

²⁸ The WCO Time Release Study is now supported by a World Bank sponsored software application designed to assist in measuring the average time required for each process/step in the clearance process. See <http://www.gfprrt.org>

Despite these recent developments, the WCO Secretariat remains understaffed²⁹ and insufficiently equipped to provide adequate capacity-building assistance³⁰. There continues to be lack of sufficient coordination and cooperation among the various funding agencies, the private sector, and the WCO Secretariat to bring together the important inputs of financial funding and technical assistance expertise required to effectively and efficiently tackle the problem.

The WCO is establishing a new Capacity Building Directorate to meet these growing demands for undertaking diagnostic needs assessments and providing technical assistance. The WCO Capacity Building Diagnostic Framework is a useful tool for undertaking such assessments. The WCO is planning to offer training seminars to private sector consulting firms on how to effectively use the framework.

3. Financial and Human Resources

3.1 Donor Funding for Customs Procedures Reform

International Organizations and Financial Institutions are increasingly active in formulating and delivering various aspects of financial and technical assistance related to reforming Customs and streamlining import/export procedures. These include the World Bank, International Monetary Fund (IMF), WTO, Organization for Economic Co-operation and Development (OECD), the United Nations Economic Commission for Europe (UN/ECE), the United Nations Conference on Trade and Development (UNCTAD), the United Nations Development Program (UNDP), and inter-governmental organizations such as the Commonwealth Secretariat, and non-governmental organizations such as the World Economic Forum. Indeed, even various private sector institutions, such as the International Chamber of Commerce, International Maritime Organization, International Air Transport Association, International Express Courier Conference, have established industry-specific recommendations and standards, in collaboration with the WCO, in an effort to promote the use of more modern and simplified import/export procedures and related customs requirements.

Regional Organizations and Regional Development Banks, such as the Asia Development Bank and Inter-American Development Bank, have also been providing guidance and funding to assist Customs administrations to undertake capacity-building activities. Frequently, this assistance is provided directly to Customs admin-

²⁹ The WCO Secretariat has a small technical staff of approximately 50 technical officers, supplemented by a limited number of short term attaches seconded from member customs administrations.

³⁰ The WCO is currently assisting in the delivery of technical assistance on Customs valuation with the support of the WTO and USAID in sub-Saharan African countries and is in discussions with the Commonwealth Secretariat to deliver capacity building for Customs in various Commonwealth countries.

istrations through bilateral partners, international organizations or private sector consultants. It is designed to complement other regional initiatives. In collaboration with the WCO, these regional development banks are collaborating with the Asia-Pacific Economic Cooperation (APEC) Sub-Committee on Customs Procedures and currently pursuing closer relations with COMESA, the Association of Southeast Asian Nations (ASEAN) and the Commonwealth Secretariat.

Various bilateral national development assistance agencies are contributing funding and technical assistance for Customs reform and trade facilitation programs. The following bilateral donors are providing assistance to those countries where there are historical or strategic ties: the U.S. Agency for International Development (USAID); UK Department for International Development (DFID); the Japan International Cooperation Agency (JICA); the Agence Française de Développement; and, the national development agencies of Germany, Denmark, Sweden, Korea, Netherlands, Canada, Australia, and New Zealand. Wherever possible, such national agencies are undertaking joint projects with international organizations and international financial lending institutions to ensure that the limited resources available are used effectively and efficiently.

Undertaking Customs reform and trade facilitation programs in developing countries is an extremely difficult and challenging task. Anecdotal evidence from many donor programs suggests that most projects are often under-resourced, relative to the scale of the changes being contemplated. Many successful capacity-building initiatives often specify the involvement of high quality customs and trade facilitation advisors to help local officials implement reforms. Placing skilled advisors in developing countries often represents a significant proportion of the total costs associated with capacity-building projects. As a result, many capacity-building programs deliberately limit the number and duration of such short- and longer-term advisors.

There are numerous examples where Customs administrations have had a succession of medium- to longer-term capacity-building projects frequently funded by different donors, one after the other, each designed to address similar institutional needs. Indeed, one of the perennial problems facing all capacity-building recipients and providers is poor coordination and communication among national, regional, and international donors. This leads to duplication of effort, with little or no attention given to other strategically important areas of Customs administration and trade facilitation programs.

While inter-agency coordination has been a challenge in the past, institutions are increasingly working more closely together through initiatives such as the Integrated Framework for Trade-Related Technical Assistance to Least-Developed

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**Table 4: Checklist of Cost Areas to Be Considered
in a Customs Reform Program**

Cost Area	Activities or Cost Elements	Source of Funding
Consulting Fees for Technical Assistance	<ul style="list-style-type: none"> Initial capacity-building diagnostic needs analysis – 2 short term experts required for 2-3 months Cargo release time study to identify and quantify bottlenecks Customs reform and trade facilitation implementation activities such as³¹: <ul style="list-style-type: none"> Overall project management (long term) Specific short/medium term specialized assistance in areas such as: (i) Customs law and regulatory reform; (ii) Customs procedures and controls; (iii) Customs valuation; (iv) Risk assessment techniques; (v) Audit-based controls; Enforcement and security techniques (non intrusive inspections); (vi) Trade facilitation; (vii) Phytosanitary and other agency requirements; (viii) Design, programming, testing and implementation of information and communication technology (ICT), and; (ix) training and human resource development 	<ul style="list-style-type: none"> Donors Private Sector Stakeholders
Institutional Costs	<ul style="list-style-type: none"> Provision of counterpart project teams Provision of appropriate offices for consultants/experts Establishment of new units such as post-clearance audit teams, risk management, central enquiry points, one-stop-shops, IT units, etc Mobilization of additional human and financial resources if needed³² 	<ul style="list-style-type: none"> National Government
Training Costs ³³	<ul style="list-style-type: none"> Trainers' fees Preparation and printing of lesson plans and materials Preparation and printing of hand-outs and brochures Renting of venues and training aids/equipment Creation of public education program: Web site development and maintenance, printing of SOP manuals, forms and brochures 	<ul style="list-style-type: none"> Donors Private Sector Stakeholders National Government

³¹ The precise number, duration of experts will depends on the specific capacity building needs identified in Diagnostic Needs Analysis.

³² To mobilize additional human and financial resources, countries can either recruit new staff or re-deploy existing staff. The former option generally costs more, although the latter option may also entail training costs, expenses for physically relocating staff and resources devoted to forward planning. Relocation is not uncommon as a general management practice in Customs, so that redeployment linked to newly introduced trade facilitation measures may be just part of the general relocation practice. However, relocations can only happen up to a certain scale, in order to avoid service disruptions.

³³ Training is an essential cost component of Customs reform/trade facilitation programs. Countries may choose between recruiting new, expert staff; training existing staff in a training center; on-the-job training; or importing trained staff through personnel exchange with other ministries/agencies. In addition to training of government officers, training must be provided to the private sector stakeholders. Associations can offer a valuable service by organizing such training programs for its member firms on a cost-recovery basis.

(Continued) Table 4: Checklist of Cost Areas to Be Considered in a Customs Reform Program

Cost Area	Activities or Cost Elements	Source of Funding
Equipment and Infrastructure Costs ³⁴	<ul style="list-style-type: none"> • Buildings and offices: Building new offices or renovating existing ones; building shared facilities, establishing 'one-stop-shops' with other border agencies; building Common Border facilities; constructing Red/Green channel systems at airport arrival halls; installing proper lighting, customer service counters and screens; redressing building security by installing security doors and access passes; installing screens and customer service counters; building and office signage; and setting up open-concept offices • Procurement of non-intrusive inspection devices such as X-ray scanners; drug-sniffer dogs and related kennels, vehicles, supplies • Procurement of furniture, office supplies and IT equipment: new or upgrading existing PC's, monitors, printers, routers, servers, network cabling, electrical services, uninterrupted power supplies, installation of cables and telephone lines; document scanning machines; proper document storage and retrieval systems; telecommunications networks and Global Positioning System (GPS) container tracking devices for controlling transit movements • Procurement of examination tools such as torches, forklifts, gloves, screwdrivers, uniforms, drug testing kits, container seals, customs locks • Developing or procuring operating and application computer systems software to support Customs and trade facilitation applications 	<ul style="list-style-type: none"> • Donors • National Government

Countries³⁵ to ensure assistance is tailored and targeted to best meet each country's development needs. An example of this is the World Bank's Global Facilitation Partnership for Transportation and Trade (GFP), which aims to bring together all interested parties, public and private, national and international, in undertaking specific programs to improve transport and trade facilitation.

³⁴ To mobilize additional human and financial resources, countries can either recruit new staff or re-deploy existing staff. The former option generally costs more, although the latter option may also entail training costs, expenses for physically relocating staff and resources devoted to forward planning. Relocation is not uncommon as a general management practice in Customs, so that redeployment linked to newly introduced trade facilitation measures may be just part of the general relocation practice. However, relocations can only happen up to a certain scale, in order to avoid service disruptions.

³⁵ The World Bank, International Trade Center, UNCTAD, UNDP, WTO and WCO currently participate in this Framework.

3.2 Checklist of Cost Areas to Be Considered in a Customs Reform Program

The following cost areas need to be considered in any Customs reform/trade facilitation program. The quantum of cost depends on each country's unique needs assessment.

The costs of the previous table related to equipment and infrastructure can vary significantly from one project to another. Costs will vary significantly depending on the infrastructure and priorities of the country. With computer systems and software for example, costs can range significantly depending on whether the country is developing a system from scratch or implementing an existing commercially available software solution (see Box 6 for examples of Customs/trade facilitation software/solution providers).

Box 6: Examples of Customs/Trade Facilitation Software Solutions

ACCENTURE Integrated Tax System – www.accenture.com
ASYCUDA WORLD – Geneva – www.asycuda.com
Customs Management System – Mauritius – custompl@bow.intnet.mu
CRIMSONLOGIC TradeNet/PortNet – Singapore – www.crimsonlogic.com
e-biscus – Bull-France – e-biscus-info@bull.net
e-Clearance.dk – Danish Customs/Steria Denmark – es@steria.dk
GAINDE 2000 – Dakar Senegal – www.gainde2000.sn
IBM Secure Trade Lane – www.ibm.com
ICARUS e-Com – Dublin – www.icarus-e.com
LIMENOS/MISRYA– Cairo – www.misryasys.com
MicroClear – Dubai – www.pwclogistics.com
TATIS – Geneva – www.tatis.comTRIPS – Surrey UK – www.crownagents.com

Costs should be split between one-time and long-term ongoing costs. Some costs might be transferable to other agencies or stakeholders e.g., cost of procurement and ongoing maintenance of IT systems and X-ray scanners may be recovered through processing fees³⁶.

Given the scale and scope of the investments required for infrastructure and capacity building required to implement such reforms, the quantum of financial investment required to achieve meaningful and sustainable reform can be significant. It is important that the advantages and disadvantages of each possible source of funding be considered (see Table 5).

³⁶ In some countries, Customs collects a processing fee on each customs declaration to recover the cost of processing the declaration and related X-ray inspection if required. U.S. Customs applies such a processing fee on each customs declaration transmitted for processing. Mauritius Customs has made a provision in its Customs legislation for the collection of a customs processing fee to cover the cost of periodic replacement and upgrading of Customs IT equipment and the ongoing maintenance of X-ray scanners.

Table 5: Benefits and Limitations of Using Different Sources of Funding

Funding Sources	Advantages	Disadvantages
Self Funding	<ul style="list-style-type: none"> • High level of local ownership; • No conditionality applied by external agencies; • High degree of flexibility in utilization of funding; • Limited external monitoring 	<ul style="list-style-type: none"> • Inadequate quantum of support; • Lack of sustainability; • Vulnerable to policy and political changes;
Loans from Donors	<ul style="list-style-type: none"> • Continuity of funding; • External monitoring of performance; • Access to external advice and guidance 	<ul style="list-style-type: none"> • Debt to repay; • Sometimes lengthy negotiation process; • Conditionality applied; • Limited flexibility in utilization of funding
Grants from Donors	<ul style="list-style-type: none"> • No debt incurred • Particularly useful for short term projects for infrastructure acquisition 	<ul style="list-style-type: none"> • Limited flexibility in the utilization of funding • Lack of predictability and sustainability
Private Sector Contributions	<ul style="list-style-type: none"> • Contributes to shared sense of responsibility and potential for partnership approach 	<ul style="list-style-type: none"> • Potential for conflicts of interest; • Lack of predictability and sustainability
User Fees and Charges	<ul style="list-style-type: none"> • Predictable and sustainable funding; • Benefits of improved performance channeled directly to beneficiaries 	<ul style="list-style-type: none"> • Increased cost to traders; • Cost of administration of scheme; • Potential for income to be diverted to national budget.

4. Modern Legal Framework

A comprehensive and modern legal framework is the foundation upon which an effective Customs and trade facilitation regime is built. Any Customs reform program must include a thorough review and modernization of the Customs (and other border agency) laws, regulations, administrative guidelines and standard operating procedures so they fully support the new requirements, procedures, systems, and controls. This legal framework benchmarking should be based on internationally accepted standards and best practices as set out in the Revised Kyoto Convention and allow for the implementation of related international instruments, agreements, and stan-

Table 6: Checklist of Elements That a Modern Customs Legal Framework Should Include

A modern Customs Legal Framework should:

- Establish the responsibilities and authorities of the Customs service to administer and enforce Customs laws, develop administrative regulations, adjudicate and settle cases, and take decisions on Customs administrative matters;
- Promote transparency and predictability, e.g., timely dissemination of information, advance rulings, independent audit, appeals processes;
- Provide for modern Customs systems and procedures, such as risk management, post-clearance audit based controls and adequate automation;
- Include provisions for compliance with international commitments, e.g., WTO agreements;
- Simplify customs procedures such as simplified customs declarations and advance lodgment of declarations;
- Allow for release of goods without all clearance formalities having been completed;
- Have simplified and special procedures for authorized persons;
- Allow a minimum Customs value of the goods or minimum amount of duties/taxes;
- Allow for the use of risk management techniques and audit-based controls for the purposes of Customs control over goods;
- Support the use of modern information technology and communication, including electronic messaging, paperless declarations, and electronic signatures;
- Provide the right of appeal in cases of decisions or omissions by Customs, with initial appeal to Customs, right to a further appeal to an authority independent of Customs, then finally an appeal to a judicial authority or court³⁷;
- Establish appropriate provisions for Customs to issue binding rulings, decisions and reasons for decisions in writing within a specified period;
- Establish an administrative settlement and penalty regime, with penalties proportional to the gravity of the offense, i.e., that Customs should not impose substantial penalties for inadvertent errors or errors without evidence of fraud or gross negligence;
- Encourage cooperation with other Customs administrations and with other border agencies;
- Enable the provision of information to interested parties and authorize the disclosure of confidential or commercially sensitive information in certain cases;
- Provide for the charging of fees for services rendered and information provided;
- Provide for cooperation and formal consultations with the private sector;
- Promote Customs integrity by minimizing discretionary authorities and ensuring requirements are transparent and predictable; and,
- Be accessible to the public and all stakeholders.

dards. The WB's *Customs Modernization Handbook* contains a more insightful and detailed description of how to address legal framework issues³⁸.

³⁷ In Chile any decision by Customs related to the determination for payment of tariffs and duties, as well as actions by which those duties are assessed, is subject to appeal. Claims have to be introduced first to the Regional Customs Director or Administrator and his decisions can be appealed to the Director of the National Customs Service. Both steps are subject to administrative law rules and procedures and decisions have to be rendered no later than 15 days after evidence has been submitted. A final recourse against the decisions of the Director of the National Customs Service is available with the Supreme Court of Justice.

³⁸ See "Customs Modernization Handbook", Luc de Wulf and Jose B. Sokol, The World Bank, 2005.

The Customs framework should consist of such elements as:

- Customs Act/Code—e.g., Customs Code of the European Community, which is closely aligned to the WCO Kyoto Convention;
- Customs tariff—setting out rates of duty/tax to be applied to goods;
- Excise act;
- Customs regulations;
- Laws and regulations administered on behalf of other government agencies e.g., Intellectual Property Rights, Copyright, Trademark, Industrial Expansion and Investment Acts; etc.; and,
- Customs Administrative Orders, Standard Operating Procedure manuals and instructions.

In addition to the necessary laws or regulations that must be in place, the project officer working in the creation or revision of the legal framework should take into account the following elements (see table 6).

5. Transparency and Predictability

Transparency is essential in international trade to allow commercial operators to fully understand the conditions and constraints for entering and operating in a market. Timely and accurate trade related information must be made easily accessible and readily available to all interested persons. Access to such information is essential to ensure predictability in the application and enforcement of these rules, as well as to promote voluntary compliance by traders with them. When such information changes, it should be made available sufficiently in advance of its entry into force of the new requirements so that interested parties can take account of the changes. Examples of trade-related information that must be public include:

- Customs and related laws, regulations, Customs procedures, standard operating practices, and public notices, document requirements³⁹, securities and repayment arrangements, exemptions, specific administrative arrangements including office hours, location and competence;
- Administrative rulings/opinions, as well as appeal decisions and judicial decisions pertaining to the tariff classification, valuation or origin of products for Customs purposes⁴⁰;
- Rates of duty, tax, or other charges⁴¹;

³⁹ For example, many Customs Web sites now allow traders to download samples of such trade documents, customs declarations, commercial invoices, permits/certificates, exemption applications, forms for appealing decisions, etc. to facilitate preparation.

⁴⁰ For example, Mauritius Customs Web site now provides a database containing all nationally issued classification rulings as well as a summary of the WCO compendium of international HS opinions.

⁴¹ It is important to note that any increases in rates of duty/tax or other charges, which impose a new or more burdensome requirement, restriction or prohibition on imports or transfer of payments related to, should not take effect before such measures have been officially published. This principle should apply except in instances where advance notice is precluded e.g. budgetary changes in duty/tax rates.

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- Requirements, restrictions or prohibitions on imports or exports or on the transfer of payments affecting their sale, distribution, transportation, insurance, warehousing, inspection, exhibition, processing, mixing, or other use⁴²;
- Multilateral, bilateral, and regional trade agreements in force, including rules of origin for goods and value-added requirements for goods to qualify for the agreement's preferential rate of duty/tax; and,
- Trade statistics, port volumes, dollar exchange rates, Customs performance standards.

There are many ways to make information publicly available. Such information can be disseminated through: official gazettes, updated tariff book, compendiums, customs bulletins and notices, education seminars, handbooks and exhibitions brochures, information releases, Customs magazines, news services, press releases and public notices, trade shows, enquiry offices, client help desks, and toll-free help lines that can include pre-recorded answers to frequently asked questions. Information should be made available at local, regional, and headquarters customs offices, as well as foreign embassies, consulates, trade missions, government buildings, etc. Wherever possible, information should be made available in electronic format through government Web sites.

Customer service counter-training should be provided to all staff dealing directly with the public or stakeholders. Where necessary, information should be made available in more than one language. Normally, information should be provided free of charge. If charges are applied, they should be limited to recovery of the actual cost of the service provided. Clear guidelines and conditions should be established for all information fees and charges.

To ensure that information is provided efficiently and effectively, it is important that Customs have a unit in its organizational structure dedicated to client information services. Transparency goals, objectives, and priorities should be set out in the department's strategic plan. Performance standards should be set specifying the time limits that all requests for information should be attended to. Staff and client/stakeholder surveys should be undertaken periodically to assess satisfaction.

A unit should also be created in Customs to provide timely written rulings/opinions on tariff classification, valuation, origin, and other Customs purposes to traders. Such written rulings should be provided in advance of cargo arrival. The ruling

⁴² Many Customs services have constructed "Integrated Tariffs" which display for each HS Code the applicable rates of duty for each tariff treatment/tariff preference, along with an indication whether the goods require specific import permit or other certificate. These integrated tariffs are frequently published in hardcopy, posted on the internet or available to on-line users of the Customs computer system.

processes should be binding on Customs so long as the goods arriving match the technical literature provided in advance of the cargo's arrival⁴³. Access to rulings should be well publicized, user friendly, provided within specified time limits, available free of charge, and be applicable across all Customs offices⁴⁴. The WB's *Customs Modernization Handbook* contains many examples of how to deal with transparency.

6. Balance Between Facilitation and Control Objectives

Customs controls should be kept to the minimum necessary to ensure compliance with Customs laws and controls should be carried out selectively, using risk-management techniques. Customs must continually strive to facilitate the processing and clearance of legitimate trade, while ensuring that there is proper enforcement of Customs laws and regulations. The primary method of maintaining this balance is by applying risk-management techniques to help identify and focus its limited resources on those potentially high-risk activities, cargo, conveyances, etc., to limit the level of Customs intervention at time of clearance of goods. By effectively applying risk-management techniques, the vast majority of legitimate trade should be able to proceed across borders with a minimum of Customs intervention.

Risk management involves: (i) intelligence gathering and analysis; (ii) constant re-evaluation of results achieved and new threats emerging; (iii) use of data mining against previous trade transactions; (iv) sharing of intelligence information between national enforcement agencies, other revenue departments, and with other Customs services; (v) applying automated selectivity applications, profiling, and scientific sampling techniques⁴⁵; and (vi) using non-intrusive inspection techniques e.g., X-ray scanners, drug-detection dogs.

Customs administrations in many developing countries face enormous pressures to maximize revenue collections in an operating environment that is characterized by poor levels of voluntary compliance. Customs must often rely on burdensome document checks and physical inspections of cargo to verify declared values, tariff classifica-

⁴³ There should be clear procedures and responsibilities established for the annulment of binding rulings. Where Customs decides to withdraw, revoke or amend a ruling which is detrimental to a trader, Customs should take into consideration that such a decision will place the trader in an unforeseen disadvantage and consequently consider extending the advance ruling provided for a limited, fixed period of time.

⁴⁴ It is extremely important that Customs applies tariffs and rulings consistently at all offices to prevent the traders from "Port Shopping", that is, clearing their goods at a Customs office which provide the most advantageous rate of duty/tax or other preference.

⁴⁵ Information technology allows Customs to process manifest or Customs declaration data against any number of risk filters containing various combinations of selection criteria. For example, high-risk suppliers, importers, exporters, brokers or carriers; particularly high-risk goods; high-risk countries of origin. Selection can be made mandatory or be based on a percentage selection for monitoring purposes. It is critical that the automated system tracks all consignments selected and requires feedback on results achieved to allow Customs to continually monitor the success of the criteria and periodically revise it.

tion, and origin of goods. This approach often results in significant delays in Customs clearance at border crossings and creates an environment that is highly vulnerable to collusion and corruption. At the same time, Customs administrations are facing increasing pressure from the private sector and trade related government agencies to expedite the processing and clearance of goods. This objective can only be achieved by reducing the level of resource-intensive documentary and physical examination.

To counter these constraints, Customs should apply the following operational strategies and methods to improve the effectiveness of risk management techniques:

Pre-Arrival Lodgment and Processing of Data. A highly effective tool that Customs services can employ to improve its risk-management capacity is to encourage the trade community to electronically submit manifests and Customs declaration documents in advance of the actual arrival of the goods in the country, e.g., normally up to 3 days in advance of arrival⁴⁶. Pre-arrival lodgment of documents and data provides Customs staff with additional time to carefully scrutinize them, ideally leading to better selection and enforcement results. Customs law or regulations may need to be amended to allow for such advance processing. It is important to note that although Customs may accept this data, it should not inform the trader whether their goods will be released, with or without inspection, until after the goods have actually arrived in the country.

Separation of Release from Clearance of Goods Functions. *Customs Release* refers to the physical removal of goods at the border from Customs custody. *Customs Clearance* means the completion of all official formalities. Separating these two concepts allows the goods to be released swiftly as possible, even though all customs formalities have not been completed. For example, goods can be released even though not all data or documentation is available, or even if there is a dispute on the tariff classification or valuation of a particular consignment. Once security is posted by the trader to cover any additional duty/tax or other potential charges owed, the goods under dispute should be immediately released. Security posted should be returned, refunded, or discharged in a timely manner after the dispute is settled or other obligations are fulfilled. The idea is to allow goods to be released from Customs controls at the airport/port or border crossing as quickly as possible, and have the goods move to the trader's premises where Customs may exercise other controls if needed, e.g., to undertake cargo inspections or take samples for laboratory analysis when goods are unstuffed from the container, or to undertake detailed checks of documents at the trader's premises.

⁴⁶ The U.S. Customs Container Security Initiative requires specified manifest data regarding inbound cargo to be electronically transmitted by carriers no later than 24 hours prior to departure of a vessel to a U.S. port.

Simplified Procedures for Authorized Economic Operators. Another method to help maintain an appropriate balance between control and facilitation is to implement simplified, special Customs procedures for certain pre-approved or authorized economic operators who have been deemed to be highly compliant and low risk. The specialized procedures may include:

- Release upon presentation of minimum data or simplified documentation requirements at time of arrival;
- Special processing stream with only simplified compliance checks at time of release;
- Cargo inspections conducted at trader's premises rather than at the port;
- Presentation and payment using periodic and consolidated Customs declaration to cover multiple trade transactions over a given period, as opposed to a single customs declaration presented and paid for each consignment; and,
- Self-assessment of duties and taxes by using own commercial records, and lodgment by entry in the corporate records.

Traders normally have to formally apply for these privileges. Customs must verify that the trader has attained a satisfactory level of compliance with Customs laws and regulations and is in fact auditable (i.e., is keeping required books and records in a manner prescribed by Customs; has automated systems that are auditable) before granting the privilege. Once approved, authorized parties must agree to allow Customs to undertake regular periodic audits and surprise audits of their books and records to confirm compliance.

Normally, a memorandum of understanding, or similar agreement, is signed between Customs and the authorized party specifying all responsibilities and obligations. Since such schemes are a privilege and not a right, the privilege may be temporarily or permanently revoked by Customs if a serious offense is detected or if the trader fails to live up to compliance requirements.

Security for Duties and Taxes. If schemes are introduced to defer the payment of duty/tax, it is important that Customs require that financial security be posted to cover such liabilities in the event of a default. Sensible, straightforward, and cost-effective methods for the provision of required security can play an important part in trade facilitation. Customs should offer incentives to highly compliant traders possessing significant assets in the case of a default, to have their goods released without requiring 100% security for the duty/tax liabilities. Customs should consider accepting from authorized traders a single blanket or general security to cover all of a trader's operations in a given period, instead of requiring individual securities for import

transaction. Offering highly compliant traders a financial cost-saving incentive of not having to post 100% security with Customs is an excellent way of both promoting and rewarding trader voluntary compliance.

Audit-based Controls. While checks at the border to compare the actual physical goods with what is declared on the Customs declaration can never be totally eliminated, it is clear that exercising Customs control by undertaking post-clearance audits of traders' records and systems is a much more efficient and effective method of ensuring compliance with laws governing Customs valuation and to a lesser degree tariff classification and origin. By moving away from transaction-based controls that must be applied at time of release, Customs is able to audit the entire trade transaction, checking the Customs declaration against purchase orders, manifests, letters of credit and bank transfers, books of account, sales receipts, technical catalogues, inventories, etc. to verify the accuracy of the customs declaration. In fact, only through such audits can Customs actually verify that the declared customs values are accurate and the duty/tax liabilities have been properly accounted for. Such audits can also be combined with audits conducted by other revenue departments, e.g., value-added tax (VAT) and income tax.

Post-clearance auditing enables Customs to significantly facilitate trade by simplifying the release of goods at the border, while allowing it to exercise greater compliance verification after clearance through periodic audits of the trader's records and systems. Audit techniques however generally entail the availability of specially trained staff that not only are experienced Customs officers, but must also understand accounting systems, IT systems, and auditing techniques.

7. Integrity and other Human Resource Management Weaknesses

7.1 Corruption in Customs

Corruption in Customs is a significant constraint on streamlining import/export procedures to facilitate trade. So long as corruption exists, there will be significant resistance to measures that are not in the interests of those directly involved in or benefiting from corruption. If such reforms are to be successfully implemented and sustainable, anti-corruption or integrity-building activities must be undertaken. The WB's *Customs Modernization Handbook* contains a chapter on integrity to complement this information.

There is no universally agreed definition of corruption in the Customs or trade field. There are three specific behaviors, or combination of behaviors, that are considered corrupt: (i) bribery; (ii) nepotism; and, (iii) misappropriation. Some customs

administrations have further expanded the concept of corruption to include abuse of power, or failing to conform to agreed performance standards of customer service performance. It is important to highlight that corruption can only occur if there is both a ‘giver’ and ‘receiver’. In anti-corruption legislation and criminal codes of most countries, both parties are equally guilty of the offense and liable to sanctions.

Few public agencies as Customs meet all the classic pre-conditions for institutional corruption: administrative monopoly, coupled with the exercise of wide discretion, being exercised in an environment that too frequently lacks proper systems of control and accountability. Many aspects of Customs operations are extremely vulnerable to corruption because legislation authorizes Customs officers significant monopolistic and discretionary power over certain services, especially over the release or inspection of cargo. These and other factors make corruption a very common element in any Customs administration (see Table 7).

Table 7: Common Factors that Contribute to Corruption in Customs

- Large rents available relative to the low remuneration often paid to Customs officers;
- Organizational cultures and behavioral norms that fail to recognize bribes and other inducements as unacceptable behavior given the costs to society;
- Extraordinarily high rates of import duty/tax in many developing countries that encourages Customs frauds; a lack of deference to authority or controls in place to detect and deter corruption;
- Weak senior management;
- High level of contact or interface between customs officers and traders;
- Lack of tools to detect and correct weak systems and controls that allow corruption or malfeasance to occur; and,
- Ineffective disincentives to deter or penalize corrupt behavior.

Because Customs deals with four key issues—revenue collection, community protection, trade facilitation and protection of national security—it is essential that a high level of integrity exist. Corruption can have many negative effects. It can:

- Undermine public trust and confidence in government institutions;
- Increase costs to the trade community and distort economic incentives;
- Reduce revenue collections and the fiscal situation of the country;
- Reduce the level of voluntary compliance with Customs laws and regulations;
- Create unnecessary barriers to international trade and economic growth; and
- Undermine national security and community protection.

In recent years, international attention has focused increasingly on good governance. Endemic corruption in the Customs services in many developing countries is often highlighted as a significant reason for high trade transaction costs, poor revenue collec-

tions, and weak fiscal situations, and also as a huge barrier to foreign investment and economic growth⁴⁷. While there has been a great deal of discussion at the international level, regrettably, the situation remains largely unchanged in many developing countries. Corruption is particularly inherent during the verification of the goods declaration and physical inspection of the goods. However, there are numerous areas where collusion or complicity between Customs officers and traders can occur (see Box 7).

Box 7: Common Areas of Corruption in Customs

Customs valuation fraud – The production and presentation of false commercial invoices to Customs to support reduced Customs values upon which duty/tax is applied is probably the most prevalent and costly type of corruption. It is also one of the most difficult to detect and deter. Customs officers can collude with importers and their agents to accept declared values, thereby reducing their duty/tax liabilities.

Misclassification – Similar to under-valuation, traders and customs officers can collude to accept an incomplete goods description on commercial invoices to allow goods to be assessed a reduced rate of duty/tax.

Origin fraud – Customs officers accept false or fraudulent certificates of origin, conferring a preferential rate of duty/tax to which the goods are in fact not eligible.

Smuggling/excess goods – Customs officers examining goods conspire with traders to either not examine goods, or not examine them completely and fail to report excess or smuggled goods. Often, the goods being smuggled can attract very high rates of duty/tax e.g., cigarettes, liquors, perfumes, or are subject to prohibitions or restrictions e.g., weapons, drugs, counterfeit goods.

Exemption fraud – Granting an exemption of duty/tax for which the goods do not qualify or diverting such goods to other non-approved uses;

Drawback refund fraud – Granting a refund of duty/tax on goods that were not in fact exported.

Transit fraud – Transit goods not completing the transit movement through the country and instead being diverted or substituted inside the Customs territory.

Regulatory Framework. This involves ensuring that legislation is consistent with international agreements, standards, and commitments; simplifying regulations, procedures, and administrative guidelines; eliminating red-tape and cumbersome procedures; minimizing and rationalizing non-tariff regulations, including quotas, import licenses and permits; introducing ‘one-stop-shops’ for import/export formalities involving all border agencies; ensuring formal processes for appeals of discretionary decisions; applying risk-management techniques effectively; and modernizing systems to eliminate any perceived advantages that might be obtained through circumventing official requirements.

Transparency. Customs laws, regulations, and requirements should be easily accessible, applied in a uniform and consistent manner to promote certainty and pre-

⁴⁷ Three major international declarations have resulted: the WCO Arusha Declaration (1993); the Columbus Declaration (1994) and the Lima Declaration (1997). The WCO has also developed a Model Code of Conduct and Integrity Development Guide. Additionally, the OECD, Organization of American States, the EU, the UN, the World Bank and Transparency International have focused their attention on administrative corruption. The WCO has also produced an Integrity Development Guide to assist Customs administrations in implementing a range of practical strategies to combat corruption. See http://www.wcoomd.org/ic/en/Topics_Issues/topics_issues.html

dictability in trade transactions; increase accountability and maintaining open and honest relationships with stakeholders; establish appeal and administrative review decisions; establish client service charters and quality service standards to demonstrate commitments on providing quality service to clients; and establish customer help desks and call centers.

Automation. Information and communications technology removes opportunities for corruption by increasing the level of accountability; provides audit trails for later monitoring and review of administrative decisions; minimizes face-to-face contact between Customs personnel and clients; and, minimizes the use of paper-based controls. Automated systems can be programmed to randomly select from a roster of available Customs officers which declarations must be checked by which officer or which consignments must be inspected by which officer, thereby minimizing opportunities for collusion. It must be noted that automated systems are also vulnerable to attack or manipulation from sources within and external to the organization. Automated systems are only as secure as those who use them and maintain them. Unless audit trails and safeguards exist, internal control mechanism can be turned off or manipulated to hide fraudulent transactions.

Audit and Investigation. Monitoring and control mechanisms must be carried out effectively by internal check programs, internal and external auditors, and by investigations and prosecution units. Customs personnel, clients, and the general public should be encouraged to report corrupt, unethical or illegal activities. Where large-scale investigations are warranted, or in a Customs service or trade community where corruption is considered widespread, recourse to independent anti-corruption agencies is highly recommended⁴⁸.

Code of Ethics. A comprehensive code of ethics should set out in very clear, practical, and unambiguous terms the behavior expected of all Customs personnel, and provide a guide to solving ethical issues for those working in Customs and those who have dealings with Customs officers. Memoranda of understanding between Customs and its stakeholders should include mechanisms by which allegations of corruption or malfeasance can be confidentially communicated to authorities.⁴⁹ Penalties for breaches of the code should be articulated in the code, and calibrated to respond to the seriousness of the violation and supported by appropriate administrative and leg-

⁴⁸ In 2001, Mauritius passed legislation creating the Independent Commission Against Corruption (ICAC). This body, modeled after the highly successful Anti-Corruption agency in Hong Kong, has been given wide-ranging powers to investigate all allegations of corruption in the public and private sectors. It has been working in close partnership with Mauritius Customs to carry out investigations where allegations or evidence of corruption has been uncovered, as well as to undertake corruption prevention campaigns including detailed reviews of high-risk areas including Customs duty/tax exemptions. ICAC has also initiated investigations into various stakeholder groups including Customs brokers, clearing agents and customs clerks.

⁴⁹ The WCO's Model Code of Ethics and Conduct could serve as a blueprint for the Code.

See http://www.wcoomd.org/ie/En/Topics_Issues/topics_issues.html

islative provisions. For serious offenses, penalties should include fines, demotion and dismissal, while less severe offenses should be dealt with through restrictions, transfers, reduction in autonomy, or discretionary power, loss of professional status, negative publicity, as well as peer pressure. Appropriate conditions of employment, remuneration, and administrative and legislative provisions must support the practical implementation of the code and be sufficient to provide a positive incentive.

If a general civil service code exists, care should be taken to ensure that the specific Customs code of ethics is complementary and does not replace the general code⁵⁰. Stakeholder associations (e.g. Customs house brokers) should also be encouraged to develop their own codes of ethics and implement disciplinary procedures to sanction those members found to be involved in fraudulent or corrupt activities. Codes of ethics however will remain as mere wallpaper in offices unless there is: an effective internal/external communication strategy to promote the code; staff consultation and participation in development of the code; periodic review and updating of the code; a requirement that staff understand and endorse the code; introductory training that covers the values of the organization and content of the code; and prompt and effective action taken to redress any breaches of the code.

Human Resource Management Issues. A key element of any effective integrity program is managing the personal integrity of staff. ‘People’ management is just as, or even more important as, the reforming and streamlining the import/export procedures and supporting systems. Special attention should be paid to:

- *Remuneration*—Customs and other government officials must be provided with sufficient salaries and other remuneration and conditions that provide a decent standard of living. Official remuneration can never be at a level that will prevent all corrupt behavior. However, it must be sufficient so officials are not tempted to accept low-paying government positions on the assumption that they must supplement their income through illegal rents. Performance-related incentive schemes may encourage positive behavior. For example, many Customs services offer reward schemes whereby officers receive a percentage of any penalty levied. Staff may also be rewarded for identifying weaknesses in systems where corruption can occur. Non-monetary rewards such as transfer, training, travel, praise, and publicity can also be used to encourage positive behavior.

⁵⁰ If however the civil service code is ineffective or unduly cumbersome to apply, a separate code of ethics and disciplinary procedures may need to be established for the Customs. Indeed, many of the new revenue authorities created have codes of ethics and disciplinary procedures that are totally distinct from civil service codes to tackle corruption in Customs.

- *Recruitment, Selection, and Promotion*—Staff should be recruited, trained, and promoted based on the merit principle and the individual's likelihood of maintaining high levels of integrity, rather than systems based on bias, favoritism, or seniority. Academic, professional, and/or technical competencies should always be viewed as secondary to an individual's honesty, dependability, and high standards of personal behavior. If selection and promotion are to be based on merit, the process must be objective and immune from interference. Recruitment and promotion committees should be composed of independent members selected from different work areas of the organization in order to minimize chances of nepotism and corruption. Analysis of previous employment records, asset declarations and verifications (both initial and periodic), as well as background and police checks on references and qualifications are important.
- *Deployment, Rotation, and Relocation*—It is critically important that Customs staff be regularly rotated or transferred within units and to various units. This is especially important in units where officers may be vulnerable to developing familiar relationships with traders over periods of time. Time spent in particularly vulnerable postings should be kept to an absolute minimum. Decisions on posting of Customs officers should be based on established objective criteria with posting decisions properly recorded. Jobs and responsibilities should be appropriately segregated to ensure that individual officers are unable to exercise discretionary power without reference to other officials. For example, officials should not be able to initiate and certify payments; cargo inspections at importer's premises should be undertaken by a team of at least two officers, with mechanisms in place to selectively re-verify inspections by an independent team of peers.
- *Training and Professional Development*—Education and training, both formal and informal, can play a major role in curbing corruption. Officers must be provided with adequate training and professional development throughout their careers to promote and reinforce the importance of high ethical and professional standards. Reliance on informal, on-the-job training, where bad habits can be passed down should be minimized. When they are undertaken, they should be closely monitored and positively structured.
- *Performance Management Systems*—These systems allow managers to assess the performance of staff, identify developmental opportunities, recognize and reward staff for good work, and contribute to the development of the organization's goals. They can provide incentives for model behavior and they can be used to hold officers responsible and accountable for main-

taining high levels of personal and professional integrity. Performance appraisal systems can be linked to incentive or reward schemes designed to recognize and reward good performance over the long term.

- *Morale and Organizational Culture*—Corruption is more likely to occur in organizations where morale is low, or where staff does not have pride in the reputation of its administration. Corruption is less likely to exist when morale is high, human resource management practices are fair, and there are reasonable opportunities for career development. To attack corruption, one must understand the culture and practices of the administration in order to determine the most appropriate methods to achieve real and sustainable improvement. The extent and timing of changes must be realistic and reflect the capacity of the organization to support and embrace the necessary cultural changes. Changing attitudes and organizational cultures are extremely difficult, particularly where corruption is widespread and endemic. Without such changes however, even if those guilty of corrupt behavior are replaced, corruption will quickly reoccur in their replacements. Pride and loyalty must be instilled in new recruits to break the cycle of corruption.

Relationship with the Private Sector. The existence of many forms of administrative corruption requires the direct and active involvement of private sector partners in the trade community. Stakeholders should be encouraged to accept an appropriate level of responsibility and accountability for corruption. Stakeholders must be directly involved in identifying and implementing practical solutions. Memoranda of understanding between border agencies and stakeholders should set out standards of professional behavior and establish mechanisms (e.g., hotlines for complaints and compliments) for reporting corrupt officers or suspicious incidents requiring investigation. Guarantees of confidentiality and anonymity are important to facilitating such reporting. Stakeholder associations should be encouraged to develop their own codes of ethics, backed up with appropriate self-regulatory sanctions for misconduct or corrupt behavior by their members to redress the other side of the coin.

Autonomous Revenue Authorities. Faced with the inherent difficulties of trying to introduce major human resource reforms within Customs while they are still under the rules and regulations of the civil service, and in an effort to increase revenue collections, reduce the costs of collecting revenue, and minimize political interference in revenue collection, many developing countries have introduced autonomous revenue authorities or agencies⁵¹. Such revenue authorities combine under one organization-

⁵¹ Ghana, Uganda, Zambia, Kenya, South Africa, Tanzania, Rwanda, Ethiopia, Zimbabwe, Lesotho, Malawi, Mauritius, Colombia, Mexico, Peru, Bolivia, and Venezuela

al structure all revenue collecting departments, e.g., Customs, VAT and income tax. In many countries, these autonomous agencies no longer fall under the direct responsibility of the ministry of finance, and instead are managed by a board of directors. While the ministry of finance is represented on the board, the authority operates largely autonomous of the ministry of finance. It has the autonomy to develop its own organizational structure, remuneration, and other terms and conditions of service; the ability to more easily hire and fire staff; introduce more effective disciplinary procedures and performance appraisal regimes; introduce performance related incentives; and apply the merit principle when selecting and promoting staff; etc. Management of the organization can be recruited on fixed term, performance-based contracts. The authority may be given permission to retain a percentage of revenues collected to fund its operations. The authority can also be granted streamlined tendering procedures to speed up the overall procurement process.

In addition to providing an environment whereby human resources weaknesses can be more effectively redressed, such authorities can also produce efficiencies from sharing common services. These common services may be combined to produce efficiencies (e.g., instead of each revenue department having its own personnel, finance and administration, legal, taxpayer services, ICT departments, internal audit; internal affairs, research and planning). It may be possible to combine various enforcement units that will increase enforcement effectiveness across the various revenue departments (e.g., investigations, risk management).

There is extensive literature about the success or failure of the various revenue authorities. Certainly the more successful ones have been those that have benefited from: (i) high level political support that has not wavered; (ii) more, rather than less, autonomy from the ministry of finance, to avoid political interference in day to day operations; (iii) regular reviews of staff remuneration to ensure that staff salaries are competitive with those in the private sector, and (iv) realistic revenue target setting.

Management Contracts to Operate Customs. Another approach to reform Customs has been to contract out the entire management and operation of Customs Department to a private company. The jury is still out on this bold approach to institutional reform. While this is an approach that can bear positive results, the objectives of such reforms must be very well defined and performance based contracts established from the beginning. If the design and monitoring is weak, the reforms can have a very limited impact (see the case of Mozambique, Box 8). Any service provider must be given clear milestones for completing the reforms, and performance benchmarks for transferring responsibility back to national customs authorities.

**Box 8: Management Contracts to Operate Customs.
The Case of Mozambique**

This approach was taken in Mozambique⁵² in 1995 following decades of civil war that had left the country's Customs service largely dysfunctional and unable to collect revenue or facilitate trade. Supported by the UK DFID, the World Bank and IMF, after competitive bidding, Crown Agents were awarded a three year contract to:

- Take over complete management of Customs and place expatriate managers in approximately 60 key management positions;
- Train national Customs staff to take over by the end of the contract;
- Σ Implement new Customs legislation and exchange regulations;
- Implement proprietary Customs IT systems;
- Maintain Customs assets in good order and prepare an asset inventory; and,
- Procure and maintain equipment allocated to the reform project.

Various evaluations have been conducted, taking into consideration revenue gains and improvements in release times. It is clear that the initial contract seriously underestimated the complexity of building capacity and handing over to a new Customs management. After several contract extensions, Crown Agents are still managing the Customs service in Mozambique, though the number of expatriates has been significantly reduced. Corruption still plagues the customs operations as officers continue to adhere to the new procedures/controls set out. The government of Mozambique continues to fully support the project and has very much taken a hands-off approach.

8. Monitoring and Evaluation: Measuring Performance

It is essential to measure the results of any reform program. There are three specific points in time where a measurement of performance indicators should be made throughout the Customs reform project. The first stage is at the diagnosis phase when the assessment of Customs procedures and processes is being made. The second measurement should occur when results can or should be expected (e.g., 6 months) following the implementation of the designed, streamlined process. This measurement is intended to determine whether the changes made have actually resulted in improvements. The third measurement serves an audit function and may occur 12 to 18 months following implementation of the Customs reform process. This audit is intended to ascertain whether there has been any deterioration in performance since the completion of the reform initiative.

During the *Diagnosis Phase*, project teams will need to ensure that performance is measured from the very inception of the initiative to guarantee that performance targets are met. Without accurately recording data, project teams will not be able to determine whether the Customs authority has met its goals. In order to determine

⁵² Angola has undergone a similar contracting-out, with similar results.

whether a reform process has been successful, it is necessary to conduct an evaluation, essentially taking a “before” and “after” snapshot of performance. To do this, the diagnostic phase should include a benchmarking exercise to capture performance indicators prior to the process design.

Intuitively, “faster and more efficient Customs procedures” “more revenue” and “more transparency” seem obvious candidates. But there are no uniformly defined performance indicators. Traders will usually measure the effectiveness of Customs reform in terms of whether the number of “inputs” required has diminished and whether the total time and cost of completing the process has been reduced. Customs and other authorities, on the other hand, will consider revenue-generation, increased economic development, positive client feedback, cost-reduction, efficiency, and more transparency as key performance indicators. The following table includes some of the indicators that should be considered at the design stage and that will help when “measuring” results at the end.

Normally, the reform team should undertake baseline surveys in the design phase to obtain statistics regarding these indicators. These baseline indicators will be then used to compare results after the reform process. Of the indicators included in the previous table, those related to the “Trader’s view” could be linked to the annual trade data included in the *Doing Business* report updated annually. This would make a good monitoring tool that would save the project team additional expenses in creating other tracking tools.

Table 8: Measuring Results Through Performance Indicators	
Customs’ view	Traders’ view
<ul style="list-style-type: none">• Revenues collected• Trade volume• Efficiency of inspections• Number of goods declarations• Customer satisfaction• Staff satisfaction• Number of corruption cases• Percentage of compliance in goods declaration	<ul style="list-style-type: none">• Clearance time (number of days)• Transaction costs• Inspections to consignments/goods• Time spent by traders (importers or brokers) dealing with red tape

The second point in time where measurement of performance indicators is important and when the evaluation process takes shape is shortly after the reform process is completed. This evaluation phase begins with a *post-initiative assessment report*, which examines and documents the initiative’s outcomes, whether the original objectives were met and how effective the management practices were in keeping the project on track. A timely and comprehensive report will identify ongoing issues to monitor as

well as provide some “lessons learned” to assist customs officials in planning and managing future reform processes or simple adjustments. Consideration should be given to using an objective third party to prepare the report.

The preparation of this report should occur within an appropriate period of time following the implementation of the reforms (e.g., six months). Again, in keeping with extending acceptance of the initiative as broadly as possible, stakeholders—inside and outside the Customs authority—should be consulted as to their experience in establishing and using the revised process. Interviews and client surveys are two tools to consider when gauging views on the revised process.

In addition to formal reviews, the project team should observe the implementation of the initiative daily to determine whether any fine-tuning of the process may be required. Managers may notice that minor adjustments are required in the performance of day-to-day operations. If, however, structural issues arise that were not anticipated in the planning stage, then a formal review of the initiative should be conducted at the earliest possible time to address and resolve the issues.

The post-initiative assessment report should focus on two key aspects:

- A “gap analysis” examining the differences between the planned requirements, schedule, and budget, and what actually resulted when it occurred and the degree of deviation from the plan; and
- A “lessons learned” exercise.

A “lessons learned” exercise is the collection and analysis of feedback on events that happened during the initiative. It provides an opportunity for the reform team and stakeholders to discuss things that happened during or because of the initiative: successes, unanticipated or unintended outcomes, and possible alternatives (i.e., how things might have been done differently). A major source of such information should be ultimate beneficiaries of these reforms—entrepreneurs.

The third measurement phase serves an audit function and may occur 12 to 18 months following implementation of the Customs reform process. This audit is intended to ascertain whether there has been any deterioration in performance since the completion of the reform initiative. Obviously the indicators used in the design phase will be compared with what the indicators show 1 or 2 years after the reform was completed. This evaluation should be undertaken every year as a form of keeping track of the impact of reform over time.

Box 9: Preparing a Post-Initiative Assessment Report: A Checklist

- Allow sufficient time to pass for an effective post-initiative assessment report to be prepared (e.g., 6 months after launching the simplified procedures);
- Consider retention of independent evaluator;
- Conduct gap analysis: (i) reviewing original objectives; (ii) documenting current performance indicators; (iii) comparing original objectives to results; and, (iv) comparing original pre-simplification performance to current performance;
- Solicit feedback from internal and external stakeholders;
- Schedule and conduct a “lessons learned” exercise;
- Document positive and negative results from stakeholder feedback and lessons learned in post-initiative assessment report;
- Draft recommendations for possible changes/improvements; and
- Disseminate evaluation results to key stakeholders.

CHAPTER 4

STREAMLINING CUSTOMS PROCEDURES: IMPORTS

It is extremely important that when setting out to reform and modernize Customs procedures, and to implement a broader trade facilitation program involving other border agencies, every effort must be made to:

- Minimize the incidence of Customs interventions;
- Simplify and streamline the complexity of data and document requirements, work and paper-flows, procedures, processes, and controls;
- Ensure that the proposed reforms are in full conformity with international Customs conventions, related recommended best practices and agreed standards; and, only once this has been completed;
- Apply information and telecommunications solutions (ICT) to support these Customs reform and trade facilitation efforts.

The World Customs Organization's *Revised Kyoto Convention on the Simplification and Harmonization of Customs Procedures* sets out the internationally accepted best practices, recommendations and standards governing Customs import/export procedures and controls. Unfortunately, setting out such recommended practices, having the vast majority of Customs services accede to these conventions, and then actually having a Customs administration put such best practices into their operations, are often three different things.

It is important to note that there can be many variations of the above process around the world. For example, some Customs services with electronic filing of goods declarations may require payment of duties/taxes declared at the beginning of the process, as opposed to this occurring only after final assessment and physical inspection.

Box 10: Typical Customs Import Clearance Process

The Customs import clearance process normally consists of various distinct steps:

- 1) Cargo declaration by carrier to Customs
- 2) Temporary storage of arriving goods
- 3) Customs import goods declaration
 - a) Preparation and submission of the goods declaration by importer/broker
 - b) Validation and acceptance of the goods declaration
 - c) Automated risk management/channeling
 - d) Checking the goods declaration and supporting documents
 - e) Assessment of the goods declaration by specialized customs officer (optional)
- 4) Physical inspection of the goods (optional)
- 5) Collection of duties/taxes by Customs (optional, by commercial banks)
- 6) Release of the goods by Customs
- 7) Delivery of the goods to the importer
- 8) Post-clearance auditing of importer by Customs (optional)
- 9) Pre-shipment inspection regimes

tion of the goods. In many developing countries, the services of Pre-shipment Inspection or Surveyor firms are used to support various aspects of the import clearance process.

The following sections describe in detail each of the steps commonly found in the import clearance process with international best practices on how to streamline each of these procedures to achieve an efficient Customs import process. For an overview of the whole import process and the information exchange between stakeholders, please see Annex 3.

1. Cargo Declaration by Carrier to Customs

National Customs legislation should place a regulatory requirement upon all carriers (e.g., trucking companies, airlines, shipping agents, express couriers) to only bring goods into a country using specified or approved routes, then to immediately and fully report to Customs at the nearest designated border office the conveyance arriving in the country and all goods carried in that conveyance. It is critical from both a Customs control and trade facilitation perspective that communication between the carrier and Customs cause the minimum inconvenience, cost, and delay to international carriers.

Depending on geography, available infrastructures, volume, and frequency of transport, goods may enter a Customs territory by different modes of transport (i.e., air, land or sea). Customs must ensure that all goods arriving are properly reported, so that Customs can control both the conveyance carrying the goods, and the goods

themselves e.g. sealing the container until the container is delivered to its final destination. Only if Customs knows what conveyance or goods have arrived, can it make sure that proper controls are applied to such goods for protecting society, collecting revenue, etc.

The carrier's cargo declaration to Customs should:

- Include minimum data or document requirements normally found on the carrier's manifest (i.e., the ship's bill of lading, truck's highway manifest, airline's air waybill);
- Set the maximum time limit either prior to or after arrival of the conveyance for the carrier to report to Customs the cargo's arrival; and,
- Allow the carrier to make the cargo declaration to Customs on a pre-arrival basis, that is, in advance of the conveyance's arrival at the border (i.e., prior to the aircraft, ship or truck arriving in the country of import). In fact, in the aftermath of the Sept. 11, 2001, terrorist attack on the United States, certain Customs services are now requiring all shipping lines to electronically send to Customs the required manifest data no later than 96 hours prior to the vessel's arrival in territorial waters. Shorter pre-arrival reporting timeframes are required for cargo arriving by air and highway. A 24-hour advance reporting rule has also been applied for containers being placed aboard ships destined to the United States (see Box 11 for a summary of various Cargo Security Initiatives).

Customs ICT systems should be able to capture the carrier's manifest data to create an inventory of all goods arriving in an efficient and timely manner, minimizing the costs and delays associated with carriers and their agents having to comply with this legal Customs requirement. If the manifest data cannot be sent electronically, it must be provided manually in the form of a hardcopy manifest to Customs at time of arrival of the conveyance. If the hardcopy manifest is presented, the data must be processed manually by Customs, i.e., officers manually matching and acquitting manifest lines against the declaration, which can be extremely burdensome. If an automated system exists at Customs, the manifest data is manually keyed into the Customs computer by the carrier's agent or by Customs officers. From a trade facilitation and control perspective, it is the ideal for manifest data to be transmitted using electronic data interchange (EDI) messages that conform to internationally agreed standards in terms of content, structure, and format, to the Customs computer in the country of importation prior to arrival of the conveyance.

Table 9: Benefits of Electronic, Pre-Arrival Carrier Reporting

- Allows Customs to use ICT to automatically screen the manifest data against risk criteria (e.g., those high-risk vessels, importers/consignees, goods, conveyance routings) in order to decide whether a conveyance or a particular consignment should be loaded on a vessel or aircraft before inspection, or should be allowed to enter into territorial waters or airspace. Where such a high risk consignment is arriving, it may be met upon arrival and an immediate rummage or inspection undertaken. It is clear that pre-arrival reporting and automated screening of cargo declarations allows Customs services to better detect and intercept contraband (e.g., drugs, weapons, illegal aliens);
- Eliminates the need for Customs or carrier representatives to manually capture the manifest data into the Customs system only after the ship, truck or aircraft has arrived, thereby reducing documentary requirements and related delays which otherwise occur after the goods arrive;
- Facilitates the use of Customs computers to automatically 'write-off or acquit' each item line declared by the carrier on a cargo declaration against each item subsequently declared on the import goods declaration by the importer/agent in order to identify any cargo which has arrived but not been declared to Customs within prescribed timeframes. This permits Customs to more effectively identify any unclaimed or undeclared cargo;
- Facilitates the shipping agent in the country of import to notify electronically and send a hardcopy notice of cargo arrival to the importer or his Customs broker indicating that the consignment will arrive soon or has already arrived. This can reduce the time required for the importer/broker to: start preparation of the required import goods declaration to Customs, obtain any required import permits or other certificates from other authorities, minimize delays associated with the preparation and presentation of the declaration package to Customs, and;
- Should be available, and apply equally without regard to the country of origin of the goods or the country from which they arrived.

The WCO, in partnership with international associations representing carriers for each mode of transport (e.g., International Air Transport Association representing the airlines; International Maritime Organization representing the shipping lines; International Express Courier Conference for the express courier industry), have agreed upon the data requirements for such reporting to Customs, including the format for the carrier reporting electronic message i.e., UN/EDIFACT CUSStoms CARgo Report message. To facilitate trade, where a CUSCAR electronic message is used, Customs should no longer require the hardcopy paper manifest, and Customs administrations should not impose additional data requirements on carriers than what has been already agreed at the international level.

Once the manifest data is in the Customs computer, the system should be capable of automatically matching each manifest item against each item on the Customs goods declaration that is subsequently submitted by the importer or his agent. This system should also automatically compare all manifest data against the Customs declaration data in order to identify discrepancies in quantities, weights, etc., requiring follow-up by Customs and amendment by the carrier. The application will also automatically 'acquit, jerk, write-off' each line of the manifest against each goods item

declared on the Customs declaration, in order to identify any cargo that has been reported as arrived by the carrier but not declared to customs by the importer/broker using a import goods declaration within the prescribed maximum timeframe (normally within 30 days after arrival of the goods). The system should identify all discrepancies as well as any 'unclaimed or undeclared' cargo (i.e. cargo reported arrived but not cleared by Customs) so it can be removed to the Customs warehouse and auctioned under Customs control.

Inefficient carrier reporting procedures can be characterized by:

- Being totally paper-based (i.e., Customs not equipped to accept electronic carrier manifest reporting). Consequently, upon arrival of the conveyance, carriers must print multiple hardcopies of manifests for Customs and other border agencies. This prevents the importer/broker from preparing the Customs goods declaration and can cause serious, needless delays in submitting the goods declaration to Customs and ultimately Customs clearance of the goods;
- No advance electronic cargo declaration reporting. For example, hardcopy manifests only being delivered to Customs days after the arrival of the conveyance. Even if electronic reporting exists, the data, structure, or format requirements of the messages may not conform to international standards, resulting in extra costs for carriers to comply with different reporting requirements of each different Customs service. Customs still requiring hardcopy printouts to be printed and handed over, even though manifest data has been sent electronically, leading to unnecessary costs and delays, as well as possible discrepancies between the electronic messages and the hardcopy manifests;
- Having significant numbers of amendments to manifests by carriers after arrival of the goods due to poor quality data from source. Note: This may be an indication that fraud is occurring (e.g., the importer, in complicity with the carrier's agent may be amending the weights, quantities, goods descriptions so there is no discrepancy between the carrier's report and the Customs declaration from the importer); and,
- No automated risk management capability within the Customs computer for processing carrier reports, undermining Customs ability to pre-select high risk conveyances. Consequently, there can be delays by carriers in providing manifests to Customs; delays in Customs screening them, and ineffectiveness in rummaging conveyances or inspecting cargo immediately upon arrival to detect drugs, etc.

Box 11: Customs Cargo Security Initiatives

In response to the terrorist attacks of 9/11, Customs administrations around the world have been called upon to design and implement measures to effectively detect high risk cargo arriving at seaports, airports, and land borders. Improving security in the supply chain has required that Customs can no longer simply wait for cargo to arrive and be reported to Customs before assessing the risk. Given the risk of weapons of mass destruction, effective risk-management requires Customs to assess the risk before the cargo arrives, and ideally before the cargo is even placed aboard the conveyance destined to the country of import. The key is the receipt of advance cargo information directly from the businesses manufacturing, exporting or transporting the goods. This requires Customs and the trade community to cooperate to ensure that information required for assessing the risk of each trade transaction is accurate and provided to Customs services in the country of export and the country of import as early as possible. Some of the security initiatives currently underway to enhance cargo security include:

WCO Framework of Standards—A task force on Security and Facilitation of the International Supply Chain has developed, in conjunction with other international organizations and international trade and transport organizations, a comprehensive package of guidelines and standards that includes: lists containing the mandatory data elements required to be presented by carriers to Customs; a new multilateral administrative assistance Convention for Customs administrations to facilitate the sharing of information on a bilateral, regional and multi-lateral basis; guidelines for the purchase and operation of container scanning equipment, as well as databanks of modern technological devices. At the 2005 Council Sessions, Director Generals from over 35 Customs services signified their intention to implement the new Cargo Security Framework of Standards⁵³.

International Maritime Organization's ISPS Code—The IMO has amended its International Convention for the Safety of Life at Sea and established an International Ship and Port Facility Security Code (ISPS) in 2002. The ISPS code requires ships on international voyages and port facilities that serve them to conduct security assessments, implement a security plan, appoint security officers, perform training and drills, take appropriate measures against security incidents, improve fencing, install Close Circuit Television (CCTV) systems, etc. Contracting parties to the ISPS code must bring their national legislations into line and report progress to the IMO, with non-compliant ships and ports being decertified or blacklisted if they have not complied with the ISPS Code's requirements by July 2004.

U.S. Cargo Security Initiatives—*Customs-Trade Partnership Against Terrorism* (C-TPAT) is a cooperative initiative with the private sector whereby companies complete a questionnaire regarding their security related assets and procedures, and are subsequently audited to verify that their supply chain security measures are being properly applied. A *Container Security Device* (CSD) initiative is also being implemented to introduce sophisticated, tamper-proof container seals in an effort to enhance container security over goods in transit. A *24 hour Advance Manifest Rule* was also implemented on February 2003 whereby carriers must report specific information to Customs regarding the shipper, consignee and goods 24 hours before the container can be loaded aboard a vessel destined for a US port. A *Container Security Initiative* (CSI) was also launched in early 2002 by which bilateral agreements between the United States and foreign countries can be signed to allow U.S. Customs officers to be posted at the 20 largest high volume ports to pre-screen containers destined for the United States in conjunction with local Customs officials. This can be a reciprocal program whereby countries can post their personnel in U.S. ports as well. It should be noted that the EU is currently implementing a similar program to CSI.

⁵³ For further details on the Framework see: <http://www.wcoomd.org/homepage>

2. Temporary Storage of Arriving Goods

Temporary storage is an especially important facilitation measure because it may take hours or even days after arrival of the goods for the importer/broker to be notified by the carrier. Delays in notification of the arrival of the goods may subsequently delay the importer/broker in preparing and submitting the import goods declaration to Customs to start the clearance formalities.

Goods arriving in the Customs territory should be unloaded as soon as possible and stored temporarily in Customs-approved buildings, Customs warehouses or free zones, pending the completion of Customs formalities. Temporary storage allows the ship, truck, aircraft, or container that has been used to convey the goods to the country to be emptied and released for other commercial activity. Since such temporary storage areas are under Customs control, they must meet physical security requirements and be approved by Customs. Normally, authorized persons operating such temporarily storage facilities are required to post financial security with Customs to cover any losses in duty/tax that may result if goods are lost or stolen. Temporary storage should be allowed for all goods irrespective of quantity, country of origin, or country from which they arrived. Hazardous goods, however, should be only admitted into those temporary stores specifically equipped with special installations to properly handle or store such goods. Customs should not require any special document for putting goods into temporary storage, i.e., only the manifest or any other commercial document submitted by the carrier to report the goods arrival to Customs should be sufficient.

While the goods are in temporary storage, the importer should be allowed access to the goods to check whether they conform to contract conditions. Customs may allow goods entered into temporary storage to undergo certain authorized operations necessary to preserve the goods in their unaltered state, e.g., cleaning, beating, removal of dust, sorting, or repair or change of faulty packaging, or to undergo normal operations necessary to facilitate their removal from the temporary store in order to continue their transport (e.g., sorting, piling, weighing, marking, labeling, consolidation of different consignments). Normally, Customs should not allow repackaging of goods in a manner that may alter the essential character of the goods or conceal their origin.

If the goods are not removed from the temporary store within the prescribed period (normally within 45 days), Customs can either grant an extension, allow the goods to be placed in a customs warehouse or transferred to a free zone, or be exported. If goods are not removed, Customs should be legally authorized to auction or otherwise dispose of the goods.

When assessing the effectiveness of Customs temporary storage facilities, we can determine the need for reform by looking at the weaknesses. Inefficient temporary storage facilities can be characterized by:

- A lack of storage facilities, resulting in the conveyance being held up for days and not being released for other commercial activities;
- Insecure storage facilities, resulting in pilferage and damage claims;
- Customs requiring a separate form to be filled and security posted to enter goods into temporary store resulting in unnecessary administrative costs and delays;
- A lack of equipment or personnel to unload the goods from the conveyance into the temporary store, leading to delays, breakage, and theft;
- Customs not allowing goods to remain in store for a sufficient period of time to allow release formalities to be completed, leading to demurrage charges, and;
- Customs not allowing the trader to have access to his goods in temporary storage, resulting in the importer/broker clearing the goods, possibly having to face a Customs offense if the goods declared are not the same as those arrived, then having the cost and delay associated with submitting amending customs declaration if the goods ultimately received do not match the contract of sale.

3. Customs Import Goods Declaration

Imported and exported goods crossing borders have to be declared to Customs to ensure compliance with national laws. This is done by way of a *self-assessment Customs goods declaration* (also known in many countries as a *Customs entry*). The goods declaration is the importer's or exporter's legal declaration to Customs regarding the goods and includes:

- The parties involved in the transaction (e.g., the supplier, consignee, or importer details);
- Detailed commercial description of goods, including Harmonized System (HS) classification code by which duty/tax rates are determined;
- The Customs value and currency;
- The country of origin; and
- Calculations of total duty/tax to be paid; etc.

While in most countries the owner/importer of the goods may be legally authorized to prepare and submit his own customs declaration (and is ultimately responsible for such declarations), *licensed Customs brokers* (in some countries referred to as clearing agents) may act as a third party agents or declarants on behalf of the

owner/importer of the goods. In many countries, a formal power of attorney agreement must exist authorizing such declarants to act on behalf of the owner/importer in preparing and submitting the customs declaration. This power of attorney sets out the responsibilities and limited liabilities of the declarant.

To reduce transaction costs and cargo dwell times associated with the Customs clearance of goods, every attempt should be made to:

- Minimize reporting and clearance processes by eliminating or combining procedural steps and creating 'one-window' or 'one-stop-shop' customer service centers where all relevant authorities can provide required services to traders⁵⁴;
- Streamline work/paper-flows;
- Remove discretionary decision-making that can lead to deliberate administrative delays for rent-seeking purposes;
- Minimize document requirements (both the Customs declaration and supporting documents) and related data requirements;
- Utilize a single, standardized document format and content for multiple agency reporting purposes and customs regimes to facilitate and simplify preparation and minimize opportunities for errors during transcription⁵⁵;
- Harmonize and standardize border authority requirements and, to the extent possible, ensure these are consistent and compatible with internationally-accepted trade documents and practices;
- Minimize the number of approval authorities' signatures or stamps, and;
- Maximize the use of ICT systems, whereby data requirements can be exchanged electronically using standardized electronic message structures, data elements and codes wherever possible in advance of the cargo arrival.

⁵³ For further details on the Framework see: <http://www.wcoomd.org.homepage>

⁵⁴ For further information on the 'Single Window Concept' refer to the ECE/UNCEFACT publication "Recommendation and Guidelines on Establishing a Single Window to enhance the efficient exchange of information between trade and government (Recommendation 33) February 2005 ECE/TRADE 352 ISBN 92-1-116924-0 and/or see the following web-sites: www.unece.org; <http://unece.org/cefact/>; http://tullverket.se/TargetGroups/General_English/frameset.htm (Swedish Customs); <http://www.itsd.treas.gov> (US); <http://www.tradenet.gov.sg/> (Singapore); <http://ncb.intnet.mu/mof/department/customs/services.htm>

⁵⁵ One of the most successful examples of this is the Single Administrative Document (SAD), which is the documentary basis for Customs declarations in the EU, and in Switzerland, Norway and Iceland. Introduced in 1988, SAD legislation needed to take full account of today's environment and adapt with the evolution that occurred since its inception. Regulation 2286/2003 does just that by introducing a radical modernization of data collection on EU Customs declarations. These legislative changes translate into an overall reduction of data requirements by 26% and by 43% of the elements that Member States can decide to require on a national basis ("optional" elements). These amount to 28% and 45% for export and to 24 and 4 % for release for free circulation respectively. The amount of data non-coded at EU level has dropped by 60% to 75% according to the procedure concerned. See http://europa.eu.int/comm/taxation_customs/customs/procedural_aspects/general/sad/index_en.htm

Through the excellent work of the WCO and its member Customs administrations, the Revised Kyoto Convention on Simplification and Harmonization of Customs Procedures⁵⁶ sets out those best practices and standards applicable for each Customs regime (see also Box 12). With respect to the formalities of the Customs goods declaration, the Kyoto Convention requires both hardcopy and electronic declarations to be aligned with the pertinent international standards, including:

- UN/ECE Layout Key format⁵⁷, which can be conveniently applied to purchase orders, commercial invoices, certificates of origin, import/export Customs declarations, bill of lading, air waybill, etc.;
- International Organization for Standardization (ISO) data elements and codes and UN/ECE recommendations (e.g.; currency codes, country codes, Customs procedure codes, airport and port codes, dates);
- WCO Data Model⁵⁸, which provides a comprehensive framework for standard and harmonized sets of data and standard electronic messages to be submitted by carriers and traders for Customs and other regulatory purposes to accomplish formalities for arrival, departure, transit and clearance of goods in international cross-border trade.

Box 12: Good Customs Practices Regarding Import Goods Declaration

To minimize unnecessary delays and cumbersome practices, Customs should:

- Limit the data element requirements on the goods declaration;
- Reduce the number of copies of the hardcopy Customs declaration (e.g., 3 or 4 maximum);
- Minimize the data requirements and number of copies of required supporting documents (e.g. commercial invoices) for the declaration to only such particulars as are deemed absolutely necessary; and,
- Accept 'paperless' Customs declarations (i.e., electronic goods declarations with electronic signatures, electronic commercial invoices, electronic certificates of origin, and import permits).⁵⁹

3.1 Preparation and Submission of the Customs Goods Declaration by Importer/Broker

When goods are introduced into a Customs territory, the importer must decide what procedure the goods should enter. Goods can be either declared for:

- (i) Clearance into home use or home consumption (i.e., being entered permanently into the Customs territory for sale or consumption on the

⁵⁶ See <http://www.wcoomd.org/ie/En/Conventions/conventions.html>

⁵⁷ See http://www.unece.org/cefact/recommendations/rec_index.htm. For further information on all UN Layout Key Trade Documents, refer to the Economic Commission for Europe/UN Center for Trade Facilitation and Electronic Business (UNCEFACT) publication entitled UN Layout Key for Trade Documents: Guidelines for Application, Informative Annex to Recommendation 1, Geneva 2002, ECE/Trade 270.

⁵⁸ See http://www.wcoomd.org/ie/En/Topics_Issues/topics_issues.html

⁵⁹ This may require amendment of the Customs law and laws governing Rules of Evidence.

- domestic market, however may be re-exported at a later point should the importer decide); or,
- (ii) Another Customs procedure where the goods are not being entered into home use or consumption (e.g. warehousing, temporary admission, inward processing or transit).

Information and telecommunication technology (ICT) has totally transformed the means and methods by which both border agencies and the international trade and transport communities conduct business. In response to the trade and transport communities' interests in exploiting ICT to reduce their trade transaction costs, Customs controls are gradually shifting away from manual checking of hardcopy paper documents, physical inspections of cargos, and cashier offices handling cash payments for duties or taxes. Customs is now relying more on automated verification of electronic data transmitted by carriers and traders. It is also subjecting transmitted data to intelligent checks and comparisons against risk management criteria maintained in Customs databases. The aim is to identify those transactions requiring more scrutiny, or electronic funds transfer.

To allow automation to be applied to Customs formalities, the procedures, workflows, and documentation have to be first standardized and streamlined to the extent possible. It was not until the early 1990's that the EU standardized all member state's Customs declarations into a Single Administrative Document (SAD) in an effort to facilitate inter-EU trade. Following this innovative approach, the WCO further elaborated on this design to create an internationally recognized Single Goods Declaration (SGD). Instead of multiple forms to be used for different Customs regimes e.g. home consumption, warehousing, export, one internationally accepted form, using different internationally agreed Customs Procedures Codes (CPC's) could be codified and used by the international trade community.

ICT has allowed Customs to respond to and facilitate a range of commercial innovations including: express couriers, multi-modal delivery services and global intra-company supply, production and distribution systems fed by just-in-time logistical networks. Carriers and traders now simply send Electronic Data Interchange (EDI) messages instead of handing over standardized hardcopy paper cargo manifests or customs declaration forms. The ultimate aim is to have traders only transmit EDI messages to Customs and other border authorities, instead of handing over paper customs goods declarations and other supporting documents.

Customs administrations in all developed countries have already implemented EDI solutions using standard message formats, with most now using UN/EDIFACT message standards. The introduction of certain types of ICT solutions requires traders

to invest resources in the development of the necessary interface software in their own in-house systems and the payment of additional ongoing costs for network traffic charges. Some small and medium trading partners have been reluctant to adopt EDI because of the perceived complexity and potentially high set-up costs. Various other electronic commerce technology solutions are now appearing using electronic forms through the Internet, which could offer cost-effective solutions.⁶⁰

Most Customs services in the developed world are now exchanging EDI messages as a matter of course, with many Customs services countries claiming that over 95% of their import/export declarations are now being electronically transmitted. But the situation in the developing world is drastically different. A large number of developing countries still require hardcopy Customs declarations to be presented to Customs with data manually keyed by Customs officers, and only rudimentary processing being performed. There is a very serious and growing ICT divide between the developed and developing world, which unless corrected, will continue to lead to increasingly uncompetitive trade transaction costs as well as risks related to fraud and security.

ICT solutions can bring significant benefits to Customs and the trade community in terms of:

- *More effective Customs controls*—By using automated risk assessment and selectivity criteria, any combination of coded data declared on Customs declarations can be used as selectivity criteria by Customs or other border agencies, including high-risk suppliers, importers, declarants, carriers, goods, country of origin, unit prices to check the reasonableness of declared values, etc. ICT allows Customs to focus better on the minority of high-risk consignments requiring data scrutiny and physical inspection while allowing the vast majority of consignments of compliant traders to move without any Customs intervention.
- *More efficient Customs clearance*—By more efficiently preparing, submitting and processing Customs declarations, both Customs and trading partners achieve increased productivity, better use of resources, a reduction of costs through expedited release of goods, more accurate information, and better enforcement capabilities. EDI enables pre-arrival processing of manifest and Customs declaration data whereby Customs has more time to pre-select which consignments it wants to check upon their arrival and thereby allowing the vast majority of consignments to

⁶⁰ For example, UNCTAD UNEDOC program, is planning to pilot test electronic commercial invoices with Mauritius Customs whereby foreign suppliers will be able to create and send electronic commercial invoices to their customers in Mauritius and copy Mauritius Customs to allow 'paperless' Customs declarations envisaged for the new Cargo Fast Track Initiative.

be cleared immediately upon arrival.⁶¹ See also Annex 1 for information about Express Courier Procedures and quick release of low risk consignments.

- *Uniform application of Customs law*—Computer systems' automated edits and verification of data declared against tables and databases, application of a multiplicity of tariff preferences, and precise calculation of duty/tax, ensure all trade transactions are processed in a consistent and equitable manner in line with national laws. This increases predictability and consistency in trade transactions, which are critically important ingredients in business planning and reducing costs.
- *More efficient revenue collection*—Automation allows for efficient and timely collection and accounting for Customs revenues that are so vital to the national economies of many developing countries. Automation allows outstanding or bad debts to be more easily identified and dealt with, and reporting to central authorities performed with little or no manual intervention. Electronic funds transfer systems allows traders to pay duties/taxes electronically thereby reducing transaction costs, speeding clearance formalities, and providing greater certainty, transparency, and audit trails.
- *More efficient trade data analysis*—Automation checks and identifies errors and suspected inaccuracies in data, allowing immediate correction and thereby improve the quality of trade data. Since Customs declarations are the primary source for trade statistics, ICT allows government agencies to extract and quickly analyze trends in trade and revenue collections.

Once notified of the cargo's arrival by a carrier, the importer/broker must prepare the **Customs goods declaration**. This declaration normally consists of the signed legal Customs declaration, with various supporting documents also attached, e.g., commercial invoice; packing list; manifest; permits, licenses, and certificates required by other authorities, such as phytosanitary certificates and import licenses; and certificates of origin in order to obtain a preference or reduced rate of duty/tax. Some of these certificates may have been sent from the exporter to the importer (e.g. the certificate of origin issued by the Customs service or chamber of commerce in the coun-

⁶¹ Pre-arrival processing is used extensively in the express courier industry whereby Customs officers stationed on a full cost-recovery basis at the major courier hubs in the U.S., Canada, and Europe receive advance data on all arriving packages before the arrival of the aircraft carrying the parcels. This data is automatically processed against selection criteria, with messages sent back to the courier company's computer system identifying each parcel that must be examined upon arrival. As bar-codes on parcels are read for tracking purposes upon arrival in the country of import, those parcels requiring Customs inspection are identified, rolled-off conveyor belts and taken to special Customs examination areas where X-ray scanning, drug-detector dogs, and physical inspection may occur. Those parcels that have not been identified for inspection may be immediately delivered. Without ICT, and a close collaborative working relationship with Customs, express couriers would not be able to meet the public's demand and expectation for delivery of the vast majority of consignments within 24 hours of their arrival in the country.

try of export; proof of fumigation or other agricultural certificates issued by the authorities in the exporting country). Other certificates or import licenses may have had to be applied for and approved by various competent authorities in the country of import (e.g., import licenses issued by the designated competent authority in the country of import for certain restricted goods such as foodstuffs, pharmaceuticals).

It is important to note that the application for and approval/issuance of licenses, permits, and certificates from various competent authorities can be extremely time consuming and bureaucratic. It is also important to note that the issuance of a permit may not be sufficient for release of the goods, and that the goods may also have to be inspected, samples taken, and possibly laboratory analysis undertaken, before the competent authority may inform Customs that the goods may be released. Serious delays can occur at time of release if required permits and certificates have not been obtained prior to arrival of the goods.

Table 10: Information that Customs Must Provide to Brokers/Importers to Speed Up the Clearance Process

It is extremely important that Customs provide importers/brokers timely, complete and up-to-date access to all the information necessary to comply with all Customs and other border agency requirements to prepare the goods declaration and meet all the documentary requirements to obtain clearance of goods. This includes access to:

- Customs law and regulations;
- Laws and regulations of other border agencies e.g. permits, certificates;
- Customs tariff (i.e. a book stating for each HS tariff code, the applicable rate of duty/tax for each tariff treatment and regime);
- Tariff classification opinions in existence;
- Information on Customs valuation and origin of goods;
- Instructions on how to complete the goods declaration;
- Requirements for supporting documents;
- Hours of operation of Customs offices; and,
- Applicable charges and fees.

Information provided either over the Customs department's Web site, automated system, or in hardcopy brochures and instructions is critical for promoting voluntary compliance by traders and reducing clearance time. In many countries, Customs offers, importers/brokers have access to an *Integrated Tariff Reference Database*. This reference provides for each HS code, the applicable rate of duty/tax for each tariff treatment, along with complete listings of all permit or certificate requirements. This database effectively 'integrates' all the Customs and other border agency requirements into one complete and concise reference.

Electronic Customs Goods Declaration. In the most efficient systems, importers/brokers are able to complete their goods declaration using a computer in their own office and linked to the Customs computer via a dedicated network or through the Internet. Through this connection, importers/brokers are able to prepare and then transmit the goods declaration to Customs even before the goods arrive in the country. In some

developing countries, where such networks do not exist, importers/brokers may be offered access to data entry rooms/terminals provided in or near the Customs office to allow importers/brokers to input their data directly into the Customs computer system (as opposed to Customs having to accept the hardcopy declarations and key the data themselves).

As the data is entered into the Customs computer, the system normally performs basic edits and verification checks on the data declared, so that simple errors can be corrected immediately. Once the entire declaration is sent to Customs, a complete validation of the data can be undertaken and messages returned to the sender. The Customs system checks the declared data's accuracy against various control files, e.g., that the HS classification code declared actually exists; the importer/taxpayer identification number is valid and matches the name; and the currency and country codes are valid. If an error is detected, a warning or error message will be sent back to the importer/broker requiring a correction. This error can be printed out and attached to the hardcopy declaration that is returned to the importer for correction, or it can be sent back electronically to the importer. If a response is sent electronically, it is internationally recommended that a CUSOMS RESponse message (i.e. UN/EDIFACT CUSRES) be used for this purpose.

Paper-based Customs Goods Declaration. In inefficient manual Customs clearance systems, the Customs goods declaration data must be typed onto multiple copies of forms, with the hardcopy goods declaration manually submitted to Customs where it must then be keyed by clerical personnel into the Customs system. Such manual, paper-based systems can lead to needless clerical and keying errors that delay the processing of the declaration. In many developing countries, serious inefficiencies and delays are caused due to poor quality of Customs declarations being presented. This can be due to many factors, including:

- Declaration form cannot be processed by a computer and does not conform to international standards, i.e., is not in the UN Layout Key such as the Single Administrative Document, or Single Goods Declaration; does not use WCO and UNECE data elements and codes;
- Too many copies of the declaration are required to be submitted to Customs (should be a maximum of 4 copies);
- There are no clear and consistent documentary requirements regarding the other supporting documents that have to accompany the declaration; and,
- Requirements for multiple signatures and stamps by different Customs officers and other competent authorities.

The lack of training and professionalism by the Customs broker/clearing agent can frequently be a source of serious clearance delays in the preparation of the Customs goods declaration. Lack of knowledge regarding the clearance process, its document requirements, where and how to obtain necessary certificates, insufficient technical knowledge on how to determine the classification of goods, can all contribute to unnecessary errors and significant delays in preparing an error-free goods declaration for Customs and having it accepted as correct. It is critical that any Customs reform/ modernization and trade facilitation develop a strategy to improve the professionalism and conduct of the customs brokers and clearing agents. This can be addressed through professional training and licensing programs (possibly even requiring retraining and relicensing of existing brokers/agents), and the application of sanctions, temporary suspension or permanent revocation of licenses when brokers/agents are deemed to be unprofessional, non-performing, or involved in a customs fraud or other corrupt practice.

3.2 Validation and Acceptance of the Goods Declaration

Only when the goods declaration data is acceptable to the Customs computer will the customs system send a message to the importer/broker requesting submission of the signed hardcopy declaration. In those countries where payment is required at the beginning of the process, the system may require that the importer/broker pay the duty/tax as calculated automatically by the system before submitting the signed hardcopy declaration and supporting documents to Customs.

In EDI systems, the goods declaration data is transmitted, processed, and accepted before the hardcopy goods declaration can be printed out in the importer's/broker's office, and submitted along with the supporting documents to a Customs reception desk⁶². At the reception desk, Customs officers should normally be allowed to undertake a very cursory check of the completeness of the declaration package and send a receipt to the importer/agent as acceptance of the goods declaration package. Once the signed hardcopy declaration is presented at the reception desk, the physical movement of the goods declaration through the document checking and physical inspection of cargo should be undertaken under Customs control, i.e., documents should not be returned to or moved by the importer/broker/agent through the remainder of the process. Having Customs control the movement of the declaration through the document checking and any cargo inspection is critically important because it prevents the possible substitution of documents or collusion with Customs

⁶² In the vast majority of EDI systems operating around the world, a signed hardcopy declaration and hardcopy supporting documents (i.e., commercial invoice, manifest, packing list, certificates/permits required by other government agencies) are still required. Few Customs services are currently accepting 'paperless' Customs declarations, though many pilot tests are being conducted on a limited scale with authorized economic operators (i.e., importers that have undergone compliance audits and been certified as being compliant and auditable).

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officers. Once the declaration is given a very cursory check by the Customs officer, a receipt is given to the importer/broker from accepting the hardcopy declaration. This receipt will have a declaration number printed on it, a date and time, and perhaps a tracking number.

ITC avoids declarations being somehow assigned to a specific Customs officer of the importer's/broker's choosing, many automated customs systems will assign the declaration to a Customs officer. If the declaration is also to be physically inspected, it is important that the computer system also randomly assign the Customs officer to be responsible for conducting the physical inspection. It is important that the Customs officer checking the goods declaration not also undertake the physical inspection of the cargo, if that is required. Random assignment of the declaration to a Customs officer is an excellent method of minimizing opportunities for collusion/corruption.

To further minimize opportunities for corruption/collusion between importers/brokers and Customs officers, it is critically important that 'face-to-face' contact be kept to an absolute minimum. Customer service counters and soundproof screens should be installed behind reception desks to block contact. Since contact may be required where a query is raised, consideration should be given to installing CCTV video and audio recording devices in interview rooms at Customs. Mobile telephone jamming devices can also be installed inside Customs offices to prevent importers/brokers from contacting Customs officers checking the goods declaration, thereby circumventing the physical barriers installed to minimize direct interface.

A facility should be given to importers/brokers to allow them to track/monitor the status of their goods declaration in the clearance process. This can be accomplished by placing monitors in strategically located public areas of the Customs office. These monitors can indicate the status of each goods declaration number and/or whether there has been any query raised by Customs. Status messages can also be automatically sent to the importer/broker's computer system. See Box 13 for example of status monitors utilized by Jordanian Customs offices in Jordan.

Box 13: Declaration Status Monitors Used by Customs in Jordan

Jordanian Customs have been utilizing the ASYCUDA computer system for a number of years. Monitors linked to the system have been installed in public areas of their main Customs houses where goods declarations are processed to inform waiting importers/brokers the status of their declarations through the clearance process. The monitors are similar to those found in airport terminals. They have a rolling display indicating for each declaration number its status, i.e., the channel (Red, Yellow or Green), whether a query has been raised and who to contact, etc. Traders can follow the progression of their declaration through the clearance process without interfacing with Customs officers and react in a timely manner if and when a query is raised.

monitors are similar to those found in airport terminals. They have a rolling display indicating for each declaration number its status, i.e., the channel (Red, Yellow or Green), whether a query has been raised and who to contact, etc. Traders can follow the progression of their declaration through the clearance process without interfacing with Customs officers and react in a timely manner if and when a query is raised.

3.3 Automated Risk Management/Channeling

Only after the declaration has been processed and found acceptable (and the signed hardcopy is presented to Customs reception) will the Customs computer system undertake risk management processing, i.e., automatically processing the declaration data against pre-determined risk criteria or profiles for the purpose of identifying to Customs any consignment that needs either a detailed document review and/or physical examination of the goods. The risk criteria loaded into the risk management application within the Customs computer must be carefully monitored and regularly updated. Selection criteria can be related to any single or combination of data elements found on the goods declarations, e.g., a specific 'blacklisted' high risk importer, declarant, HS commodity classification code, country of origin, value threshold, etc. Consignments can also be selected by the system on a purely random selection basis⁶³.

Customs should establish and publish for the trade community Customs declaration processing time targets for each channel, e.g., maximum 1 hour for Green; 4 hours for Yellow; 8 hours for Red. These targets should be adhered to unless documents are not in order and additional information is requested by Customs. The physical inspection may take longer given the fact that containers requiring physical inspection may need to be moved to an inspection area, its cargo unstuffed and restuffed in the container.

Physical inspections of the cargo can be a major cause of delays in the import process. That is why risk management systems are so important and can considerably reduce delays and speed up the process. According to the *Doing Business in 2006* report, 70% of the cargo containers in Africa and South Asia, and 60% in the Middle East are opened for inspection before clearing customs. In Burkina Faso, Malawi, Mali, Pakistan, and Sri Lanka, every container is opened and inspected before clearing customs. High-income countries, however, undertake considerably fewer inspections than developing countries, since only 5% of consignments are inspected (see Figure 2).⁶⁴

⁶³ For more information, see "Customs Modernizations Handbook", The World Bank, 2005.

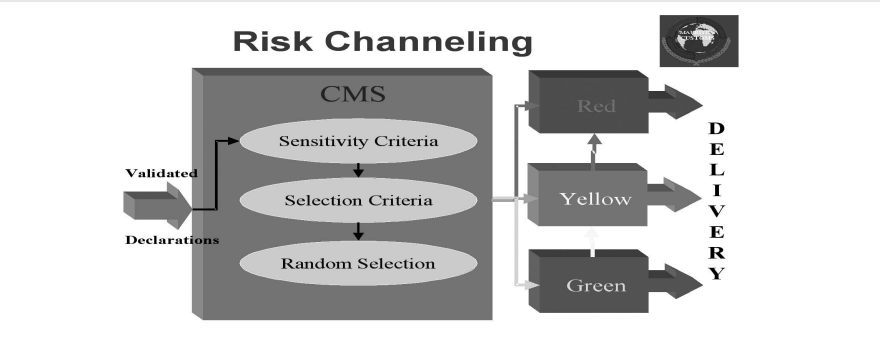
⁶⁴ See *Doing Business in 2006*

Box 14: Color-Coded Channeling and Risk Channeling Flows

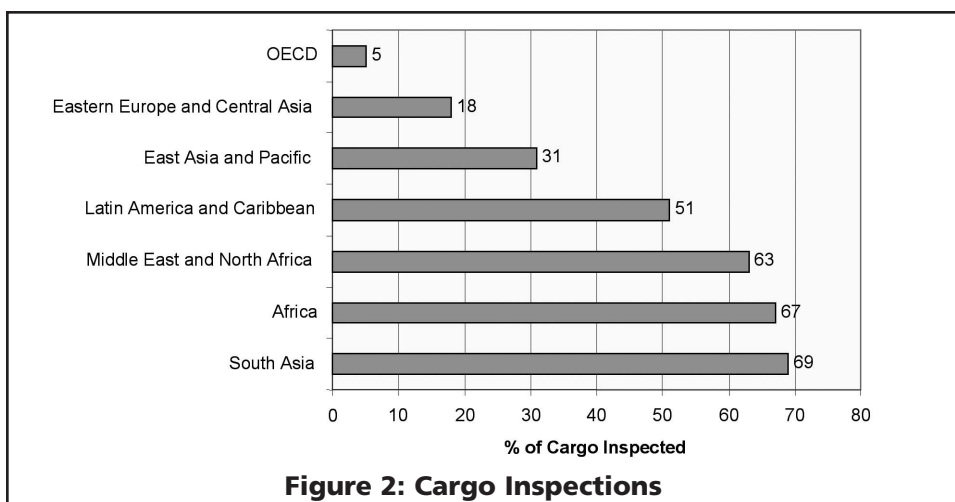
It is highly recommended that Customs institute color-coded channeling⁶⁵ to identify how a particular consignment has been selected. Color-coded channeling works the following way:

- *Green Channel* means no selection criteria have been hit and the goods can be immediately released without Customs intervention. It should ideally be the default channel. It should be noted that Customs may decide not to perform cursory checking of the completeness of such Green channeled declarations by the system before the importer/broker is actually informed that the declaration is being released without detailed document verification or physical inspection. If such a check is undertaken, it must be undertaken very quickly to ensure that Green Channel declarations are released quickly, within the performance standards set. If through the cursory check it is noticed that something requires further scrutiny, the Customs officer has the discretion to change the channel from Green to Yellow (or even Red, with concurrence of his supervisor).
- *Yellow Channel* means that the declaration requires detailed document verification. The officer would carefully scrutinize the entire declaration package, especially if the goods require a specific permit, certificate, or inspection by another border agency such as agriculture or health. Once this document verification has been completed and requirements have been met, the declaration may be turned to Green Channel with customs release granted. Alternatively, the Customs officer, upon reviewing the documentation, may determine that something suspicious exists, and decide (normally with concurrence of his supervisor) to change the declaration to Red Channel.
- *Red Channel* means that the goods must be subjected to both detailed document verification, followed by a mandatory physical inspection. Declarations assigned Red Channel should not be changed arbitrarily by a Customs officer to either Yellow or Green before the document verification and physical inspection are completed. The goods must be both examined and the examination findings results recorded into the computer system, before the declaration can be channeled Green (i.e., customs release approved).

Customs should establish and publish for the trade community Customs declaration processing time targets for each channel, e.g., maximum 1 hour for Green; 4 hours for Yellow; 8 hours for Red. These targets should be adhered to unless documents are not in order and additional information is requested by Customs. The physical inspection may take longer given the fact that containers requiring physical inspection may need to be moved to an inspection area, its cargo unstuffed and restuffed in the container.



⁶⁵ It is important to note that in addition to the normal Green, Yellow and Red Channels, other processing channels may also exist e.g. Blue channel may be used to denote declarations of specially authorized importers which are subject to post-clearance audits and therefore are not subjected to any document verification before release and only subject to random cargo inspection at time of release, with any consignments selected for inspection being inspected at the importer's premises. A White channel can also be used to process declarations that have only met the selection criteria of other border agencies e.g. Health or Agriculture permit and/or inspection requirements and therefore do not require Customs documentation verification or physical inspection by Customs.



Source: *Doing Business in 2006*

3.4 Checking the Goods Declaration and Supporting Documents by Customs

Customs officers working on the clearance of Customs goods declarations (especially Yellow and Red Channeled declarations) should ensure that:

- All required supporting documents have been presented;
- The description of the goods is clear, accurate, and matches that on the commercial invoice and manifest;
- The quantities, weights, and volumes are consistent;
- Any additions or discounts related to the value of the goods have been properly included;
- Freight has been properly declared;
- The proper tariff classification of the goods has been correctly indicated and proper rate of duty/tax applied;
- The proper origin of the goods, and an authentic certificate of origin, has been attached if there is a claim for a concessionary rate of duty/tax;
- Goods are eligible for any exemption claimed;
- A reasonable customs value has been declared, including all related cost, e.g., royalties, commissions, additions, etc.;
- The proper currency has been declared and the proper exchange rate applied;
- Any import licenses, permits, or certificates required from other authorities for clearance are present;
- Any other discrepancies between the various documents are identified; and,
- Any suspicions exist that necessitate an inspection of the goods.

When checking the goods declaration documents, the officer must decide whether to query the importer/declarant for additional information. This is normally done through the computer system, requesting the importer/declarant to present additional information or documents to support the declaration, make a correction to the declaration, etc. The officer may also decide to send the declaration to a specialized unit to check the classification, Customs values, or origin. The officer may also decide that a physical inspection of the cargo is required. If an inspection is required, the officer should record in the Customs system the specific reason for inspecting the goods and the specific information that should be gathered by the Customs officer assigned responsibility for inspecting the goods. For example, the officer checking the documentation may request: digital photographs be taken; a sample be taken and sent to the officer; the goods to be checked for marking, origin or Intellectual Property Rights infringements (i.e., counterfeit); specific information to assist in verifying how the goods should be either classified or valued. It is strongly recommended that the officer checking the declaration not be the officer inspecting the goods, since this may leave too much discretion in the hands of a single officer, leading to fraud and corruption.

3.5 Assessment of the Goods Declaration by Specialist Customs Officers (Optional)⁶⁶

In many Customs departments, a specialized assessment unit is created when a potential problem is discovered with the value, tariff classification, or origin declared on the goods declaration. Such an assessment unit is normally located outside the normal clearance processing flow to ensure that declarations with problems or requiring detailed scrutiny, receive the specialized attention they deserve and do not hold up the clearance processing of other traders' declarations.

In these units, specially trained officers can invest the extra time and effort required to ensure that the goods are properly classified, a reasonable customs value declared, the goods are eligible for an exemption of duty/tax, and that the origin of the goods is confirmed before granting a preferential rate of duty/tax.

Alternatively, many developing countries have been forced, often with pressure from international donor/lending institutions, to contract out these primary Customs functions (checking the reasonableness of the declared values, the correctness of the tariff classification, properly inspecting the quality and quantity of the goods, etc) to private surveying companies, commonly known as Pre-Shipment Inspection firms⁶⁷. For more details about Pre-Shipment Inspection (PSI) procedures, see Annex 2.

⁶⁶ The World Bank's "Customs Modernization Handbook" offers a very insightful and complete view of valuation systems, rules of origin and tariff classification.

⁶⁷ Such as SGS; BIVAC, Intertek, Cotecna, BSI-Inspectorate, OMIC.

Assessment of Customs Valuation

The WTO Agreement on Customs Valuation (ACV) establishes that the Customs value of imported goods should, to the greatest extent possible, be the transaction value, i.e., the price actually paid or payable for the goods subject to certain adjustments. If the transaction value cannot be used because there is no transaction value or the price has been influenced by certain conditions or restrictions, the ACV provides for five alternative methods to be applied in descending order: (i) transaction value of identical goods; (ii) transaction value of similar goods; (iii) deductive method; (iv) computed value method; and, (v) fallback method. It is the importer's responsibility to declare the import value on the goods declaration in accordance with the ACV. Ideally, Customs should establish Advance Valuation Rulings for traders.

Customs officers checking goods declarations before release are normally required to check the 'reasonableness' of the declared value. Such checks of reasonableness should however be limited and selective so as not to cause undue delays in the release of goods. Where Customs has suspicions regarding the declared value, after referring to any valuation reference database (see Box 15) for like or similar goods from the same country of export, the officer may ask the importer/broker to provide additional documents to support the declared value, e.g., letters of credit; bank transfers, catalogues and price lists.

Box 15: Customs Valuation Reference Databases

Given the significant problems in checking the reasonableness of the Customs values declared for specific goods, many Customs services have developed valuation reference price databases containing unit prices for problem commodities. These reference prices should be quickly accessible by Customs officers using commodity keywords or HS codes, organized by the country of export. The databases normally will provide detailed information such as model number, size, make or model, along the unit prices. For example, if the Customs officer was suspicious about the declared unit price of US\$500 for a 36-inch SONY Plasma TV imported from Singapore, the officer could check the reference prices for like or similar consignments of such TVs from Singapore and decide whether to query the importer/broker for more information to support the declared value, e.g., request the importer/broker to provide copies of the purchase order, letters of credit/bank transfers, price lists and catalogues, contracts of sale, etc. to support the declared value. The unit prices in the database must be regularly updated by a research team in Customs responsible for examining invoices presented, gathering catalogues and price lists, searching the Internet for prices, attending trade shows, soliciting values from competitor firms, etc.

If the importer is not able to provide the additional information requested quickly, and if responding to such a query is going to unduly delay the release of the importer's goods, Customs should offer the importer '*terms of release*', whereby the consignment in question can be released so long as the importer posts a security equivalent to the additional duty/tax payable based on the Customs reassessment of what a 'reasonable value' is or pays the additional duty/tax owing under protest. If

Customs offers terms of release, the importer should be given at least 30 days to present the additional information to Customs to justify the reasonableness of the original value declared. If after 30 days the importer fails to provide information, or the information provided is not considered to be satisfactory, Customs should retain the security or keep the duty/tax collected under protest. If the importer, however, is able to provide the requested information and it is accepted by Customs, then the security posted is returned or the duty/tax collected under protest is refunded.

It is important to note that the most effective way for Customs to verify the accuracy of customs values declared is not at time of release of the goods, but through periodic post-clearance audits of importers' books and records. This requires Customs to establish a post-clearance audit unit, comprised of officers who are experienced and knowledgeable regarding the ACV and have received specialized training in auditing techniques. It also requires that the trade community is legally required to keep proper books and record keeping systems so they are in fact auditable by Customs.

While the ACV works reasonably well in developed countries where all the prerequisites to administer the ACV exist, Customs services in many developing countries have experienced serious difficulties in effectively operating the ACV due to:

- *National Customs legislations not amended* to effectively incorporate the ACV provisions. The ACV itself and interpretative notes need to be incorporated in the Customs law and regulations, along with articles for exchange of rate conversions, rights of appeal, release of goods before final determination, treatment of transport, and insurance costs, etc.;
- *Lack of ownership and poorly internalized process* by Customs services in developing countries. Many developing countries view the ACV as something that was imposed on them by the WTO and developed countries without understanding the realities and constraints faced in developing countries, i.e., a large informal sector that has never been required to keep books and records; having no fixed business address or frequent changes in address; inventive use of scanning equipment to falsify invoices; difficulties experienced in the public sector in recruiting and retaining professional auditors to check importers' books and records due to skill shortages and limited remuneration by government;
- *Serious concerns about loss of revenue* given the importance of Customs duties/taxes to the state's fiscal situation. High tariff rates in many developing countries create huge incentives for traders to under-invoice. The high prevalence of false invoices being presented by unscrupulous traders, combined with a recognition that Customs services in many developing countries are ill-equipped to effectively check the reason-

ableness of values before release, raises serious concerns for policymakers in applying the transaction value;

- *Ill-managed Customs computer systems* and the lack of systems to create and maintain valuation reference price data bases to assist officers in checking the reasonableness of declared values;
- *Corruption* between Customs officers and traders. Customs officers accepting bribes to simply agree on a declared transaction value, with often no check and balance system in place to monitor the decision; and,
- *Failure to consistently apply severe penalties* for presentation of false invoices or for valuation fraud.

Accuracy of Tariff Classification

In addition to valuation checks, Customs normally has specialized officers to check the accuracy of the Harmonized System (HS) commodity classification code of the goods. The WCO HS classification system is used by almost all countries at least to the six digit level. The WCO issues HS opinions on goods in dispute, referred to them by a Customs service. Customs services can also issue national rulings on how specific goods should be classified. Every Customs service should have a tariff unit where importers/brokers are encouraged to obtain pre-arrival classification rulings (binding) or opinions (non-binding) on their imports.

By presenting technical information regarding the good to be imported, Customs should issue to the requesting importer a written ruling or opinion, which can then be used by the importer when the goods declaration is prepared. This tariff unit ruling or opinion service can be provided either free of charge or subject to a fee to traders. Many countries offer this service over their Web site. Obtaining a written HS classification ruling/opinion can eliminate any surprises in classification (i.e. any unexpected increase in duty/tax payable) and minimize the chances of delays in releasing the goods while Customs disputes the classification declared⁶⁸.

Rulings/opinions issued should ideally be made public, for reference by other importers/brokers when preparing their goods declaration. The WCO offers for sale a Compendium of Classification Opinion on CD-ROM, which is updated annually. Many Customs services are now also offering on their Web site or over their computer systems a database containing national HS rulings. Unfortunately, even where such services are provided, many importers fail to obtain such pre-arrival rulings or opinions from Customs, resulting in unnecessary disputes and delays at time of clearance.

⁶⁸ It should be noted that some Customs services may only issue an opinion/non-binding ruling prior to arrival of the goods. Others will issue a binding ruling with the caveat that it is based on the technical information presented by the importer/broker and if the goods turn out to be different in some respect than the documentation presented upon which the ruling was issued, then Customs is not bound to abide by the ruling issued.

If there is a dispute between Customs and the trader regarding how goods declared should be classified and consequently the rate of duty/tax to be applied, Customs should offer the importer/broker ‘terms of release’ (as described earlier in the case of valuation disputes to allow the goods to be released against security posted by the importer/declarant until such time as the dispute can be settled. If the Customs service and trader cannot agree on the classification, an appeal process should be in place to allow a decision to be taken, e.g., an appeals committee within Customs, followed by an appeal to a tribunal outside Customs, and finally to the court system. The Customs administration may also seek a formal written opinion of the WCO by sending the technical literature related to the good, a sample if required, etc. with the WCO normally able to respond to such opinion requests from a Customs within 6-8 weeks.

Authentication of Certificate of Origin

Specialized Customs officers may carefully scrutinize those goods declarations where the importer/broker has claimed a preferential rate of duty/tax because the goods originate from a particular country of origin or regional trade block. Specifically, Customs may wish to check that the supporting certificate of origin is authentic, that is, that the certificate has been issued by the competent authority in the country of origin of the goods, e.g., Customs Department, Ministry of Trade/Commerce or Chamber of Commerce. Customs may check that the signature found on the certificate matches specimen signatures of authorized persons sent to Customs by the competent authority in the country of supply.

If Customs has suspicions regarding the authenticity of the certificate or the goods do not meet the origin criteria specified in the trade agreement (e.g., 30% value-added requirement in the country of origin), Customs may contact the competent authority issuing the certificate for assistance in verifying that the goods qualify. If this follow-up is likely to take days or weeks, as in the case with classification or valuation disputes, customs again should offer the importer ‘terms of release’ whereby the importer/declarant agrees to pay the additional duty/tax assessed by Customs under protest or posts security based on duty/tax liabilities as if the goods do not qualify for the concession. If it is subsequently determined that the goods do qualify for the preference conferred by the origin of the goods, the duty/tax paid under protest or the security posted would be refunded/returned to the importer.

Exemptions

When an importer has claimed a full or partial exemption of duty/tax, the goods declaration should include an exemption authorization number, and supporting documentation, e.g., an approval letter from the competent authority in the country of

import issuing the exemption. In many countries, there can be a myriad of other ministries or authorities allowed to legally grant duty/tax exemptions.

It is Customs' responsibility to ensure that the exemption claimed is properly authorized and authentic and to also monitor that the goods exempted are in fact delivered for the intended purpose. Ideally, all exemptions granted should be sent to Customs directly by the authorizing agency (as opposed to exemption approvals only being given to the importer/broker), and these approvals stored in an exemption database inside the Customs computer. This database would allow Customs officers to verify whether a trader and his consignment have in fact been approved for a duty/tax exemption. To speed up the application and approval process for exemptions, and minimize opportunities for fraud, importers/brokers should be allowed to apply online to the appropriate granting authority for an exemption. The exemption-granting authority would then determine whether the exemption is to be granted, then electronically send the approval directly to Customs. At time of processing the declaration, Customs officers can check to see if the exemption has been approved. Such databases can also be extremely useful to Customs and the governments as a whole in monitoring the exemptions being granted, the revenue foregone.

It is very important that exemption granting authorities have clear, and to the extent possible, non-discretionary criteria for granting duty/tax exemptions, and that the ministry of finance closely monitor all exemptions granted to ensure that the costs of the exemption (i.e., the revenue foregone) do not exceed the intended benefits (i.e., economic development or investment incentive). Conducting rigorous end use audits for goods imported under exemption or concession regimes is critical to the legislation on duty/tax exemptions. Unfortunately, this is frequently not the case in many developing countries with huge amounts of revenue foregone through discretionary exemptions granted by a myriad of agencies or officials without proper criteria or checks and balances in place to ensure that discretion is minimized. Indeed, in at least one country in Africa, a former Minister of Finance and DG of Customs are currently serving prison terms related to discretionary exemptions.

4. Physical Inspection of Goods by Customs Officer (Optional)

When a physical inspection of the cargo is required, it is important that the inspection be undertaken as quickly as possible to avoid clearance delays. Ideally the inspection should occur within one working day of the goods being selected for inspection. However when the inspection occurs outside of Customs control (since it is the

importer/declarant that normally must arrange for the goods to be brought forward for inspection) there can be many reasons for a delay in the inspection being undertaken.

In the case of containerized cargo, this will normally involve the importer/broker having to arrange with the cargo handling company for the container to be moved to the designated Customs inspection area.⁶⁹ Costs associated to shift, unstuff, and if necessary, reload goods from the container to permit Customs and other border agency to undertake an inspection is the financial responsibility of the importer. It is normally the importer/broker's responsibility to schedule the inspection of the goods with Customs and to coordinate where necessary with any other border agency that must be present for the inspection. In most countries, a Customs officer is required to be present when the seal on the container is broken, and it is a Customs offense to open the doors without a Customs officer present. Where more than one agency is involved in an inspection, it is important that there is coordination between such agencies so as to avoid duplicative inspections. Unfortunately, in many countries there is no mechanism for ensuring coordination between the various government inspectors, leading to unnecessary delays.

In some countries, the absence of any system to schedule cargo inspections causes unnecessary queuing and delays, with all traders demanding their inspection being undertaken during peak working hours. To avoid queues and delays with cargo inspection, it is highly recommended that the Customs automated system be enhanced to allow the trader to schedule any physical inspection with Customs and other border agencies needing to be present for the examination. Such an *inspection scheduling facility* reduces queuing, allows Customs to better spread out its workload over the entire workday, and reduces undue pressure being applied to officers. It is very important that Customs hours of operation coincide with those of the cargo handling company and other border agencies. Again, unfortunately in many developing countries this is not the case, with hours of operation of the various agencies not harmonized to maximize service to the trader.

Many Customs administrations have already, or are currently, investing in sophisticated container scanning systems allowing officers to peer deep inside a closed container or truck to determine whether and if so which contents need to be removed and examined closely. X-ray or gamma ray container scanners are a powerful, non-intrusive tools that can facilitate trade (i.e., reducing the necessity to unstuff and inspect cargo), while allowing Customs to more effectively detect and inspect only

⁶⁹ In some countries, Customs may also inform the cargo handling company of the need to move specific containers for inspection and when the movement is required.

those suspicious items hidden inside a consignment. It is very important that Customs and the cargo handling company develop procedures and traffic movement flows to ensure that scanning machines do not become a bottleneck to container movement to and from the port (since most container scanners can only effectively scan a maximum of 15-20 containers per hour).⁷⁰ It is also very important that digital images of the scanned cargo are interpreted by more than one officer and that these images are stored and digitally linked to the goods declaration document. This allows close monitoring of the officers operating the scanner, which if not carefully managed, can be used to extort money from traders to have images misinterpreted or containers simply not scanned by Customs.

Given the high volume of import, export, and transshipment containers in most country's ports, there is insufficient time and it is not cost effective to move all containers through the scanner. Intelligence and profiling techniques are key to selecting which containers to scan and consignments to inspect. Automated risk management applications applied to the import/export goods declaration data, supplemented by enforcement intelligence databases can be used effectively to allow Customs officers to decide whether a particular importer, exporter, or supplier has had any Customs offenses in the past, whether there are any look-outs or intelligence reports about the parties involved with the trade transaction, and whether there are any unusual modus operandi for concealing contraband that the inspection officer should be aware of (see Box 16 for more information on intelligence databases).

When Customs officers physically inspect a consignment, it is very important to closely monitor and supervise the officer to minimize opportunities for collusion/corruption with the importer/broker at this critical juncture of the clearance process. It is the internationally recommended best practice that the presence of the importer/broker is not required when Customs undertakes a cargo inspection, and that the importer/broker should not be present unless the importer/broker specifically requests to be present and Customs agrees to this request. That being said, in most developing countries, the importer/broker is normally present during the inspection of the cargo, with traders reluctant to allow Customs officers to open boxes without their presence for fear of theft or entrapment and Customs officers stating that they want the trader there to accept responsibility if an offense is detected.

Unfortunately, the inspection of cargo is a source of serious corruption in many developing countries, with Customs officers and traders colluding so Customs does not report offenses, e.g., excess goods, smuggled goods, contraband, or the Customs

⁷⁰ A note of caution here is necessary as many Customs administrations using scanners are returning to 100% inspection levels. This has to be avoided at all cost and a stronger regime for selective inspection (regardless of the type of inspection conducted) would prevent this from happening.

officer simply being paid to expedite the inspection or jump the queue so the trader can receive his goods quicker and avoid delays and demurrage charges. For these reasons, it is important that Customs inspections be undertaken in a specifically designated area of the airport or port that can be under close monitoring by management. It is also highly recommended that the computer randomly selects which Customs officer(s) to undertake the inspection. It is also ideal if two Customs officers are assigned to undertake the inspection, though human resource constraints frequently prevent this from occurring. Lastly, it is important that there be some mechanism whereby an independent unit of Customs officers can randomly re-inspect containers that have already been inspected by as a quality verification measure and deterrent against corrupt behavior.

The examining officer should be required to clearly and fully document the inspection findings on the goods declaration and in the automated Customs computer system before Customs release of the consignment is allowed. This ensures that the Customs officer can be held accountable for the inspection results should Customs management decide to subsequently re-inspect the goods as a counter-verification quality assurance measure. The installation of CCTV cameras in areas where inspections are being undertaken is a recommended control initiative, since such measures can deter and detect acts of pilferage and collusion. If samples of the goods are removed by Customs, it is important that the sample size be kept to the absolute minimum, that a receipt for all samples taken be given to the importer/broker, and that all samples be returned to the importer/agent. Unless this is done, samples taken by Customs (and other border agencies) may become a form of legitimized theft. With the advent of inexpensive digital cameras, such technology should be used to record images of the goods inspected, as opposed to samples of the goods being taken.

Where Customs detects that an offense has been committed (e.g., smuggled goods, goods wrongly described, misclassified or under-valued), it is important that a transparent and fair system for dealing with such offenses be put in place. Less serious offenses should be dealt with through a system of administrative fines. In many countries, the DG of Customs is often granted discretionary authority to 'compound cases', i.e., to apply progressive administrative fines or penalties that are less than the penalties set out in the Customs law which are applied by the courts if an offender is found guilty of a Customs offense. If such a system of compounding exists, there should be clear guidelines given to the DG of Customs setting out the progressive penalties, thereby minimizing discretion in the application of these fines or penalties.

When the importer/broker disagrees that an offense has been committed or with the amount of penalty or fine to be applied, there should be a way to allow the importer/broker to pay the fine or post security under protest to obtain release of his

goods while the dispute is being appealed. The first avenue of appeal should be to Customs itself, and thereafter to an independent administrative appeals tribunal outside Customs and finally to the court system. In some countries, specialized revenue courts have been established, presided by specially trained magistrates knowledgeable in Customs and tax law, to hear revenue cases. Such courts can significantly reduce the backlog and time required to hear customs/tax cases.

Box 16: Enforcement Intelligence Databases

This database can contain intelligence information and lookouts; past enforcement records; modus operandi from previous Customs offenses; prohibited goods seizures e.g., drugs, weapons, etc. for use by Customs officers when checking goods declarations or inspecting cargo. Such intelligence information can greatly assist customs officers in detecting suspicious transactions or high-risk goods, while allowing the vast majority of consignments to be released with a minimum of intervention. Customs needs to work closely with stakeholders, other border agencies and Customs services in other countries to build trust and confidence. Memoranda of understanding with stakeholders and mutual administrative assistance agreements with other Customs services provide an excellent platform for the exchange of vital intelligence to more effectively combat customs offenses.

5. Collection of Duties/Taxes

Automated Customs systems normally calculate the duty/tax payable on each declaration, reconcile the total payable on the declaration against the actual amount collected, account for revenue collected or refunded, provide a mechanism to control the deferment of duty payments for a specified period⁷¹, and produce fast and accurate revenue accounts. Some Customs administrations may also charge user or processing fees⁷² (i.e., a fee charged on each Customs goods declaration to offset the processing costs; maintenance and replacement of computer equipment; and/or cost of container scanning).

Customs cashiers must be able to accept cash, checks, bank drafts, and credit cards from importers/brokers and accept payment on a real-time basis using electronic funds transfer systems. Such EFT systems must link the Customs computer system to the systems of commercial banks, Society for Worldwide Interbank Financial Telecommunication (SWIFT) to allow traders to transfer funds from their bank accounts to a Customs account, with electronic messages sent to all parties confirming the transfer details.⁷³ International standard EDI messages exist for the transmission of payment information.

⁷¹ Deferred payment regimes require the setting up of controls and financial securities to cover the duty/tax deferred. The automated system can monitor that the security posted is always sufficient to cover the amount of revenue being deferred.

⁷² For example, U.S. Customs charges a processing fee on each goods declaration transmitted by Customs brokers for clearance processing.

⁷³ It should be noted that some EFT systems are insufficiently utilized because of mistrust by importers to authorize their broker to have access to their account and be able to transfer funds on their behalf. This problem can be tackled by setting up systems that allow importers to transfer funds into a broker's account, where it can in turn be transferred to Customs account for electronic payment of the Customs declaration.

Depending on the country, the payment of the duty/tax can occur either at the beginning (i.e., before the signed hardcopy declaration is presented to Customs at the reception) or at the very end of the process (i.e., after the declaration has been checked, reassessed, examined and approved for release—pending payment). In some countries, Customs prefers for the payment to be at the very beginning of the clearance process, as a way of formally committing the importer/broker to the declaration presented. In an EDI environment, many countries prefer that the importer pay any duty/tax calculated by the system at the time of lodging the hardcopy goods declaration to Customs. The payment up-front, based on the declaration transmitted/accepted by Customs, is a financial commitment by the trader regarding the accuracy of the data transmitted. Should the document verification or cargo inspection establish that additional duty/tax is payable, the declaration must then be amended by the importer/broker and any additional duty/tax paid.

Alternatively, in other countries, the payment of final Customs assessed duty/tax is only required after all document verification and cargo inspection is completed. This can be an efficient approach where the level of compliance by traders, and the percentage of amendments necessary, is small. However, such a system can support corrupt practices as the importer may be able to negotiate reductions in his liabilities during the process, then only pay what has been finally negotiated at the very end of the clearance process.

What is important is that duty/tax assessed is paid prior to Customs release being authorized. That being said, some Customs services may offer periodic payment privileges to approved importers. In such periodic entry or deferred payment regimes, the importer is granted release of his goods upon presentation of some form of a simplified declaration or other commercial documents, with the full, consolidated goods declaration presented within a specific number of days after release covering all importations during a particular period. Such a periodic declaration and payment regimes are normally limited to certain high-volume importers of low-risk goods, where there may be little revenue involved, e.g., ores, chemicals, or other manufacturing inputs. Frequently, such importers approved for periodic entry payment may have to post financial security with Customs to cover the duty/tax deferred, as well as be subjected to regular, periodic compliance verification audits to ensure compliance. Failure to submit the periodic/consolidated entry and make the periodic payment may result in the importer being removed from the scheme.

6. Release of Goods by Customs

Customs is the final authority to grant release of goods. Although a consignment may have met all the Customs requirements, it may not have complied with all the certificates or analysis of other competent border agencies. Without approval for release granted from these other border authorities, Customs cannot authorize release of the goods. While Customs may be withholding the release of the goods, and takes the brunt of the criticism from the importer/broker for doing so, in many cases the delay in release may be due to non-compliance with the requirements of other competent border authorities. It is extremely important that there be close coordination between Customs and other border agencies. In a computerized electronic message environment, it is important that the trader be aware precisely why his consignment has not been released, and which agency, i.e., Customs or another border agency, has placed a hold on the consignment.

Once Customs has decided to release the goods (and the duty/tax has been paid), the importer/broker must be notified and receive some sort of hardcopy authority for physical removal of the goods from the airport or port. In many developing countries operating in a manual environment, the Customs goods declaration form may be duly dry stamped or signed by a Customs officer as proof of Customs release. In an electronic message environment, a CUSOMS RESponse Message (UN EDIFACT CUSRES) is transmitted from the Customs computer to the importer/broker, and may also be copied to the airport or port cargo handling company.

7. Delivery of Goods

Sometimes, Customs release notification messages (CUSRES) may not be sufficient to remove the consignment from the exit gates at the airport or port. Normally, the port authority or cargo handling company will not allow the goods to be delivered until any demurrage and all port-handling charges have been paid. Only once this is done will a delivery note be issued to the importer/broker allowing the goods to be delivered from the airport or port. Needless to say, there is some risk of fraud occurring when an agency, other than Customs, is allowed to issue delivery notes allowing goods to be delivered. Close monitoring of delivery notes must be undertaken by Customs or other audit agencies to prevent fraud.

Significant cargo delays may also occur after the delivery note is issued and until the goods are actually loaded onto a truck and delivered. This is normally caused by the trader himself. There may be delays by the importer in hiring a truck to pick up the goods, as well as delays by the cargo handling company actually loading the goods

onto the truck. In some cases, especially where the importer lacks adequate or secure storage at his premises, and where airport or port storage charges are free or very low, importers/brokers may deliberately not take delivery of their goods even though release and delivery has been granted by Customs.

In an electronic message environment, customs officers are normally stationed at the exit gate(s) of the airport or port to receive the delivery note and check the Customs system to see if the goods or containers have been released. In highly automated environments, container number scanning technologies can be applied whereby the truck delivering the container has its license plate scanned, the container number on the outside of the container scanned, and perhaps even image of the driver and identification card scanned. Such exit gate systems can record this information automatically and compare it against databases remotely and without a customs officer being physically present at the gate. The system can then automatically lift the exit gates with the whole process monitored by CCTV cameras. Such sophisticated systems are currently operational in Singapore.

8. Post-Clearance Auditing of Importer (Optional)

In most developed countries, goods declarations are selectively re-verified within a few days after release of the goods. This is especially the case for those goods declarations that have been granted immediate Green Channel release and not been checked prior to release. Automation is used to process goods declaration data against specific selection criteria maintained by post-clearance audit teams. Declarations matching selection criteria are retrieved for post-clearance review by a team of specialized Customs auditors. The audit teams may also retrieve and examine previous goods declarations of a particular importer to prepare for post-clearance verification audits of importer's books and records.

In Canada and the United States, Customs declarations are selectively scrutinized by specialized officers (referred to as Import Specialists or Commodity Specialists) located in regional offices. These specially trained officers are able to re-verify declarations already granted release from a classification, valuation, or origin perspective and decide whether a post-clearance query or audit is required. Such specialist units can be extremely effective in examining all imports by a particular trader or a period of time, and identifying errors, or making reassessments of duty/tax owed by an importer that the Customs officer at time of clearance would simply not have the time to detect. Unfortunately, in many developing countries, such post-clearance control units do not exist, with Customs placing great importance on the officers checking the declaration at time of release, as opposed to relying on the more careful and

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unhurried examination of declarations after the goods have been released in order to identify short-payments of duty/tax or even Customs offenses.

CHAPTER 5

STREAMLINING CUSTOMS PROCEDURES: EXPORTS AND DUTY-RELIEF REGIMES

Various duty-relief regimes enable export-oriented manufacturers to import their manufacturing inputs without paying the applicable duty/tax. In such cases, the duty/tax is suspended or relieved pending the re-exportation of these inputs incorporated in the finished goods being exported. Examples of such regimes include: inward processing; manufacturing under bond; export processing zones; temporary admission for re-exportation in the same state; and Customs warehousing.

A drawback regime requires duties/taxes to be paid at time of importation, then refunded after the finished goods are re-exported. An exemption regime allows full or partial exemption of duty/tax at time of importation, without any requirement for re-exportation, for the purpose of investment incentives, imports for government use, foreign financed projects, imports for diplomatic representations, imports of relief goods, and imports for charitable, cultural, educational or religious institutions.

These regimes are designed to remove or reduce the tariff burden to give exporters access to their industrial inputs at world prices and thereby make exports more competitive. By exempting duty/tax on inputs at time of import, or refunding duty paid when the inputs are incorporated into the finished goods and exported, capital costs can be reduced. The principle of not levying import duty/tax on goods that are not remaining in the Customs territory is fully consistent with WTO rules, provided the amount refunded does not exceed the duty/tax payable (in which case it would be an export subsidy and be prohibited under WTO rules).

Given the fact that duty/tax is being temporarily deferred, it is very important that Customs services exercise effective controls to ensure that there is no leakage of such raw materials into the domestic market.

1. Duty/Tax Exemptions

To obtain duty/tax exemptions, export-oriented firms must apply to Customs or another competent authority for a full or partial exemption of duty/tax on specific imported raw materials to be integrated into finished goods to be exported. This application should:

- Describe the entire manufacturing process;
- Specify the number of inputs required over what period;
- Specify the quantity of finished exports anticipated; and
- Propose the manufacturing input/output coefficients and wastage factors applicable, and the exemption validity period⁷⁴.

Before approving the application, the competent authorities may decide to visit the applicant to verify the manufacturing premises, the proposed coefficients and wastage factors, etc., before issuing an exemption approval and number to be quoted on each of the import declarations. Normally such exemptions are only granted to firms that are primarily export oriented⁷⁵, with firms having to maintain a very high percentage of their finished production for export (normally at least 80% of production must be exported).

Customs should ideally have a software application in its automated import declaration system to: record all exemptions granted; verify at time of clearance of the imported raw materials that the goods qualify for the exemption granted; and to monitor the import against export quantities, and local sale quantities, taking into consideration approved coefficients and wastage factors. The computer application should alert Customs if exports are not sufficient, given the amount of inputs imported over a period of time and consequently raising suspicions that inputs may be diverted into the local market.

⁷⁴ International standards exist in various sectors, e.g., X meters of fabric, X buttons, X amount of thread is required to produce one long sleeve dress shirt. Korea and Taiwan publish an industry average fixed rate input/output coefficient schedule every six months that is not related to the specific performance of the manufacturer. In many other countries, coefficients are largely self-assessed by each manufacturer and audited by Customs to verify the yields and conversion rates. The application may also include other inputs including machinery, spare parts, lighting, and other approved inputs to the manufacturing process.

⁷⁵ Firms receiving such duty/tax exemptions should be required to keep books, automated inventories which track all inputs and exports, as well as file periodic reports to Customs showing imports, exports and balances to permit Customs to undertake periodic verification audits at the manufacturer's premises to verify compliance.

The advantage of an exemption regime to export-oriented firms is that it does not tie up the firms' capital by requiring them to pay duty/tax on raw materials at time of import. Exemptions should be, at least theoretically, relatively easy for Customs to administer. That being said, exemption regimes can represent a significant revenue risk if effective customs audit systems are not in place to ensure that exempted inputs are not being diverted into the local market. Diversion of local inputs and finished goods into the local market can cause significant economic distortions. Products such as spare parts, fuel, and other consumables are especially difficult to control given that these products can be easily diverted to home consumption.

In some countries, other conditions are imposed on firms receiving such exemptions. For example, in the United States, Canada, India, Nepal, Tanzania, export-oriented manufacturers are allowed to import raw materials without duty payment. Such '*manufacturing under bond*' regimes may require the manufacturer to operate within a specific bonded factory or warehouse that must be licensed by Customs and covered by financial security posted representing the duty/tax liabilities related to the raw materials imported. However, such regimes are often very cumbersome due to the annual licensing and bonding requirements as well as the requirement that the raw materials remain locked up in bonded stores requiring joint Customs firm removal of goods from the warehouse into production.

2. Drawback

As opposed to duty/tax exemptions, drawback procedures do not necessarily require firms to submit any application and pre-approval by Customs. In certain countries there are restrictions on what goods can be eligible for drawback⁷⁶. Drawback is more suited to firms that are only occasionally or exceptionally exporting a minority of their finished products. In many countries, Customs requires an indication on the import and export goods declaration whether or not a drawback is to be claimed. This gives Customs an opportunity to verify and take samples of the goods if it deems this appropriate.

Once the goods are exported, the firm will submit a drawback claim form that effectively shows what was imported and what was exported and requests a specific amount of drawback refund of duty/tax. Normally photocopies of the import and export declarations are required to support the drawback claim⁷⁷. Upon receipt of a

⁷⁶ Some countries may restrict the types of goods eligible for drawback to encourage the use of domestically produced equivalents of the imported raw materials; however this may handicap the competitiveness of the exporters. In India, there are limits on the amount of relief or refund to a certain percentage of what was paid, as well as refund allowed only on a specific list of goods.

⁷⁷ Some Customs services have extremely onerous documentary requirements to support drawback claims which can significantly delay the submission of such claims e.g. copies of the stamped export declaration, bills of lading, landing certificates, proof of export proceeds and import declarations.

drawback claim (form or electronic application), covering a single consignment or a specific periodic (e.g. quarterly), Customs will check the claim and refund the duty/tax. Issuing the refund check or paying the refund through Electronic Funds Transfer (EFT)⁷⁸ should not be delayed, even if Customs wishes to undertake further checking of claims submitted through post-audit verification of the firm's books and records. In certain countries, Customs charge a processing or service fee to process the refund claim⁷⁹. This practice often undermines the competitiveness of exports.

Inefficient procedures and burdensome document requirements in many countries, frequently results in exporters incurring extremely high costs. In the end the firm simply gives up on receiving a refund or the refund received has been drastically reduced in value due to inflation. It is important to note that in many countries there has been massive drawback refund fraud when Customs does not exercise proper controls when goods are exported or does not perform post-audit checks. This problem can be especially acute in developing countries where the fiscal situation of the country is such that the government may at time not have sufficient budget to pay drawback refunds, and is instead obliged to provide credits against duty/tax payable on future imports (a scenario that can cause further administrative burden on the Customs Department).

These are some of the elements that can help establish efficient and effective drawback regimes:

- Creation of high-level committees comprising representatives of finance, customs, industry, trade, and stakeholders to develop the procedures, document requirements and to set time limits for processing of refund claims (e.g., refund issued within 10 days after claim is submitted to Customs).
- Drawback should normally cover 100% of the duties/taxes paid on imported inputs, as well as raw materials and intermediate goods used for the production of the final export, including imported packaging. They should also cover indirect exporters, i.e., the refund should include imported materials paid for by other exporters⁸⁰.
- The procedures should be simple and easy to administer, timely, and easily understood by manufactures. The export declaration should be sufficient proof of exportation and no other documentation should be required.

⁷⁸ Customs may also refund through a credit certificate or voucher which can be applied against future duty/tax owing on future imports, however such schemes can be very complicated to administer and open to malfeasance unless Customs has a highly developed revenue accounting system.

⁷⁹ Tanzanian Customs was charging a processing fee equal to 4% of the refund to be granted, a practice that was undermining the competitiveness of exports.

⁸⁰ Refund of duty/tax paid to indirect exporters is allowed in Chile, Korea and Colombia. Indeed, it is highly recommended that a VAT/sales tax refund system also be in place to allow refund of any domestic tax paid on locally produced products that are exported.

- It is important that the ministry of finance put in place a mechanism for periodic replenishment of the budget required to issue refund checks.

Various developing countries have attempted to modify and simplify their drawback regimes in an attempt to reduce administrative costs (see Box 17).

Box 17: Abbreviated Drawback Systems in Nepal and Bangladesh

Bangladesh operates a Special Bonded Warehouse Facility to support the manufacture of ready-made-garments. Over 3,400 of such facilities are operating in the Dhaka region. Each warehouse facility must be approved by Customs, with a financial bond posted with Customs to cover the duty/tax liabilities of the raw materials kept in the facilities. A passport/ledger system is used to control the amount of imports and exports in/out of the warehouse. Raw materials valued up to 75% of the anticipated value of the finished exports can be imported duty/tax free. Despite the security posted and ledgers in place, there have been significant revenue losses associated with unauthorized diversion of finished goods into the local market.

Nepal has operated a 'Passport' system since 2001. It allows export manufacturers to defer payment of duty/tax on raw materials used for export where there is at least 20% value-added to the raw materials before export or sale onto the local market for foreign currency. Customs control is exercised through a passport (ledger) controlled by a specific Customs office located closest to the firm. A cash deposit is required to cover the duty/tax suspended. On proof of export of the finished goods, Customs will release the appropriate percentage of the deposit according to the quantity actually exported. There is no refund of the deposit since it must be re-applied against the next quantity of inputs to be imported. Failure to export within 12 months requires the firm to pay to Customs the duty/tax plus a penalty of 10%. Overall, firms have been more satisfied with the passport system than the previous drawback system.

3. Bonded Warehousing

Bonded warehouse regimes allow specified imported goods into customs approved and bonded warehouses without payment of import duty/tax for a limited period of time (normally until such goods are either re-exported or entered into home use at which time duty/tax becomes payable). The Customs law must set out the requirements and conditions by which a bonded warehouse may be approved and licensed to operate. This normally involves the operator submitting an application to Customs containing detailed drawings of the proposed building, its security features, location, proposed inventory control systems, etc. Customs will review the application and undertake an on-site visit to verify that the applicant has met all requirements before licensing the operator of the warehouse⁸¹. The operator must post security to cover all the total duty/tax to be deferred on the goods resting in the warehouse⁸².

⁸¹ Customs must be very cautious that the areas of the warehouse containing non-duty paid goods are kept under a double-lock system (one Customs lock and one lock held by the operator).

⁸² The amount of security required by the operator should depend on the type of goods normally stored in the warehouse, the duty/tax liabilities, the security and inventory control systems in place, and the level of compliance. Compliant operators should be rewarded for their compliance by reducing the amount of security to be posted.

Goods must be under transit control from the point of arrival until entry into the bonded warehouse (see transit control). Goods entering bond must be declared to Customs on an import goods declaration using in-warehouse customs procedure code. As with any import declaration, the duties and taxes will be calculated, but payment is suspended pending the submission of an ex-bond declaration to remove the goods from the warehouse or an export declaration to remove the goods from the Customs territory or into another suspense regime (e.g., Freeport). If the goods are to be entered into home consumption, the duties and taxes are then payable on the whole or part of the consignment removed.

Bonded warehouse systems require extensive physical customs controls over the movement of the container to the warehouse, the unstuffing and entry of the goods into the bond (performing a goods inspection where appropriate), maintaining the inventory balance of goods kept in the bond, any authorized operations while in the bond (e.g., sorting, repacking or packaging, conditioning); and inspection of goods being removed from bond. Depending on the size of the bond and level of activity, Customs officers may need to be permanently posted to these warehouses. It is important that officers posted to bonded warehouses be regularly rotated to ensure that they do not become too familiar with the operator.

Unfortunately, in many developing countries, Customs controls over bonded warehouses have been extremely poor, with such warehouses being exploited by fraudsters to smuggle goods into the country. For example, fraudsters can exploit the transit of goods from the airport or port to the bonded warehouse, removing or substituting undeclared goods during the transit movement. Lack of proper inspections at the airport or port and upon arrival and entry of the goods into the bond can lead to serious cases of smuggling and associated revenue loss. In some countries, security considerations regarding bonded warehouses were not being effectively enforced, with bonded warehouses often attached to wholesale or retail establishments and goods being allowed to move freely between the warehouse and the shop floor without Customs control. In many developing countries, there is no automated inventory control over bonded warehouses, with Customs instead relying on cumbersome manual ledgers that can be easily manipulated in collusion with customs officers posted almost permanently at these warehouses. While the situation is gradually improving, in one East African country in the recent past, under pressure of the donor community, all bonded warehouses in the country were required to be closed down due to rampant smuggling and total absence of Customs control.

In modern Customs administrations, the computer system should maintain an overall balance of inventories in each bonded warehouse utilizing the details from the in- and ex-warehouse Customs declarations processed through the Customs comput-

er system. Customs should also have online access to the operator's inventory system to supplement and compare this data with that in the Customs inventory e.g., the exact location of the goods in the warehouse. These inventory systems should also report any goods overlying in the bond (i.e., goods not removed from the bond within the prescribed maximum timeframe of normally 12 months). Normally it is the responsibility of the bond operator to deliver such overlying goods to the customs warehouse for auctioning or disposal.

As security systems and inventory systems become more sophisticated, Customs services in most developed countries have moved away from permanent presence of customs officers in bonds and instead are applying an 'open-bond' concept. Under such an approach, Customs control is exercised through providing Customs online access to CCTV systems; the operator's inventory system; and by performing unannounced and selective periodic inventory stock-takes, spot-checks, and audits of inventory systems to ensure that no goods are missing or substituted. This movement from physical control to audit control has significantly reduced the human resource costs to both Customs and related fees charged to operators for special service, while increasing Customs enforcement effectiveness, as well as reducing opportunities for corruption.

4. Free Zones

These regimes have become increasingly popular during the last decade, with many countries attempting to promote exports of non-traditional manufactured goods, strengthen the competitiveness of exporters, attract investors, diversify the economy, create employment, transfer technology, expand trade and transport linkages to the country as a whole, promote tourism, encourage foreign direct investment (FDI), and achieve development and growth. A number of operations may be undertaken inside the zone, from simply break-bulk and shifting of goods from one container to another, sorting/repackaging/re-labeling, further assembly or manufacturing, etc. Frequently the success of a free zone is directly linked to lack of political stability and inefficiency of ports and customs services in the region. (See examples in Box 18).

Sometimes referred to as Free Trade Zones, Duty Free Zones, Tax Free Zones, Free Export Zones, Special Economic Zones, Export Processing Zones, by whatever name, such zones are considered legally outside the Customs territory of the country and thereby subject to an entirely different Customs tariff and income tax regime. They are also eligible for various other tax and investment incentives not found in the Customs territory to attract and encourage growth and investment⁸³. That being said,

⁸³ Incentives may include exemption from: sales tax, excise duties, profit taxes, income tax; industrial and labor regulations applied elsewhere in the country; foreign exchange controls. Firms may also be provided with special rates applicable to infrastructure and other services.

such zones are physically located within the national boundaries and are part of the national economy. Free Zones can encompass an entire area of a country or entire city, all or part of an air/port, all or part of an industrial park, or be even limited to an individual factory. Free zones however normally have a secure perimeter that is under Customs control.

Box 18: Examples of Free Zones

Jebel Ali Free Zone in Dubai, UAE, is probably the most successful zone in the world. Created in 1985, this free zone has no taxation. The restrictions are minimal, and there is no obligation to have a local partner. Staff can be recruited from anywhere. There are excellent port facilities, warehouses, office space, and factories already built and ready for lease. The port is the busiest in the Middle East and now the 10th busiest in the world.

Aqaba Special Economic Zone in Jordan is another recent bold initiative to turn the entire port city area of Aqaba to the Saudi border into a duty/tax free zone in an attempt to attract economic development and FDI. What is interesting with the Aqaba Special Economic Zone Authority (ASEZA) is the authorities' decision to create a separate Customs service to operate inside ASEZA. ASEZA Customs is autonomous from the national Jordanian Customs administration, in an attempt to provide a focused, specialized, and better level of service to firms operating inside the Zone. Lack of trust and cooperation between the two Customs services has contributed to various administrative difficulties, lack of coordination, and obstacles in effectively controlling the smuggling of goods from the Zone into the Customs territory. But the ASEZA has been very successful in a very short period of time at attracting several billion USD of FDI since its creation in what was otherwise a seriously economically depressed region of southern Jordan. ASEZA constitutes a pilot/catalyst for nationwide Customs reform.

Subic Bay Freeport Development in the Philippines, however, has had limited success in attracting and retaining investment, despite the significant existing air/port infrastructure left behind after the departure of the U.S. Navy and technical assistance from international donors.

Colon Free Zone in Panama operates almost exclusively as an entrepot/warehousing hub, focusing on commercial warehousing and repacking operations for firms that export finished goods to the Caribbean and Central America.

The national Customs service normally should only operate at the perimeter to the zone. Its role is to control goods entering the zone from the Customs territory or from a third country; being imported from the zone into the Customs territory for home consumption; or being entered into another duty deferral regime. This can involve controlling the transit movement of goods to and from the zone. If goods are entered into home consumption, an import goods declaration must be presented to Customs and applicable duty/taxes paid as would apply to goods from any third country. In many free zones, quantitative restrictions apply on how much of an operator's production can be allowed into the domestic market (e.g., 20%) and it is Customs responsibility to ensure that this limit is not exceeded.

Customs is required to monitor all activities undertaken inside the zone through audits of the zone operators' books, records, and systems. Customs must ensure that no illegal trade is occurring inside the zone. Normally, the zone authority and zone

operators are legally obligated to create and maintain an inventory of all goods entering, exiting, and the balance remaining inside the zone. Reports regarding all operations are to be submitted to Customs for auditing purposes. In many zones, Customs is provided with online access to inventories.

Licensed operators in the zone are required to submit a simplified Customs declaration to for approval to admit or remove goods from the zone. Normally no duty/tax is payable on goods entering or being exported from the zone to third countries. However, certain administrative fees may be collected to finance the zone authority's administrative operations, and to maintain or improve the zone's infrastructure facilities that it rents or leases to operators.

5. Temporary Admission

Temporary admission provides a full or partial relief from import duties/taxes on goods imported for specific purposes, under the condition that the goods will be re-exported in the same state. The norm is that a full relief is provided if the goods are re-exported within the prescribed period. Temporary admission is a simple procedure whereby security is posted to cover the duty/tax liability. It is commonly applied to: vehicles of experts temporarily working in a country; equipment being used temporarily for construction purposes; goods for display on exhibitions, fairs, meetings or similar events; commercial samples; containers used in international transport; and travelers' personal effects.

Normally a simplified goods declaration needs to be presented to Customs. The goods must be identifiable so Customs can be assured that the same goods imported are being exported. Security must be posted and may be furnished by an international guarantee such as the internationally recognized ATA Carnet, which has a guarantee issued by the International Chamber of Commerce. A reasonable time limit for re-export should be set. At time of re-export, a re-export declaration should refer to the initial temporary admission declaration. Once exported, the security posted should be released immediately.

6. Transit

ICT can be effectively used to assist Customs in streamlining procedures and controls over the physical movement of goods during their transit through the Customs territory. The customs transit procedures and computer application should ideally include the following steps:

- 1) Authorized transit agent prepares the transit goods declaration (with required supporting documents, including commercial invoices and the transit document from the neighboring country from where the transit has just arrived).
- 2) Authorized transit agent presents the hardcopy declaration and transmits (using the UN EDIFACT Customs Declaration (CUSDEC) message standard) to the customs office of transit commencement. The documents are ideally sent prior to arrival of the transit conveyance to avoid delays when the transit cargo actually arrives at the border.
- 3) Customs accepts the signed hardcopy of the transit declaration (and retrieves a corresponding electronic message that has already been subject to edits and validation checks to ensure completeness and correctness). Officer checks for completeness and accepts the calculated amount of transit security bond required to cover the duty/tax liability⁸⁴.
- 4) The Customs officer must decide whether a physical inspection of the conveyance and cargo is required. Customs should not normally inspect transit containers unless it has received intelligence information or has other suspicions regarding the transit consignment. Ideally, high-risk transit containers should be X-rayed at the office of transit commencement, with the images recorded and sent to the office of termination for re-verification to ensure that goods have not been removed or substituted during transit⁸⁵;
- 5) If the conveyance is approved for transit, the Customs officer must physically place a tamper-proof customs seal (which has a unique identification number on the seal itself) on the container's doors⁸⁶.
- 6) The Customs officer records the seal number into the computer as well as ensures that the vehicle registration number, driver name, and container number have been correctly recorded into the automated system.

⁸⁴ It is important that Customs require blanket security bonds from authorized agents, as opposed to individual bonds that can be extremely costly, burdensome to administer and open to fraud. It is also critically important that such bonds are controlled and canceled automatically to minimize the costs incurred by the trade community. For example, in Tanzania, transit bonds were required to be posted by carriers transporting containers to other landlocked countries. An audit to check the verification of the authenticity of these security bonds apparently issued by banks a few years ago revealed that most if not all were forgeries. This resulted in the interdiction of numerous Customs officers implicated in the scheme.

⁸⁵ Scanning of containers in transit can be expensive in terms of the cost of procuring and operating X-Ray scanners at border crossings. However, the huge revenue losses and distortions to the local economy from smuggling of transit goods, as well as the security risks, have pushed countries to introduce this technology. For example, the South African Revenue Service (SARS) is currently tendering for 18 container X-Ray scanners to be made operational at all its seaports and land border crossings. This Build-Operate-Transfer (BOT) tender is seeking bids from private firms to procure, operate, maintain and then transfer the equipment to Customs after a number of years of operation.

⁸⁶ The customs seal is an indicative seal and is not designed to prevent entry into the container. It is critically important that the customs seal is tamper-proof, i.e., cannot be removed then reapplied without showing indications of tampering. Seal technology is constantly changing and it is important that Customs services utilize the latest types of seals and that seal types are periodically upgraded. Bolt seals, aircraft cable seals or plastic strip seals can be purchased at very reasonable prices and are difficult to tamper with or counterfeit. Customs services should never use the old cable and lead seals that can be easily replicated or tampered with by unscrupulous traders.

- 7) Once the Customs officer has approved the transit movement, the automated system should automatically draw-down the appropriate amount of the blanket security bond that the authorized agent has posted with the department.
- 8) Transit documents are stamped and signed by the officer, with a copy returned to the driver (in a completely manual system, the documents must be mailed or faxed to the office of transit destination). It is extremely important that Customs establish specific transit routes and maximum time frames that trucks are allowed to complete the transit movement. Drivers should be informed of the route, the maximum time to complete the movement and be aware that they are required to immediately report to Customs any incident occurring during the transit that would prevent completion of the transit within prescribed time frames.
- 9) Transit data from transit declaration, including the date and time of departure of the transit truck from the office of transit commencement, are then transmitted to the office of transit termination to allow the receiving customs office to be aware of what transit truck to expect and when.
- 10) Customs and border security police should selectively monitor the physical movement of the transit across the Customs territory to ensure that no diversion or substitution of cargo occurs during transit. This can be done by undertaking selective surveillance on high-risk transit conveyances or requiring the transit conveyance to stop and report at various checkpoints along the transit route in order to monitor progress. GPS technology is now also being used very effectively applied to monitor transit movements (see Box 19 for a description of the new Turkish Customs Transit Control System).
- 11) Upon reaching the office of transit termination, Customs officers should check that the customs seal remains intact on the container's doors and that maximum time frame to complete the transit has not been exceeded. If seals are found tampered with or broken, and if maximum time frames have not been complied with, Customs should inspect the transit cargo against the description and quantities appearing on the transit documents. If appropriate, Customs should recover any short payment of duty/tax applying administrative fines if applicable for breakage of seals or other transit fraud offense as prescribed under the law.
- 12) If the transit has been successfully completed, customs officer should input into the system that the transit has been successfully completed, and release the authorized agent's transit security bond.

Customs services with adjoining borders should consider developing a common or linked transit control system to cover transits moving across a corridor that crosses a number of countries. There are obvious efficiencies in terms of development and operating costs if a single system can be developed and utilized by a number of customs services. Such a system would also allow authorized transit operators to utilize a single transit document and post a single transit security to cover the entire transit movement. It would also allow Customs to accept a seal placed on the container from the Customs service from whence the transit commenced. Such a cooperative transit system would also reduce the inherent costs and dwell times associated with having to stop at each country's border to present the transit goods declaration, post security, have seals affixed, etc. Such a common transit system have been contemplated for use on various transit corridors e.g., Northern Corridor from Mombassa, Kenya to Kampala, Uganda and more recently on the Kalahari Corridor between Namibia and South Africa.

Box 19: Turkish Customs Transit Control System

Turkish Customs has recently implemented a sophisticated automated transit control system on its main road transit corridors. This system not only controls the transit details and security posted, but also uses a GPS tracking device that must be attached to the roof of each transit container. The device tracks the movement of each container as it moves along the entire transit corridor. A special sensor is also placed on the Customs seal on the container doors. Removing or tampering with the transmitter device on the roof of the container will also result in the transmitter sending an alarm message to the GPS transmitter. A central command and control center has been set up to track the position of all transit movements and to react to alarms. Mobile Customs response teams are stationed at various points along the transit corridor to react quickly to any diverted, missing, or late container. The system has proven highly effective in curbing transit fraud in Turkey.

ANNEX 1

EXPRESS COURIER PROCEDURES

Given the significant growth experienced in low-value express courier parcels and documents, simplified import goods declarations and highly facilitated clearance procedures have been implemented in many developed countries to ensure quick release of these low-risk consignments. Following a guideline developed by the WCO and the International Express Courier Conference, express couriers are recommended to physically segregate consignments into four categories:

- Documents—no Customs declaration is required;
- De-minimus value—packets valued below a threshold value (e.g., US\$40) where no customs declaration is required and duty/tax is not collected;
- Low value—packages valued above the de-minimus and valued up to a threshold limit (e.g., US\$150) can be cleared using a simplified goods declaration; and,
- High value—goods requiring a standard import goods declaration.

In many developing countries, couriers are transmitting required goods declaration data to customs prior to arrival of the goods using EDI messages i.e. using the UNEDIFACT CUSOMS EXPress message (CUSEXP). This allows Customs sufficient time to process this data against risk selection criteria and notify the courier's computer system of which parcels must be inspected upon arrival (i.e., parcels are identified when the courier scans upon arrival).

Customs services in many developed countries provide express courier firms with dedicated customs service on a full cost-recovery basis at their courier hubs. In return, the couriers must reimburse Customs for the cost of these services, and also provide them with proper facilities and equipment (e.g., X-ray scanners and other facilities) to undertake their inspections quickly and efficiently). These couriers may also be

allowed other expedited release facilities including periodic, consolidated Customs declarations and deferred payment.

Unfortunately in many developing countries, express courier consignments are not being cleared through special clearance streams, and instead are cleared as normal air cargo. This causes significant delays in clearance as well as extra workload that tends to delay the clearance of all other air cargo consignments.

ANNEX 2

PRE-SHIPMENT INSPECTION PROCEDURES (PSI)

It is important to note that while the foregoing import clearance processes are the ideal, many developing countries are not in a position to efficiently or effectively implement all or part of these processes. This is especially the case with checking the reasonableness of the declared values, the correctness of the tariff classification, properly inspecting the quality and quantity of the goods, and collecting the proper amount of Customs revenues.

Faced with serious fiscal problems, policymakers in many developing countries have been forced, often with pressure from international donor/lending institutions, to contract out these primary Customs functions to private surveying companies, commonly known as Pre-Shipment Inspection firms⁸⁷.

PSI originally started in the mid-1970s to redress capital flight resulting from over-invoicing of imports. The role of PSI has gradually shifted to: controlling over/under-invoicing of imports; improving the quality of information on goods declarations; ensuring the proper amount of duty/tax is assessed and paid; and in some countries controlling misappropriation of donor funds provided for import support. PSI is currently in use in approximately 40 countries, with a PSI firm(s) contracted by the government of the importing country to perform such inspections on behalf of their importers.

A law or regulation is normally enacted requiring importers to utilize PSI, and setting out what goods must be inspected, how the regime will operate, fees payable, rights of traders, appeal procedures, and penalties, etc. In a traditional PSI scheme,

⁸⁷ Such as SGS, BIVAC, Intertek, Cotecna, BSI-Inspectorate, OMIC.

the PSI firm is contracted to inspect the goods⁸⁸ in the exporting country before the goods are shipped to the importing country (e.g., at the exporter's premises when the goods are being stuffed in the container, or at the port of shipping). The importer informs the PSI office in the country of import of its intention to import and provides all relevant details, e.g., purchase order; invoice, etc. Normally, the importer is required to pay the PSI firm the inspection fee (fees normally range from .5% to 3% of the Free On Board (FOB) value depending on the contract). The PSI office in the country of import then transmits a request for inspection to its office in the country of export. The PSI firm in the country of export will contact the exporter to arrange a convenient time for the inspection.

Normally, the PSI firm is required to be physically present during the entire stuffing of the goods into the container in order to check the quality, quantity, and description of the goods, and to take digital photographs on the stuffing process, then to place a tamper-proof seal on the container doors. After the inspection, the declared price and tariff classification are checked at the PSI office against databases of reference prices. In some countries the PSI firm is also required to calculate the duties/taxes due and display this on the Clean Report of Findings (CRF). The PSI firm is required to finalize the CRF document and transmit it to the PSI office in the country of import within a maximum of 2-3 days. In some contracts, the PSI firm must also transmit the CRF data directly to the Customs service in the country of import. Upon receipt of the CRF in the PSI firm's office in the country of import, the CRF is printed on security paper and the importer is informed that the CRF is ready for pick up. The importer/broker must pick up the CRF and attach it as a supporting document when preparing the import goods declaration (i.e., the importer is to use the Customs value, HS code, and quantity as determined by the PSI firm). The CRF data should also be transmitted to the Customs service in the country of import to allow automated reconciliation of the CRF data against that declared on the goods declaration to ensure that the CRF is actually presented to Customs and the findings used to prepare the goods declaration⁸⁹. In some cases, the CRF data can be directly transmitted into the Customs computer and in effect replace the import goods declaration.

⁸⁸ A PSI contract may be limited to one or several PSI firms. Each PSI contract lists which goods must be inspected. Normally only goods having a value above a certain FOB threshold is required to be inspected by the PSI firm, e.g. above an FOB value of US\$5,000. There may also be types of goods exempt from inspection because of the low risk on revenues.

⁸⁹ In many countries using PSI regimes, there has been no automated reconciliation between the CRF and the goods declaration. Consequently, the effectiveness of the PSI regime to increase revenue collections is severely undermined by the fact that CRF findings are in the end not used by traders/Customs services. Many countries have tried to redress this situation by implementing post-clearance reconciliation mechanism whereby Customs and/or the PSI firm must reconcile declarations against CRFs post-facto, however few of these systems/post audits proved effective. The most effective way is to have an automated reconciliation between the CRF and goods declaration data before the goods are cleared. Despite all such checks and balances, however, unscrupulous traders will endeavor to circumvent the PSI regime by splitting their consignments so each part has a value of less than the threshold required for inspection to occur. Customs must be vigilant that such attempts are detected, and penalties applied including the delays and costs associated with having a destination inspection performed.

Unfortunately, in many countries where PSI firms operate, frequently the CRF produced by the PSI firm is never picked up or utilized by the importer to clear his goods and pay the correct amount of duty/tax. Audits undertaken by the PSI firm, donors and outside consultants in many developing countries using PSI regimes have amply illustrated that unless there is a formal system to reconcile the CRF data provided by the PSI firm against the goods declaration data used to clear the goods, many CRF documents remain unused or ignored with huge amounts of revenue foregone.

To correct this situation, various mechanisms have been implemented in developing countries to reconcile the CRFs and goods declarations. In some cases, special software applications have been developed to perform this reconciliation automatically. In other countries, private firms have been hired to perform selective audits of CRFs and declarations to identify revenue foregone. In other cases, it is the responsibility of the PSI firm to perform the reconciliation against the goods declaration data and identify declarations that should be audited and revenue shortfalls recovered. Unfortunately, Customs frequently does not have the human resources, or indeed the motivation to perform such reconciliation and recovery of revenue that is often needed. The lack of proper reconciliation systems is a serious handicap on most PSI regimes. It has even been recommended in some countries that the CRF become the Customs declaration to avoid this problem, however legal and other constraints frequently prevent this final solution from being implemented to avoid circumvention of the PSI regime.

Upon arrival of the sealed container in the country of import, Customs may be allowed to selectively break the seal placed on the container by the PSI inspector in the country of supply and re-inspect the goods only on a selective basis to verify that the PSI firm has undertaken the inspection correctly⁹⁰. Normally the PSI firm's representative must be present when this selective re-inspection is performed. If errors are found, the PSI firm can be held financially accountable by the government contracting them. Normally, if the importer has used the CRF correctly to complete the goods declaration, the shipment will be released expeditiously without Customs undertaking detailed verification and/or physical inspection. Exporters and importers disagreeing with the findings of the CRF must also have appeal mechanisms available to them⁹¹.

⁹⁰ Normally the PSI contract will lay out the specific conditions that must be met for Customs in the country of import to perform a re-inspection of the container e.g., intelligence information received; liquids coming from the container; a cap on the percentage of containers that can be re-inspected during the period; procedures for notifying the PSI firm in advance of opening the container so a PSI firm representative can be present; fines that can be imposed if the PSI firm has been found to have committed an error.

⁹¹ A WTO Agreement on PSI was negotiated as part of the Uruguay Round. This agreement sets out principles designed to ensure that unnecessary delays and unequal treatment are kept to an absolute minimum. This agreement sets out rights and obligations of both user and exporting countries, including speedy, effective and equitable resolution of disputes between exporters, importers and PSI firms.

PSI regimes have been heavily criticized by the WCO and customs services in many developing countries because the contracting out of such basic Customs functions as customs valuation, classification, and inspection to a third party is seen to be expensive and an infringement of national sovereignty. There is, however, general agreement that such regimes can play a useful short-term role in countries that have suffered war, natural disasters, or economic turmoil that has led to the national Customs service being ill-prepared to effectively perform such functions. It is also clear that PSI should be seen as a short- to medium-term solution, which is designed to protect the revenue until the Customs service has been reformed and modernized to reassume its full responsibilities.

Unfortunately, there are many cases where PSI systems have been operating in developing countries for decades, with little done to reform and modernize Customs. This lack of capacity building and reform is symptomatic that governments in many developing countries are not giving adequate attention or priority to Customs reform, or that for various reasons what has been attempted has failed to be sustainable. Consequently, the national Customs service has not been allowed to reassume its normal responsibilities.

While PSI regimes have normally been introduced to assist customs organizations in improving revenue collection and streamlining procedures while other capacity building and reform is undertaken, unfortunately in many developing countries there has been insufficient capacity building or reform provided by either the PSI firm⁹² or other donors. In many countries, PSI contracts have been operating for years without effective performance measurement criteria in place to hold either the PSI firm or the Customs administration accountable. Given the failure of governments to seriously implement reform and modernize Customs, PSI contracts are frequently automatically renewed without serious analysis of the costs/benefits⁹³ or indeed the alternatives.

While data published by PSI firms indicate that they have significantly improved revenue collections, reduced dwell times, facilitated trade, and created a more consistent and transparent environment for traders in many countries, the IMF and World Bank have increasingly recognized that these regimes should be progressively phased-out in parallel with Customs reform and modernization programs.

⁹² Normally the PSI contract includes a nominal amount of training of Customs officers, with much of this training occurring overseas, and limited to only a few officers thereby building little capacity in the Customs service. It is clear that PSI firms have little incentive to build capacity or reform Customs service, which could shorten or eliminate a PSI contract renewal.

⁹³ In some countries, the cost of PSI can be extremely high e.g. in 1991, the fees paid to the PSI firm in Indonesia were in excess of US\$400 million. At the same time the government was investing little on reforming or modernizing its Customs service.

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With this strategy in mind, along with the need to reduce costs, some PSI contracts have been revised from Pre-shipment Inspection in the country of export to '*Destination Inspection*' in the country of import. In these regimes, the inspection firm is contracted to assist Customs using risk-management techniques in selecting which import consignments should be physically inspected upon arrival, providing and operating the container-scanning machines to facilitate inspections, be present when the inspection is conducted, and to provide Customs valuation advice (e.g., a valuation reference database).

Some Destination Inspection regimes include phasing-out plans whereby the PSI firm must gradually reduce the type and percentage of consignments inspected in the country of export, while at the same time setting up a destination inspection regime in the country of import along with an extensive training and capacity-building regime to be provided by the PSI firm.

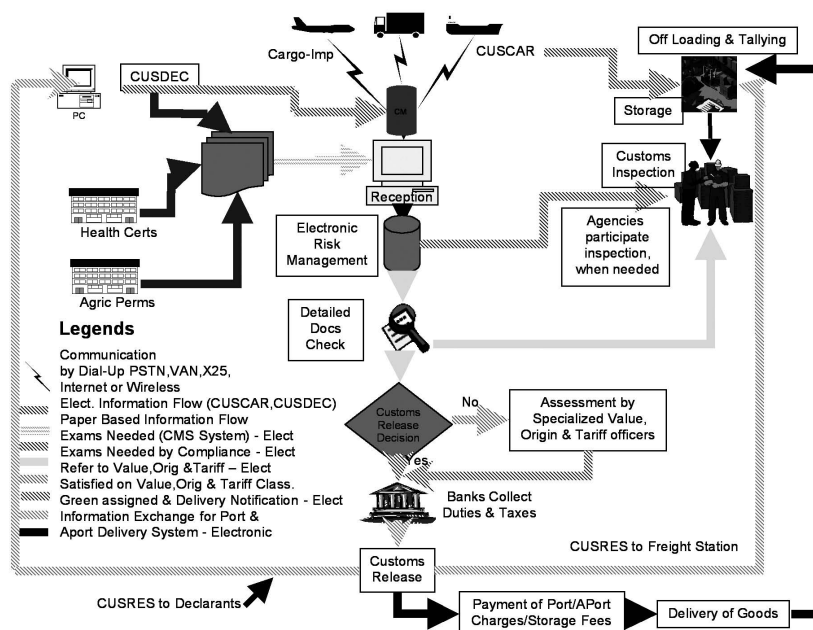
If a PSI or Destination Inspection regime is being contemplated, it is important that it be viewed as a short-term solution (e.g., 5 years maximum) to be run parallel with a comprehensive Customs reform and modernization program. The program must include specific benchmarks that Customs must achieve to exercise greater control over customs valuation, classification, and inspection functions, then show that it can attain or improve upon revenue collections under the PSI regime.

It is recommended that only one PSI firm be contracted at any one time, since there are no efficiencies involved with having more than one firm. The difficulties of interfacing with several PSI firms' computers can become a true nightmare, preventing proper monitoring and evaluation of the scheme.

If such an approach were taken, PSI firms can play a very useful, supporting role during the reform program in terms of protecting revenue, assisting with risk management and inspections, providing valuation reference database information, providing some of the technical training, etc. Given the inherent conflict of interest, PSI firms should not however be called upon to lead or undertake Customs reform and modernization programs. There should be a clear exit strategy built into any contract tied directly to deliverables of the reform program. This will act as an incentive for Customs management to take greater ownership to complete the necessary institutional reforms.

ANNEX 3

INFORMATION EXCHANGE FOR AIRPORT/PORT DELIVERY SYSTEMS



ANNEX 4

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