

October 2015 | n° 78 | [www.wcoomd.org](http://www.wcoomd.org)

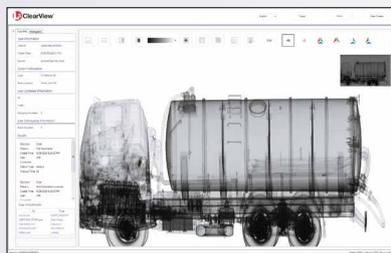
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<http://www.wcoomd.org/en/media/wco-news-magazine/subscriptions.aspx>

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*WCO News is distributed free of charge in English and in French to Customs administrations, international organizations, non-governmental organizations, the business community and other interested readers. Opinions expressed in WCO News are those of the contributors and do not necessarily reflect the official views of the World Customs Organization. Contributions in English or French are welcome but should be submitted no later than 15 December 2015 for consideration. The WCO reserves the right to publish, not to publish, or to edit articles to ensure their conformity with the magazine's editorial policy and style. The WCO Communications Service is available to answer all requests for subscriptions, submission of contributions, and any other enquiries relating to WCO News. Please email communication@wcoomd.org.*

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Acknowledgements: The Editorial Team wishes to express its sincere thanks to all who contributed to this publication.

Illustrations: Our thanks also extend to all who provided photos, logos and drawings to illustrate this issue.

Photo cover: © Guido Alberto Rossi / TIPS Photononstop

Design: [www.inextremis.be](http://www.inextremis.be) - mp5222

# New book provides insight into the economic benefits of implementing a single window system

**By Dr Dennis Ndonga,**

MURDOCH UNIVERSITY, AUSTRALIA

THE ADOPTION OF the Trade Facilitation Agreement (TFA) in December 2013 at the World Trade Organization's (WTO's) Ministerial Conference held in Bali, Indonesia, was a landmark achievement for the global trade community. The so-called 'Bali Package' marked an end to trade negotiations that had dragged on for over a decade. In a broader context the agreement breathed new life into the WTO's style of multilateralism, which many had started to doubt due to the persistent deadlocks in trade negotiations experienced in previous years.

One of the driving forces behind the TFA is its promise to deliver economic gains. The WTO has stressed that the simplification and harmonization of international trade procedures through the measures proposed under the TFA has the capacity to generate some 400 billion to 1 trillion US dollars to the world economy by reducing trade costs by around 10% to 15%, increasing trade flows and revenue collection, creating a stable business environment, and attracting foreign direct investment (FDI) [WTO, Day 3, 4 and 5: Round-the-clock Consultations produce 'Bali Package,' 5-7 December 2013]. The realization of these benefits would be fundamental to determining the TFA's significance to the global trade community, and more broadly reaffirm the WTO's capacity to deliver on global prosperity.

With this in mind, I wrote a book, entitled 'Single Windows and Trade Facilitation – A Tool for Development', to investigate the economic value of single window systems recommended under Article 10 (4) of the TFA. Single windows (SWs) have been one of the most controversial trade facilitation tools, owing to their high implementation costs. A number of developing countries have been lethargic about undertaking SW implementation, expressing scepticism about the ability of such systems to boost their global competitiveness. These sentiments were voiced in the negotiations leading up to the TFA. The common view

is that the implementation costs of SWs far outweigh the presumed benefits, and many developing countries will be keen to discover whether the contentious provision will contribute to the agreement's projected benefits.

This book explores the economic benefits of SWs and further analyses some of the key challenges facing SW implementation in developing countries, with a view to offering direction to countries that are preparing to implement Article 10 (4) of the TFA.

It also explores the concept of SWs and trade facilitation, providing Customs practitioners and scholars with comprehensive insight into the range of economic benefits that SWs can generate for their host economies. In presenting these issues, the book provides answers to several key questions:

## **What is trade facilitation?**

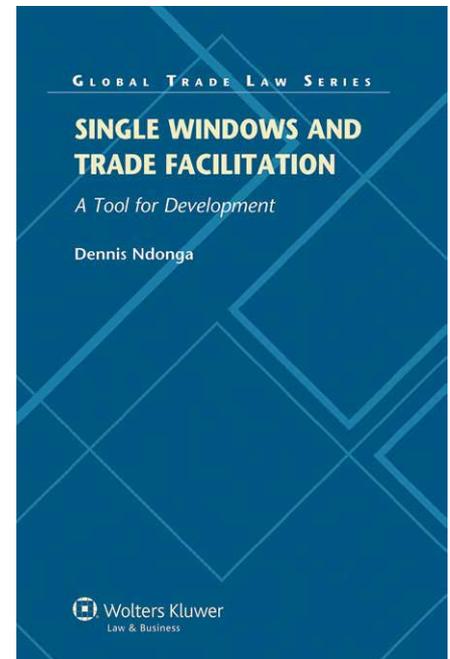
The book offers a detailed analysis of the concept of trade facilitation, with an emphasis on how the WTO deliberations on trade facilitation have developed from the first Ministerial Conference in Singapore up to the adoption of the TFA at the 9<sup>th</sup> Ministerial Conference in Bali.

## **What are the various trade facilitation tools and programmes in operation?**

The book explores some of the global trade facilitation measures aimed at streamlining Customs and other border operations that have been proposed by various multilateral organizations such as the WTO, the World Customs Organisation (WCO), the United Nations Conference on Trade and Development (UNCTAD), and the United Nations Economic Commission for Europe (UNECE).

## **How do single windows facilitate trade?**

The book examines the concept of SWs highlighting the diversity of SW models adopted in various jurisdictions, and the broad operational and revenue benefits that Customs and other international trade operators stand to gain from such systems.



## **How would single windows interlink with national e-government initiatives?**

The book analyses the interrelationship between SWs and national e-government initiatives and how emerging economies can streamline their SW projects to achieve total e-service delivery by government, thereby realising some of the main economic benefits associated with e-government diffusion.

## **How do single windows promote integrity in Customs administrations?**

The book examines the challenges of combating corruption in Customs, which has an adverse effect on economic growth. It presents detailed arguments supported by case studies on how the implementation of SWs can promote integrity in Customs and boost economic growth.

## **How do single windows increase developing countries' competitiveness in attracting FDI?**

The book analyses how SWs have the capacity to determine certain investment outcomes that are primarily linked to Customs efficiency, and thereby stimulate a country's capacity to attract export-oriented investors. It further explores the

economic benefits attached to export-oriented FDI.

### How can Customs overcome the major barriers to single window implementation?

The book discusses some of the major barriers to SW implementation in developing countries. It analyses the technological and fiscal challenges affecting the implementation and operation of a SW in developing countries, and proposes practical solutions. It also explores the legal issues surrounding electronic authentication of international trade documents processed through SWs and recommends an appropriate legal framework to deal with these technicalities.

In summary, the book serves to inform practitioners on the role of SWs in facilitating trade, and how the implementation of these systems can be appreciated as being more than a Customs modernization exercise, but also a development tool that can be integrated into a national development strategy.

Dr Dennis Ndonga is a lecturer at Murdoch University, in Australia. He has carried out extensive research on single windows and trade facilitation. His findings have been published in a number of premier journals and presented at several WCO PICARD Conferences.

#### More information

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

## Tribute to Professor Hironori Asakura



2 JULY 2015 marked a sad day on the WCO calendar when the international Customs community learned of the passing of Professor Hironori Asakura, one of the founding fathers of the WCO's Harmonized System (HS), at the age of 87.

His relationship with the WCO dates back to 1968. Professor Asakura held several positions within what was then the Nomenclature Directorate, which became the Nomenclature and Classification Directorate in 1984: he was a Technical Officer from 1968 to 1972, a Deputy Director from 1975 to 1980, and finally the Director for almost 10 years, from 1984 to 1993, during the formative years of the worldwide implementation of the HS.

After he left the WCO in 1993, Hironori Asakura was appointed Professor at Tokyo International University's School of Economics, a post he held until March 2002. In 2003, he published a book entitled 'World History of the Customs and Tariffs' in cooperation with the WCO; a publication which is still regarded as the definitive reference on this topic.

Professor Asakura was always very fair-minded and will be remembered for his many outstanding contributions, in particular the compilation of working procedures and methods for the HS Committee and the HS Review Sub-Committee, and his tireless efforts to ensure the worldwide application of the HS.

Holm Kappler, who worked under Mr. Asakura, and who went on to become the Director of the Nomenclature and Classification Directorate's successor, the wider Directorate of Tariff and Trade Affairs, said: "*Professor Asakura did a masterful job in his role as nursemaid to the Harmonized System when it was still an infant system. His passion for the HS and tariffs in general was made abundantly clear with the publication of his masterpiece 'World History of the Customs and Tariffs'...*"

Although gone, Hironori Asakura will not be forgotten. May he rest in peace with the knowledge that the HS Convention is the WCO's most successful international instrument, with 153 Contracting Parties to date.



On 5 May 2014, nearly 750kg of pangolin scales, a CITES-protected species, were discovered by Customs officers in the Democratic Republic of the Congo during a routine check. This seizure illustrates the extent of the trafficking of pangolins: at a rate of 0.12kg of scales per average individual, the batch represented nearly 6,400 animals.

## Project INAMA: enhancing Sub-Saharan Customs' capacity to fight illegal wildlife trade

IN OCTOBER 2014, the WCO launched a new project aimed at enhancing Customs' capacity to counter wildlife trafficking by ensuring that all trade in wild plants and animals, and any products derived from them, is legal in terms of the implementing provisions of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), as well as under any relevant national legislation.

Named INAMA, a word which means 'wild animals' in the language of the Zambian Bemba tribe, the project is not the first wildlife-focused initiative undertaken by the WCO. In fact, the WCO has long been involved in efforts to combat the illegal wildlife trade by raising awareness among frontline Customs officers, organizing training to improve their targeting and identification capabilities, leading international enforcement operations, and developing practical training guidance.

A previous project, named Project GAPIN, which ran from 2010 to 2013, focused, in

particular, on the illegal trade in great apes – chimpanzees, gorillas, and bonobos – and the enhancement of Customs integrity in the area of CITES enforcement. Project INAMA follows on from GAPIN, but benefits from a wider funding framework, and focuses on enhancing the methodology and techniques used to enforce wildlife trade regulations in general.

The project was boosted by the 'WCO Declaration on the Illegal Wildlife Trade' which was adopted by the WCO Council in June 2014, reinforcing the commitment of the global Customs community to fighting this type of crime, and listing the steps that will contribute to a stronger and more coordinated enforcement response.

### Infrastructure, legal capacity and know-how

Evidence suggests that many Customs administrations, especially in African range states, suffer from a lack of well-functioning Customs structures, legal capacity, and the know-how required to

effectively carry out much-needed enforcement activities. Customs administrations with the necessary will to fight the illegal trade in wildlife would need to:

- ensure that a robust legal framework to combat the illegal wildlife trade is in place, including the legal capacity to conduct investigations, and, if needed, launch advocacy campaigns;
- have the necessary institutional and organizational framework in place to enforce CITES regulations, such as an Intelligence Unit dedicated to CITES enforcement, and embed CITES enforcement in their organizational priorities and within their human resource structure, etc.;
- improve their risk assessment practices by increasing exchange of information, and the use of intelligence;
- enhance their capacity to conduct or support investigations, and implement investigation techniques;

- improve inter-agency cooperation at the national level between Customs and other relevant agencies, such as the police, wildlife services, and judicial authorities;
- enhance cooperation with other Customs administrations, and with other international players concerned at the international level;
- have at their disposal modern equipment, including the required hardware and software, to facilitate enforcement.

### Project components

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

#### **Institutional assessment component**

The project's approach is to address the needs of Customs and their enforcement function, while providing specific information and tools that are directly related to ensuring compliance with the CITES Convention.

Although some common needs were identified in the project's planning phase, Customs services in Africa do not present a homogenous grouping, with their needs as diverse as the countries themselves. As a result, it was agreed that participants should assess their own capacity building needs at the national level.

To enable them to do so, the WCO has developed an Institutional Assessment tool. It is based on the Diagnostic Framework, developed by the WCO, and is in line with the provisions of the Wildlife and Forest Crime Analytic Toolkit developed by the United Nations Office on Drugs and Crime (UNODC), with the support of the International Consortium on Combating Wildlife Crime (ICWC), comprising the CITES Secretariat, INTERPOL, the UNODC, the WCO, and the World Bank.

The tool will be presented to the project's participants during two regional workshops, in Malawi and in the Republic of the Congo, under the guidance of experts. Participants will be asked to start evaluating their countries' situation, and to self-assess their capacity building needs. This exercise will also enable the WCO to

## INAMA at a glance

### Objective

To address the illegal trade in endangered species by improving Customs officers' capacity to enforce CITES regulations.

### Duration

5 years.

### Expected Results

- Customs administrations:
  - increased capacity to conduct an analysis of their enforcement needs, and to measure their performance in terms of enforcing CITES regulations;
  - implement new tools, enabling their officers to better enforce CITES regulations.
- Customs officials:
  - enhanced awareness and knowledge of CITES regulations, and how to enforce them, in particular when it comes to conducting operations and controls;
  - increased capacity to collect, process and disseminate intelligence.

### 25 Participating Countries\*

Angola, Benin, Botswana, Burkina Faso, Burundi, Central African Republic, Cameroon, Congo (Republic of the), Côte d'Ivoire, Democratic Republic of the Congo, Ethiopia, Ghana, Kenya, Malawi, Madagascar, Mozambique, Namibia, Nigeria, Rwanda, South Africa, Tanzania, Togo, Uganda, Zambia, and Zimbabwe.

*\*Countries in Asia will participate in specific activities of the project, and additional countries in Africa are expected to join the project.*

### Funding Partners

Sweden, the United States Department of State, the German Federal Enterprise for International Cooperation (GIZ), and the Secretariat of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES).

gather feedback from participants on the tool, and to revise it if necessary.

On their return to their home Customs administrations, participants will have a few weeks to complete the assessment and send it to the WCO Secretariat, which will use their responses to plan future training activities.

#### **Intelligence component**

Building on the common needs identified during the planning phase, the project team decided to move ahead on certain capacity building activities related to risk management and intelligence analysis. The object is to improve Customs' capacities in all the relevant phases of the intelligence cycle, namely the collection, evaluation, collation, analysis, dissemination and re-evaluation of data. Basic

and advanced training on intelligence have been designed, and experts will periodically be made available to support enforcement teams.

#### **Enforcement component**

This component, which is at the heart of the project, aims to enhance the capacity of Customs administrations in conducting enforcement operations through the use of a wide range of techniques, such as the conducting of controlled deliveries. To do so, practical training will be delivered, and field manuals supporting the daily work of frontline officers will be developed.

#### **Activities implemented to date**

##### **Under the first component**

A draft version of the Institutional Assessment tool is now available, and

has already been trialled at a regional workshop that took place in Malawi in September 2015.

#### ***Under the second component***

A one-week Basic Intelligence Analysis training session was held in Mozambique in April 2015, and in Kenya in July 2015. Participants, including Customs officers working in the field of risk management and intelligence analysis, were taught about the basic concepts of intelligence analysis, and were involved in case studies and practical exercises, while continuously being asked to provide feedback on the learning process.

#### ***Under the third component***

A workshop on 'Controlled Deliveries of Illegally Traded Wildlife Products' was held in Bangkok, Thailand, in January 2015, with participants from eight Asian

and African countries in attendance. About 30 Customs officials and participants from other relevant institutions – for example, the police, and wildlife and environmental authorities – with the competency to conduct controlled deliveries, or likely to be called upon to provide support during such operations, shared their experiences and practices, and how they overcame any obstacles.

The workshop also enabled participants to develop ties with each other, and to discuss closer cooperation and mutual assistance possibilities in the future, especially in the framework of two wildlife enforcement operations, namely Operation COBRA III and Operation FLYAWAY, which took place in May and June 2015 respectively.

#### **More information**

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## Overview of Russia's Training Centre for NII System experts

### **By Alexei Moiseev,**

VICE-RECTOR FOR INTERNATIONAL RELATIONS,  
RUSSIAN CUSTOMS ACADEMY

THE RUSSIAN CUSTOMS Academy is the first institution ever created in Russia for training specialists with higher Customs education, and has, since 2002, been a recognized WCO Regional Training Centre. In 2007, following the suggestion of the WCO Secretariat, it was decided to create, within the Academy, a Training Centre for Non-Intrusive Inspection (NII) Systems.

The Centre is located in the St. Petersburg branch of the Academy, and its activities are mainly focused on training officers in charge of operating NII systems. Training participants benefit from the Customs Academy's modern facilities, advanced technologies, and innovative learning tools.

Since 2007, 1,772 officers, including 168 foreign specialists, have been trained thus far on how to operate fixed and mobile NII equipment. In addition, more than 10,000 officers have been trained on how to operate X-ray inspection machines specifically, and more than 2,000 specialists on how to apply risk management.

The Centre is staffed with certified specialists, including WCO accredited experts, having practical lecturing experience and fluent in the English language. They have all completed training delivered by one of the largest NII manufacturer's, and annually undergo additional training with manufacturers to keep up with the speed of technology advances and changes.

Customs administrations from all over the world are invited to send their NII personnel to the training sessions offered by the Centre. The Danish, Finnish, Indian and United States Customs authorities have already done so, and countries such as Azerbaijan, Belarus, Kazakhstan, Kirgizstan, Moldova and Ukraine have been sending Customs officers periodically over the last five years.

The Centre's resource capabilities allow 35 to 40 groups to be trained per year, with groups usually comprising about 10 to 12 officers. All training programmes are designed around a one-week course, with a total duration of 40 hours. The registration procedure involves sending a request to the Head of the Federal Customs Service

## Latest accessions to WCO instruments

### Revised Kyoto Convention



**Thailand**

Date of accession: 12 June 2015  
100<sup>th</sup> Contracting Party



**Sierra Leone**

Date of accession: 12 June 2015  
101<sup>st</sup> Contracting Party



**Argentina**

Date of accession: 19 June 2015  
102<sup>nd</sup> Contracting Party



**Iceland**

Date of accession: 8 October 2015  
103<sup>rd</sup> Contracting Party

### Harmonized System Convention



**Sierra Leone**

Date of accession: 12 June 2015  
152<sup>nd</sup> Contracting Party



**Djibouti**

Date of accession: 12 June 2015  
153<sup>rd</sup> Contracting Party

### More information

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



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of Russia. After consideration, the date of the training session and the number of trainees will be specified, and a communication sent to the requesting administrations accordingly.

### More information

<http://rta.customs.ru/nrta>



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## Council 2015

Directors General of Customs gathered at WCO Headquarters from 11 to 13 June 2015 to endorse the work done by the Organization covering the period July 2014 to June 2015, and to chart the way forward in the months ahead.

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



# WCO Members confer and act on trade facilitation, e-commerce, and security at the June 2015 WCO Council sessions

**By Kunio Mikuriya,**

SECRETARY GENERAL, WORLD CUSTOMS ORGANIZATION

During the 125<sup>th</sup>/126<sup>th</sup> Sessions of the WCO Council, which took place in June of this year, Heads of Customs administrations representing the 180 Members of the WCO conferred on many issues, including but not limited to, trade facilitation technical assistance and capacity building under the WCO Mercator Programme, e-commerce, and security, especially the adoption of a third pillar to the WCO SAFE Framework of Standards to Secure and Facilitate Global Trade (SAFE Framework) on its 10<sup>th</sup> anniversary. In this article, I take up each of these topics in turn.

## WCO Mercator Programme

THE WCO MERCATOR Programme, which assists WCO Members in implementing the World Trade Organization's (WTO) Trade Facilitation Agreement (TFA) in a harmonized way by using WCO tools, continues to make steady progress. Mercator consists of two tracks: (i) awareness-raising and promotion of WCO tools through regional and national workshops; and (ii) tailor-made assistance.

Three WCO regional workshops were organized in the first half of this year to raise awareness of WCO tools that support trade facilitation: in Jakarta, Indonesia for the Asia/Pacific region; in Budapest, Hungary for the Europe region; and in Manama, Bahrain for the North of Africa, Near and Middle East (MENA) region.

It is noteworthy that two of the three workshops were co-sponsored by regional development banks, namely the Asian Development Bank and the Islamic Development Bank, enabling Ministries of

Trade and other Ministries to participate and dialogue with Customs, and recognize the important role of Customs in implementing the TFA. The remaining three WCO regional workshops are scheduled for the second half of this year.

The tailor-made assistance track delivers needs assessment, technical assistance, capacity building, training, and monitoring. The WCO has already delivered more than 70 national and regional missions under the Mercator Programme. In this respect, I am particularly grateful to the countries that have provided donor support as well as Customs experts for Mercator missions.

## E-commerce

The Internet is witnessing a rapid expansion in the sale of goods and services due to faster transmission speeds and more secure means of payment. E-commerce is expected to continue to grow exponentially in the future with double-digit growth, and will be a key driver of economic

growth, particularly in providing an easily accessible wider platform to Micro, Small and Medium-Sized Enterprises (MSMEs) engaged in cross-border trade.

This channel of trade is opening up opportunities for individuals to bypass more traditional ways of doing business, potentially eliminating intermediaries, such as wholesalers or local retailers. It is, therefore, necessary for Customs and tax authorities to understand fully how the new environment will develop, both technically and organizationally.

Taxation systems currently structured around traditional business models will need changes to adapt the existing systems and procedures in order to effectively prevent loss of revenue and, at the same time, to ensure that there is no discrimination between businesses using the new technology as opposed to those continuing to trade conventionally.

Many WCO Members have seen a significant and rapid growth in the volume of low-value imports of physical goods on which duties and taxes are not collected. Additionally, this growing commerce mechanism is posing challenges to Customs enforcement, such as the sale of drugs, counterfeit and pirated goods, the illicit trade in wildlife, weapons and explosives, and the smuggling of restricted and/or prohibited goods, including high-value excisable items.

Noting Customs administrations' concern on revenue leakage from low-value consignments, including shipments below an exempted threshold, which also had a distortionary impact on domestic manufacturers and retailers, the WCO has been analysing various working experiences and models, including the challenges and potential solutions, relating to the efficient collection of revenue on imports of low-value e-commerce, such as *de minimis* and vendor collection regimes.



The WCO and its Members are thus taking its work on e-commerce forward, including advancing work with other relevant international organizations, such as the Organisation for Economic Co-operation and Development (OECD) and the Universal Postal Union (UPU).

### Security

Customs plays a vital security role, including countering terrorism and violent extremism. In June, on the 10<sup>th</sup> anniversary of the SAFE Framework, the WCO adopted a third pillar on Customs-to-Other Government and Inter-Government Agencies for its SAFE Framework. This pillar

joins the other two, namely Pillar 1 (Customs-to-Customs) and Pillar 2 (Customs-to-Business).

Recognizing the importance of cooperation between Customs and other government agencies involved in the international trade supply chain, Pillar 3 aims to foster closer cooperation between and among them, ensuring an efficient and effective government response to the challenges of supply chain security, whilst facilitating legitimate trade. Pillar 3 foresees cooperation at three levels: cooperation within the government; cooperation between and among governments; and multinational cooperation.

Standards for each of these areas of cooperation have been developed to promote a multi-tiered approach. In this regard, the WCO has already developed a number of tools that support this new pillar, notably the Compendiums on Coordinated Border Management and the Single Window, which are 'living' documents being continually updated. In addition, standards for 'Pre-loading Advance Cargo Information' in respect of air cargo have been incorporated, enabling a first layer of security risk analysis to be carried out together with civil aviation authorities.

Due to heightened global security concerns and the adoption of the United Nations' global Arms Trade Treaty (ATT), the WCO launched the Small Arms and Light-Weapons (SALW) Project to address the challenges faced by Customs in dealing with weapons of this nature. In addition, the relevance of the use of Advance Passenger Information (API) and Passenger Name Record (PNR) information to target both contraband and high-risk individuals were specifically underlined by the WCO Council as needing further emphasis.

### Conclusion

The WCO will continue to confer and act on the top emerging issues facing the global Customs community, of which I have highlighted only a few in this article. Additional WCO activities are summarized in the articles which follow, under the name of each WCO Directorate, including other interesting highlights from the 2015 WCO Council sessions. In fact, I can quite admirably state that this year's Council sessions were dynamic and positive, charting a clear path forward for WCO Members and the international Customs fraternity as a whole.

# Tariff and Trade Affairs

## New publications

NEW TOOLS HAVE recently been developed as part of the WCO Revenue Package, which collates all material relevant to improving fair and efficient revenue collection and compliance levels. Most of these tools are, however, only available to WCO Members.

## Cross-cutting activities

Regarding post-clearance audit (PCA), beside the issue of the new WCO publication 'Diagnostic Tool on Post-Clearance Audit (PCA) and Infrastructure,' a PCA e-learning module has been developed and finalized, and has been made available on the WCO CLiKC! platform.

In addition, the WCO conducted two training seminars to strengthen the institutional capacity of the Papua New Guinea and the Maldives Customs services in the areas of Customs valuation, PCA and risk management, as well as two regional workshops for countries of the North of Africa, Near and Middle East (MENA) WCO region and for Russian-speaking countries.

Moreover, the WCO facilitated a WCO Revenue Package workshop for the Asia Pacific Region to develop a group of facilitators who would be equipped to conduct diagnostic missions on the topics of valuation, classification and origin.

The WCO also promoted the instruments developed under the Revenue Package to participants from Afghanistan, Kazakhstan, Kyrgyzstan and Tajikistan attending the Customs working group meeting and workshop organized by the US Department of Commerce as part of the United States-Central Asia Trade and Investment Framework Agreement.

## Rules of origin

### Harmonization of non-preferential rules of origin

The technical work related to the negotiations on the harmonization of non-preferential rules of origin at the World Trade Organization (WTO) is continuing, however without any major breakthrough on 'open' issues.

The revised Draft Consolidated Text [WTO document G/RO/W/111/Rev.6] of the WTO Agreement on Rules of Origin contains both the texts already agreed by the WTO Committee on Rules of Origin (CRO) and elements which have not been endorsed by the CRO or which represent a compromise proposal by the Chairperson of the Committee. Transposition of this Text into recent versions of the WCO Harmonized System (HS) Nomenclature has been finalized by the WTO.

### WCO Action Plan on Preferential Origin

Through the initiatives contained in the Action Plan, the WCO hopes to prepare its Members to face the challenges arising from the growing importance of preferential trade by providing them with all the necessary tools and modern techniques to ensure that rules of origin (RoO) are clearly understood and implemented.

Capacity building activities relating to rules of origin have included regional workshops for the MENA and the Americas/Caribbean WCO regions,

## New publications



and national workshops in Kenya and Malaysia. The WCO also organized a RoO expert accreditation workshop for countries in the MENA region.

WCO experts participated in four international conferences on Customs compliance that included economic operators, as well as in the fourth meeting of the Organisation of Islamic Cooperation (OIC) COMCEC Trade Working Group, and in an Executive Training on Negotiating and Drafting Rules of Origin session organized by the United Nations Conference on Trade and Development (UNCTAD).

## Valuation

### *Examination of Customs valuation questions*

One technical question posed by a WCO Member has been finalized. It concerned royalties and licence fees under Article 8.1 (c) of the WTO Valuation Agreement (the Agreement), and is the subject of a new WCO Technical Committee on Customs Valuation (TCCV) instrument, namely Advisory Opinion 4.16.

The TCCV continued examining questions concerning:

- related party transactions as they pertain to the Agreement and transfer pricing;
- the treatment of fees for unlocking a function of imported goods after importation (the application of Articles 1, 8.1 (c) and 8.1 (d) of the Agreement);
- the treatment of goods in a global value chain (goods imported after a series of purchases of goods and/or services for transformation, processing or repair).

The TCCV also examined a new question relating to the treatment of advertising and promotion costs in a situation where the seller decides to carry out advertising and promotion activities in the country of importation and requires the buyer to contract and pay for the goods.

### *Technical assistance*

National workshops on valuation issues took place in Bosnia and Herzegovina, the Democratic Republic of the Congo (DRC),



Moldova and Thailand, as well as in the Comoros and Saint Lucia in collaboration with the WTO.

Valuation-related diagnostic missions were carried out in the DRC and the Maldives, and a train-the-trainer workshop on Customs valuation and development of valuation infrastructure was organized in Tanzania.

Three regional workshops on Customs valuation and transfer pricing, jointly organized by the WCO and the Organisation for Economic Co-operation and Development (OECD), were held for Customs and tax administrations in the

WCO Asia/Pacific, Americas/Caribbean and Europe regions.

The WCO also participated in two private sector conferences on transfer pricing issues that were held in London and in Singapore, in order to promote the Organization's work on transfer pricing and Customs valuation within the tax business community.

## Nomenclature and classification

### *Status on the implementation of HS 2012*

The fifth edition of the HS, or HS 2012, entered into force on 1 January 2012 and, at present, 117 out of 153 Contracting

Parties have notified the WCO that they have implemented the amendments to the HS Nomenclature that became effective from 1 January 2012. Five WCO Members which are not Contracting Parties to the HS Convention have also implemented the HS 2012 amendments.

#### **Technical assistance**

Sixteen national seminars focused on the HS and related matters, including Customs laboratory infrastructure and analysis methodology, were conducted in Albania, Cambodia, Cameroon, the Republic of the Congo, the Dominican Republic, Ecuador, Guinea-Bissau, Montenegro, Saudi Arabia, Serbia, Tanzania, The Former Yugoslav Republic of Macedonia, Tonga, Uzbekistan, Vanuatu and Zimbabwe.

A national workshop was organized for the Ghana Revenue Authority's Customs Division on the setting up of an HS Unit to facilitate the taking over, and future management, of HS-related matters from the current contracted inspection company.

Regional experts accreditation workshops on the HS were held for the countries of the Americas/Caribbean, the East and Southern Africa and the West and Central Africa WCO regions.

The WCO also participated in the Regional Seminar on Capacity Building on Customs Chemical Analysis held at the newly-established Regional Customs Laboratory in Japan, a national tariff seminar organized by Norwegian Customs, and a workshop on HS classification and advance rulings in China organized by the European Commission's Directorate-General for Taxation and Customs Union (DG TAXUD).

In addition, the WCO also attended meetings organized by certain international organizations, such as:

- the World Health Organization (WHO) Expert Committee on International Nonproprietary Names (INNs);

- the United Nations Statistics Division (UNSD) Expert Group Meeting on International Statistical Classifications, where it presented the HS 2017 amendments;
- the WTO seminar on the use of the HS for controlling the trade in eco-friendly products;
- the Organisation for the Prohibition of Chemical Weapons (OPCW) Associate Programme 2015.

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

At its 54<sup>th</sup> and 55<sup>th</sup> Sessions, the WCO HS Committee took 215 classification decisions, of which 159 related to INN pharmaceutical products linked to the implementation of the WTO Agreement on Trade in Pharmaceutical Products. It also adopted 11 sets of amendments to the HS Explanatory Notes, and 41 new Classification Opinions.

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

Successive amendments of headings or subheadings of the HS made it necessary to revise the classification of many INN products. The HS Committee therefore reclassified 592 INN products which had been classified in the past in previous editions of the HS on the basis of requests by the WHO. The reclassifications will be effective from 1 January 2017, consequential to the implementation of HS 2017.

#### **Tropical wood species**

At its 55<sup>th</sup> Session, the HS Committee, in response to a request from the Food and Agriculture Organization of the United Nations (FAO), approved an amendment of the Annex to the Explanatory Notes to Chapter 44 concerning the list of tropical wood species. This list was the result of

an agreement between the International Technical Association for Tropical Timber (ATIBT), the FAO and the International Tropical Timber Organization (ITTO) to produce a joint ATIBT-FAO-ITTO General Nomenclature of Tropical Wood in 2015.

Based on the expertise of these three organizations, this is considered the most comprehensive and up-to-date universal nomenclature of tropical woods ever produced, providing information on pilot, scientific and local names of tropical wood species that are used and traded internationally today.

#### **HS 2017**

Following last year's WCO Recommendation of 27 June 2014 concerning the 2017 amendments of the HS Nomenclature, some corrigendum amendments and certain further amendments were adopted in terms of the WCO Recommendation of 11 June 2015.

These amendments will not be legally binding on the HS Contracting Parties until 1 January 2018 in terms of the procedure established under Article 16 of the HS Convention. Nevertheless, the Contracting Parties are encouraged to apply these recommended amendments as from 1 January 2017, consequential to the WCO Recommendation of 27 June 2014.

The 2017 edition of the HS Nomenclature and the HS 2017 Amendments Brochure will become available in early 2016. The Correlation Tables between the 2012 and 2017 editions of the HS – an essential tool, notably for the preparation of new national Customs tariffs – has been published.

#### **More information**

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# Procedures and Facilitation

## New publications



## Capacity building delivery

THIRTY NATIONAL OR regional events have been organized to support WCO Members in implementing the Organization's existing instruments and tools covering various important Customs-related areas, such as risk management, the Single Window (SW) and transit, as well as the use of the Time Release Study (TRS). With respect to the Revised Kyoto Convention (RKC), the WCO has held 15 national and regional workshops.

## WTO Trade Facilitation Agreement

Since the adoption in November 2014 of the Protocol of Amendment to insert the Trade Facilitation Agreement (TFA) into the main World Trade Organization (WTO) Agreement, eighteen WTO Members have ratified the TFA to date: Hong Kong China, Singapore, the United States, Mauritius, Malaysia, Japan, Australia, Botswana, Trinidad and Tobago, the Republic of Korea, Nicaragua, Niger, Belize, Switzerland, Chinese Taipei, China, Liechtenstein and the Lao People's Democratic

Republic respectively. The TFA will take effect once the Protocol has been accepted by two-thirds of the Members of the WTO, i.e. 108 Members in total, as per the WTO's current membership figures.

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

- Adding new tools and best practices, which have emerged from WCO Members relating to the implementation of the relevant trade facilitation measures, to the Guidance for the TFA developed by the WCO. The Guidance aims to support an understanding of the linkages between the TFA and WCO instruments and tools, such as the RKC.
- Delivering more than 90 national and regional missions for technical assistance/capacity building under the Mercator Programme. In this regard, the WCO is continuing to develop its

pool of experts and organizing its first TFA accreditation workshops.

- Providing guidance and assistance in setting up National Committees on Trade Facilitation (NCTF), more particularly on stakeholder mapping, how to chair meetings, prepare agendas, and ensure the necessary follow-up. The WCO also sent out a questionnaire in order to collect its Members' national situations and experiences related to the establishment of NCTFs. The results were published under the TFA section on the WCO website which also contains Members' case studies on NCTFs.
- Holding the second and third meetings of the WCO Working Group on the TFA (TFAWG) which were attended by representatives of Customs administrations and other concerned authorities (Finance, Trade and Foreign Affairs Ministries, etc.), as well as representatives from the WTO, other international organizations, donor institutions, the private sector and academia.
- Organizing three regional workshops in Asia/Pacific (Jakarta, Indonesia), Europe (Budapest, Hungary) and the North of Africa, Near and Middle East (Manama, Bahrain) in the first half of this year. The workshops were attended by Customs officials and representatives of interested Ministries, and the discussions focused on trade facilitation issues, the TFA measures, and relevant WCO instruments and tools.
- Participating in high-level meetings with key parties and individuals to emphasize the key role of Customs and the WCO in the implementation of the TFA.

## Data quality and data security

All Customs tasks and responsibilities are performed, at least in part, on the basis of data received from businesses engaged in trade – for example, data for purposes of revenue collection, risk management, admissibility checks, resource allocation and cooperation with other agencies, as well as the collection of statistical data for macroeconomic decisions.



## Air cargo security

### **Pre-loading advance cargo information**

The WCO-ICAO [International Civil Aviation Organization] Joint Working Group on Advance Cargo Information (JWGACI) was set up in 2014 to discuss and recommend modalities for sharing and using advance cargo information (ACI) in carrying out security risk analysis by Customs and civil aviation authorities in order to mutually support each other and strengthen air cargo security. The Group comprises eight Members and one additional Member to co-chair, from each side, as well as six relevant stakeholder representatives.

The JWGACI is following a two-phased approach. On completion of Phase I, a report on the concept of 'Pre-loading Advance Cargo Information' (PLACI), its benefits and the cost of implementation, as well as the challenges and potential way forward was produced, and later endorsed by the WCO Technical Expert Group on Air Cargo Security (TEGACS) at its February 2015 meeting, and by the ICAO Aviation Security Panel (AVSECP) in April 2015.

The JWGACI has now moved to Phase II of its work, i.e. dealing with issues concerning practical and technical implementation. To this end, the Third Meeting of the JWGACI was held from 18 to 20 May 2015 in Washington D.C., where it was decided to continue further work, including developing details of the 'Concept of Operations' – a document describing what a system does, and which will be used to get stakeholders in the system to agree on a common understanding, thereby providing clarity of purpose to a project.

### **Harmonization of Customs and aviation industry security programmes**

Work on the harmonization of Authorized Economic Operator (AEO) and Regulated Agent/Known Consignor (RA/KC) programmes is progressing well, and the ICAO and WCO Secretariats, together with other stakeholders, are currently working on conducting a joint AEO/RA pilot in Vietnam, as agreed by their Customs and aviation security authorities, and have already developed draft Terms of Reference for the joint pilot.

An AEO/RA guidance document and a joint AEO/RA security programme template have also been developed. These documents include all appropriate ICAO and WCO references, as well as a structure that allows a comprehensive comparison of the two security regimes.

### **Other WCO/ICAO areas of cooperation**

The two Organizations have developed a joint training module to assist both Customs and aviation security officials to better understand the international air cargo supply chain, each other's roles, and the roles of other important actors. Based on this module, the first joint pilot workshop for the WCO Asia/Pacific region has been held, and the possibility of organizing further similar joint workshops is being explored.

### **Advance Passenger Information and Passenger Name Record**

The Recommendation of the Customs Co-operation Council concerning the Use of Advance Passenger Information (API) and Passenger Name Record (PNR) for Efficient and Effective Customs Control has been amended.

In order to make more explicit the potential use of advance information received on passengers in enforcing United Nations (UN) travel bans, the Recommendation now includes – in the list of actions that Members of the WCO, Customs and Economic Unions should take – phrasing that reads: "effectively support the implementation of UN travel bans against sanctioned individuals."

## Customs information management

### **WCO Data Model**

Version 3.6 of the Data Model (DM) is being developed, and will be released in December 2015. Among other things, the new version will cover:

- an ASYCUDA Derived Information Package;
- a European Union (EU) Customs Data Model Derived Information Package.

Around 43 countries have active projects underway which involve the implementation of the DM. In this regard, a WCO Member-wide tabulation status report of

The work undertaken by the WCO Expert Group on Data Quality resulted in:

- the issue of a Recommendation of the Customs Co-operation Council on the Guiding Principles for Data Quality;
- the issue of a non-exhaustive list of acceptable and non-acceptable terms to describe goods in declarations, such as pre-arrival or pre-departure declarations;
- the creation of a Virtual Working Group on Data Quality whose work will include input from interested WCO Members and individual members of the WCO Private Sector Consultative Group, and which will report to the WCO Permanent Technical Committee (PTC) where strategic issues and possible solutions would be tabled for discussion.

adoption, and indicating the increasing use of the DM, is available on the WCO website.

### Single Window

The WCO 'Compendium on How to Build a Single Window Environment' has been updated. WCO experts also supported activities relating to the implementation of SW solutions, and promoted the use of WCO standards and tools in doing so. Evidence of this support is demonstrated by the variety of work undertaken by WCO experts in which they:

- organized a 4-day SW workshop in Albania, as the country plans to build a national SW environment;
- conducted a 5-day SW workshop in the Maldives, to help the country build a national SW;
- participated in the VII Meeting of the Inter-American Network of SWs;
- took part in a UN/CEFACT workshop on SW interoperability;
- participated in a SW regional workshop for countries in the WCO Asia/Pacific region, in the context of the TFA;
- attended the High-Level Seminar on Electronic Customs in the EU, with a focus on the SW;
- supported a 5-day national workshop in Brazil on the SW and data harmonization;
- participated in a seminar on the development of a regional SW in the Eurasian Economic Union (EEU).

### SAFE review

The review of the SAFE Framework of Standards (SAFE) has been completed. The 2015 edition of the SAFE now includes a Pillar 3 on Customs-to-Other Government Agencies which foresees cooperation at three levels: cooperation within the government; cooperation between and among governments; and multinational cooperation.

The WCO has already developed a number of tools that support this Pillar, notably the Compendiums on Coordinated Border

Management and the Single Window, which are 'living' documents that are continuously being updated.

Another important aspect of the new edition is the incorporation of standards for PLACI in respect of air cargo, for carrying out a first layer of security risk analysis together with civil aviation authorities. The SAFE 2015 also includes definitions of a 'container' and 'risk management.'

Furthermore, the instruments and tools related to risk management mentioned in the technical specifications of Standards 4 and 7 of Pillar 1 and other relevant places in the SAFE text have been updated in view of the development of Volumes 1 and 2 of the WCO Risk Management Compendium.

Additionally, new tools have been added to the SAFE Package, such as the Toolkit for the implementation of Pillar 1 (Customs-to-Customs), Customs-Business Partnership Guidance, and the WCO Recommendation concerning Customs Formalities in Connection with the Temporary Admission of Container Security Devices (CSDs), adopted in June 2013.

Existing publications have also been updated, namely the Guidelines for the Procurement and Deployment of Scanning/NII Equipment (including the Guidance Material on Threats and Technology Solutions), and the WCO Compendium of Authorized Economic Operator Programmes (AEO Compendium).

### Postal traffic

In line with the objectives of the Memorandum of Understanding (MoU) between the WCO and the Universal Postal Union (UPU), a joint WCO-UPU Customs-Post Workshop was held in China for the WCO Asia/Pacific region with the theme: 'Fostering greater cooperation between Customs and Posts and promoting the development of cross-border e-commerce.'

The workshop was attended by over 100 participants representing Customs and designated postal operators from 33 countries. It sought to broaden the understanding of postal-Customs clearance

work through face-to-face dialogue, including the promotion of electronic exchange of information, the sharing of information on security-related developments, and the sharing of countries' working experiences and best practices.

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

### The future of Customs

A Virtual Working Group on the Future of Customs (VWG FC), consisting of representatives from Customs, international organizations, the private sector and academia, has been established, following discussions which took place on this topic at the 207<sup>th</sup>/208<sup>th</sup> Sessions of the PTC in March 2015. As a starting point for discussions, the VWG FC will use the 'Customs in the 21<sup>st</sup> Century' strategic document.

Members of the WCO are encouraged to initiate in-depth research on future-orientated topics. Some of the topics which are already being discussed within the VWG FC include border models, information management, exchange of information, cooperation between Customs and tax authorities, 3D printing, natural disaster relief, e-commerce, and others. The discussions on the future of Customs will continue at the upcoming sessions of the PTC and the WCO Policy Commission.

### E-commerce

The impact of the increase in e-commerce and issues emanating therefrom has been widely discussed during the past year. The Focus section of the WCO News magazine offers some insights, including the way forward, into this topic, both from a trade facilitation and revenue collection point of view.

### More information

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# Capacity Building



## Four areas of activity

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

## Strategic Advisory Support and Delivery

This activity derives from the WCO's 2003 Capacity Building Strategy. The Strategy entails needs-assessments through diagnostic missions, the development of a comprehensive strategic plan, the implementation of WCO standards, and the regular monitoring of performance indicators. Key WCO CB tools to support these actions include the Diagnostic Framework and the Capacity Building Development Compendium.

During the reporting period, over 300 WCO Member support missions were delivered, including a number of specific strategic planning missions, and five evaluation monitoring missions under the auspices of Phase 3 of the WCO Columbus Programme.

CB delivery during such missions is based on a two-pronged approach, namely 'ownership' and 'results-based management' (RBM). RBM ensures that strategic planning and implementation management are guided by focusing on the desired results. This requires effective performance measurement (PM) in order to effectively demonstrate the impact that activities have on organizational performance.

The WCO also provides technical assistance on the use of PM contracts between Directors General of Customs and front-line Customs officers. In collaboration with the United Nations Conference on Trade and Development (UNCTAD), the WCO has developed an effective PM



module based on data extracted from the ASYCUDA automated Customs clearance system.

As the WCO continues to refine the CB Development Compendium, changes have been made to enhance Chapter 5 of the Compendium, which deals with 'Project Management and Action Planning,' two essential tools for the effective management of Customs reform and modernization programmes.

The new draft chapter sets out a practical approach to the management of projects based on experience and feedback from WCO Members. Further updates to Chapter 5 are planned, which will cover guidance in establishing a 'Project Office,' and include additional case studies.

### Human Resource Development

WCO activities focusing on human resource development include the enhancement of the e-learning catalogue, the delivery of support relating to the Leadership and Management Development Programme (LMDP), the development of material to support the Framework of Principles and Practices on Customs Professionalism (FPPCP), the development of the People Development Diagnostic Tool (PDDT), and organizing the first session of the Virtual Customs Orientation Academy (VCOA).

#### *E-learning catalogue*

Twenty-two new or updated modules are now available on the WCO CLiKC! Platform. New e-learning courses cover post-clearance audit (PCA), risk management (RM), coordinated border management (CBM), and the RKC. These new online courses represent more than 35 days of training.

The WCO has continued to support national roll-outs of the WCO e-learning courses by its Members. Assistance has been provided to Sub-Saharan Customs administrations to review their national training strategies, and to integrate the WCO e-learning catalogue into their training curricula.

Burundi, Kenya, Rwanda, Tanzania and Uganda have been assisted in the

modernization of their training programmes in cooperation with the East African Community (EAC), while Cameroon, Mauritania and the Seychelles have benefited from activities to develop new blended training strategies.

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

The LMDP is intended to improve the capability of Customs' leaders and managers, in order to drive reform and modernization. Twenty-three LMD workshops have been conducted in the reporting period, and two e-learning modules – to be completed by nominated participants ahead of an LMD workshop – have also been developed.

The e-learning modules introduce concepts around leadership and management, and contain an introduction to, and the context of, an LMD workshop. A special focus on modern Customs organizations and integrity has been incorporated into the modules. During an LMD workshop these concepts are further explored, taking into account an administration's actual situation. To enable the WCO to measure the impact of LMD workshops on Customs organizations and individual participants; a 'monitoring and evaluation' concept is now being developed.

The ninth and tenth National Policy Dialogues, which bring together senior representatives from government and business in the WCO East and Southern Africa region, were held in Mozambique and Rwanda respectively. In addition, two successful pilots were undertaken to test the concept of a 'Top Executive Retreat.' Participation in the retreat will be offered to executive teams from national administrations, as a way to further strengthen their capacity in implementing change and in achieving organizational results.

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

To assist WCO Members in understanding and implementing policies relating to professional qualifications and career paths in Customs administrations, the FPPCP was developed and linked to an online repository of practices – the

CLiKC! People Development Interactive Map – which provide guidance on five topics:

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

The Map provides a live overview of the Customs community's initiatives and solutions that have been implemented worldwide, in order to efficiently manage competency-based human resource (HR) processes. The WCO has updated different chapters of the FPPCP, incorporating the latest best practices. It has also started to deliver assistance to a number of WCO Members in implementing elements of the Framework, which was used as a basis for WCO HR management workshops in Montenegro, Qatar, Serbia and Sudan.

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

The PDDT is intended to serve as a practical guide for administrations, which will enable them to gauge where they stand in the context of Customs international standards and best practices. It has been recently trialled in Namibia, and will also be used during HR management diagnostic missions by WCO facilitators.

#### *Virtual Customs Orientation Academy (VCOA)*

From 4 August to 24 October 2014, 33 Customs officers from 22 administrations participated in the first session of the VCOA, a WCO initiative aimed at providing newly recruited Customs officials, having less than two years' service in Customs, with basic knowledge and skills in international Customs standards.

Tutorship and technical expertise was provided by the WCO, as well as by experts from WCO Member Customs administrations. Fourteen tutors from



five WCO Members took part in the session, giving lessons, conducting live chats and hosting short webinars, as well as enlivening the course and various assignments – individual or collaborative – and evaluating the students.

Participants had to follow four modules of tutored virtual online training and complete all assignments and exercises, requiring an investment of around six to ten hours per week of their time. Upon completion of the activities, and after being evaluated, 29 successful Customs officers were awarded certificates.

#### **WACAM Project**

The West African Customs Administrations Modernization (WACAM) Project, funded by the Swedish Government, was designed to support modernization in West African Customs administrations till the end of 2014 in the fields of HR management, stakeholder relations, and resource mobilization. The support took the form of regional workshops for discussion of best practices related to these areas, and included national support missions.

The project is now entering a second phase. This phase will focus on assessing the results achieved, identifying lessons learned and challenges met, as well as developing a pool of regional HR experts capable of undertaking diagnostic missions and piloting HR modernization projects in their administration or in

other administrations that form part of the West African region.

#### **Integrity**

Capacity building and integrity are closely related, and it is impossible to run an administration and carry out reforms without a strong emphasis on integrity. During the reporting period, 11 integrity-related missions were conducted, and work was carried out on the following projects, among others:

- a pilot project initiated in Rwanda to develop a communication strategy to enhance communication with the private sector;
- a communication campaign launched in Namibia with the aim of bringing together Customs' partners to work collectively against corruption;
- the implementation of a Memoranda of Understanding (MoU) with 11 private sector associations in Uruguay;
- the implementation of a project in Bolivia, similar to the Uruguayan model;
- the implementation of PM and PM contracts in Haiti, based on data extracted from the ASYCUDA automated Customs clearance system;
- the delivery of an integrity diagnostic in Colombia.

In addition to the above listed support activities, assistance has been provided virtually to WCO Members in 10 cases, comprising support in areas such as providing comments on integrity documents, checking codes of conduct, obtaining information from other administrations, etc.

With the help of a number of Members, two new WCO tools have been produced: a 'Guide to Corruption Risk Mapping,' and a 'Guide to Prevent Procurement Corruption in Customs.' WCO Members are invited to submit additional information and examples to further supplement these two guides, which will remain 'living' documents.

In addition, the tenth and eleventh issues of the WCO Integrity Newsletter, containing articles on Members' best practices, have been published. Included are articles on reforms undertaken in Ecuador and the Philippines, as well as articles on the policies and strategies applied in France, Italy, Jamaica, Korea, Malawi and Paraguay.

#### **Stakeholder Engagement**

This engagement entails cooperation and coordination with many actors, including governmental policy makers, development partners, and donors. To guide WCO Members, a 10<sup>th</sup> chapter on the subject of 'Donor Engagement' was incorporated into the CB Development Compendium.



This chapter has been revised, and provides additional guidance on the preparation of a business case, how to organize regional and national donor conferences, and how to prepare project proposals according to a donor's expectations. It also includes additional guidance on the monitoring and evaluation of projects.

To assist WCO Members in their interactions with policymakers and the need for continuous investment in Customs, the WCO developed an 'Orientation Package for Decision Makers,' which provides a clear picture of a modern Customs service and the vital part it can play in achieving national objectives. It is aimed at assisting Customs administrations to secure support for reform and modernization.

This year, a new Annex on the World Trade organization's (WTO) Trade Facilitation Agreement (TFA) has been added to the Orientation Package. The Annex will hopefully provide Directors General of Customs with the necessary intellectual ammunition that will support their role in the implementation of the TFA.

Significant progress continues to be made by the WCO in securing funding for CB, and in fostering dialogue with international and regional development banks, donor agencies, and other development partners, critical activities

to ensure momentum in the area of Customs reform and modernization.

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

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

**More information**

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This year, a new Annex on the World Trade organization's Trade Facilitation Agreement has been added to the Orientation Package. The Annex will hopefully provide Directors General of Customs with the necessary intellectual ammunition that will support their role in the implementation of the TFA.

# Compliance and Enforcement

## Security Programme

### *Programme Global Shield (PGS)*

ACTIVITIES UNDER PGS, an initiative launched in 2010 to monitor the trade in 14 chemicals in order to identify those that could be diverted for the illegal manufacture of improvised explosive devices (IEDs), include training, intelligence support, and awareness-raising directed at key partners and private stakeholders. PGS participating countries currently number 94.

Since July 2014, three 5-day intermediate training events and five 10-day train-the-trainer events have been conducted, matching the national language and culture of the trainers to the trainees in order to ensure that all the training material is fully understood. Moreover, PGS training curricula have been integrated into the programmes of six National Training Academies – Abu Dhabi, Afghanistan, India, Kyrgyzstan, Tajikistan and Sri Lanka – that have undertaken to deliver training on the initiative to new recruits and senior personnel.

The PGS team also participated in training events and workshops organized by partner organizations:

- Twenty-three law enforcement officers from Indonesia, Malaysia and the Philippines following a Crime Scene Investigation Course – delivered as part of INTERPOL's Chemical Anti-Smuggling Enforcement (CHASE) Programme – received a presentation on the PGS initiative and the dual-use chemicals targeted by the INTERPOL programme;
- Twenty-five participants, from the National Police and Ministry of Defence of Brazil, Chile, Colombia, El Salvador, Guatemala, Honduras, Mexico and Peru attending a Counter-IED Workshop – organized by the Organization of American States' (OAS) Inter-American Committee against Terrorism – received a presentation on Customs' role in minimizing the illegal cross-border diversion of explosive precursor chemicals and PGS's contribution to the global fight against terrorism, as well as a demonstration on the chemical detection test

kit, that included a hands-on exercise in chemical identification.

PGS members have been requested to carry-out national and regional enforcement operations on a routine basis. In this regard, in September 2014, a regional operational coordination effort was piloted by WCO Members and the Police located in Central Asian countries, together with participants from Afghanistan, India and Pakistan. Core working groups will identify best practices and challenges on a quarterly basis, in order to strengthen such operations. Additionally, in October 2014, a Global Seminar will be held in Brussels to further engage all WCO Members in operational activities.

Development of the PGS field test kits for frontline officers has been finalized, enabling these officers to quickly determine if a chemical being examined is one of the 13 identified PGS chemicals. The kits will be made available to countries undertaking enforcement operations, together with an electronic chemical detection device which aims to quickly and accurately identify more than 11,000 chemicals, including chemicals sealed in translucent containers.

PGS continues to work with its public and private stakeholders, and has been able to increase awareness on the dual-use capability of precursor chemicals manufactured, distributed or retailed, as well as provide assistance on the development of reporting mechanisms for suspicious activities. The project team participated in the Chemical Sector Security Summit in July 2014, and in the International Fertilizer Industry Association Global Safety Summit in March 2015.

### **Strategic Trade Controls Enforcement (STCE) Project**

After having focused on awareness-raising, including a curriculum and modules for training purposes, activities undertaken under the STCE Project shifted to organizing a global law enforcement operation. The operation, code-named COSMO, brought together 89 WCO Member Customs administrations. The operational interdiction phase commenced in October 2014, and was followed by a follow-up and investigation phase lasting from 1 November 2014 to 31 March 2015.

Almost 100,000 import and export shipments were targeted by participating WCO Members, and around 55,000 of these shipments were subjected to further scrutiny. Over 8,000 physical inspections were carried out during the interdiction phase, resulting in 82 seizures. Out of the 82 seizures, 44 cases led to a criminal investigation. Most of the cases are still being pursued by the participants.

Besides detecting and preventing illicit trafficking of strategic goods in international supply chains, the operation revealed critical information on the Customs community's capacity to enforce international strategic goods-related resolutions, such as the United Nations (UN) Security Council Resolution 1540 in relation to weapons of mass destruction. Forty-three Operation COSMO participants returned a national self-assessment on their standard operating procedures and work practices in this area, which will allow the WCO Secretariat to tailor its future capacity building and technical assistance activities to address the outlined gaps.

The WCO is currently exploring the possibility of setting up a medium to long-term technical assistance and capacity building programme on the enforcement of strategic trade controls – the WCO STCE Programme. It would focus on training, international cooperation, industry outreach, and the facilitation of the collection and sharing of information and intelligence.

### **New work streams**

The WCO has identified some areas which fall outside existing WCO initiatives but which need to be covered. These relate to small arms and light weapons, passenger controls (the utilization of advance passenger information (API) and passenger name record (PNR) information), and the prevention of terrorist financing:

- Small Arms and Light Weapons (SALW) Project – Initiated in March 2015 through the adoption of a specific WCO SALW Strategy and Action Plan, activities will be implemented from 2015 to 2018 in accordance with guidance received from the WCO Enforcement Committee.

The WCO is currently exploring the possibility of setting up a medium to long-term technical assistance and capacity building programme on the enforcement of strategic trade controls – the WCO STCE Programme. It would focus on training, international cooperation, industry outreach, and the facilitation of the collection and sharing of information and intelligence.

- Passenger controls/foreign terrorist fighters (FTFs) – The dossier will focus on the utilization of API and PNR information in the passenger risk assessment process to assist WCO Members in deploying measures to implement, among other things, the UN counter-terrorism resolution on passenger controls and terrorist financing (UNSCR 2178). A virtual working group within the context of the current WCO API/PNR Contact Group has been established, enabling the Members to exchange experiences and lessons learned in relation to the use of the aforementioned information. The WCO is also examining the possibility of organizing regional workshops in order to raise awareness on the use of API/PNR information.
- Terrorist financing – Efforts in this regard will focus on the smuggling of financial instruments by extremist organizations, as well as preventing other types of illicit trafficking that can be traced to links with terrorist financing. The WCO is currently conducting an analysis of potential future activities, and will present an implementation plan to the WCO Enforcement Committee at its next session in early 2016.

### **WCO Border Security Initiative**

The Border Security Initiative (BSI) is a cross-cutting technical assistance programme, whose primary objective is to assist Customs administrations in building or enhancing their border security capacity. WCO Members, following a

specific WCO or UN border security-related assessment mission, can request technical assistance from the BSI to facilitate the deployment of Customs-related instruments and tools.

Based on received requests, the WCO will work with requesting countries and the donor community to develop tangible plans to support the implementation of agreed measures. As part of this work, the WCO would, subject to its available resources and funding, make its security-related and other tools – the WCO Cargo Targeting System (CTS), nCEN, etc. – available to the requesting countries.

### Revenue Programme

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

Following the revision in 2012 of the WCO Guidelines for Post-Clearance Audit, the WCO has received a significant number of training requests. To give effect to these requests, the WCO has taken several steps accordingly, which include:

- publishing a PCA Diagnostic Tool on PCA and the infrastructure;
- developing a comprehensive PCA e-learning module, and a fully-fledged curriculum based on its Guidelines;
- accrediting experts from WCO Member Customs administrations for the delivery of training, and organizing national and regional training sessions;
- organizing the first meeting of the Experts Group on Post-Clearance Audit, with participants being tasked to plan and develop new tools in the area of PCA.

#### **Operation Gryphon and future tobacco-related operational activities**

In October 2013, Operation GRYPHON – the first global Customs-centric operation designed to tackle the illicit trade in tobacco – was launched, running for a period of six months and involving 93 WCO Member administrations. Beyond the remarkable seizures resulting from the operation, more than 100 criminals were arrested, and 35 investigations were launched in a vital effort to disrupt criminals and dismantle the networks behind this trade.



Given the wish by an overwhelming number of participating countries to continue carrying out this type of operational activity, the WCO, in close cooperation with the WCO Regional Intelligence Liaison Offices (RILO) Network, has decided to repeat the experience by launching Operation GRYPHON II in the near future.

### Drug Enforcement Programme

#### **Project AIRCOP**

Launched in 2010 to build drug enforcement capacities at international airports, Project AIRCOP now counts 10 Joint Airport Interdiction Task Forces (JAITFs) set up in Benin, Cape Verde, Côte d'Ivoire, Gambia, Ghana, Mali, Nigeria, Senegal, Togo and the Dominican Republic. Panama and Cameroun are expected to join the project soon.

Since 2013, 12 European countries are now associated with the project. The enforcement teams working at major international airports have been given access to the communication tool – a customized version of the WCO CENcomm application – developed specifically for the JAITFs. It enables information to be exchanged easily and securely. New enforcement teams located in Kenya, Morocco and South Africa will join the project soon.

The CENcomm application, developed specifically for the JAITFs and the associated airport teams, has been significantly improved to enable restricted communication between two teams or specific officers

among those teams in order to meet confidentiality concerns or to deal with sensitive cases.

#### **Operation WESTERLIES 3**

The 10-day global operation targeting the illicit trafficking in methamphetamine by air passengers was carried out in March 2015 with 105 participating countries. Coordinated by the WCO in close cooperation with Japan Customs, the operation covered over 170 airports, resulting in seizures in excess of 3.6 metric tonnes of narcotics, and the arrest of 88 suspected traffickers.

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

Port Control Units (PCUs) established under the CCP are, at present, fully operational in 28 countries, and funding for the integration of another 25 WCO Members into the CCP is now available.

The ContainerComm port communication platform is accessible on request to all officers working in a port, even though their countries may not be CCP participants. Currently, more than 90 countries can share information on containerized sea cargo through this WCO communication platform.

Given the success of the CCP, the launch of a separate joint programme on air cargo control and the establishment of specialized units to target suspicious shipments in this transport segment is in development, with a pilot scheduled to be conducted in late 2015 in Karachi, Pakistan.

### Third Global Canine Forum

The Third Global Canine Forum was organized by the WCO from 24 to 26 June 2015 in Buenos Aires with the support of Argentina's Federal Administration of Public Revenue (AFIP). Over 90 experts from 28 countries participated and exchanged knowledge on detector dog and handler training programmes.

### IPR, Health and Safety Programme

#### Actions

Extensive capacity building activities in this area have been conducted, such as regional or national seminars and diagnostics, as well as large-scale operations coordinated by the WCO. Operation CHANNEL GATE took place in East Africa in December 2014, focusing on pharmaceutical products, and Operation BALKAN GATE took place in the Balkan region in March 2015, focusing on all goods that pose a threat to health and safety.

#### Interface Public-Members (IPM)

IPM is the WCO online database that enables rights holders to provide Customs officers in the field with real-time data and information on their products. Latest developments related to the tool consist of the following:

- The complete redesign of both its mobile and web application translated into a more ergonomic and attractive interface, with new features and functionalities;
- The mobile version enables officers to obtain information from the IPM system simply by scanning bar codes. The new mobile version is now available to all IPM users;
- The addition of new security solution providers to the list of companies who have joined the IPM Connected network. This service enables Customs officers to scan security features provided by these companies, such as QR codes, to verify the authenticity of protected products.

### Environment Programme

#### Activities

The WCO is continuing to support efforts to combat environmental crime by raising awareness of the issue among frontline Customs officers, organizing training to improve their targeting and identification capabilities, leading international enforcement operations focused on smuggling, and developing practical guidance in the form of various training resources.

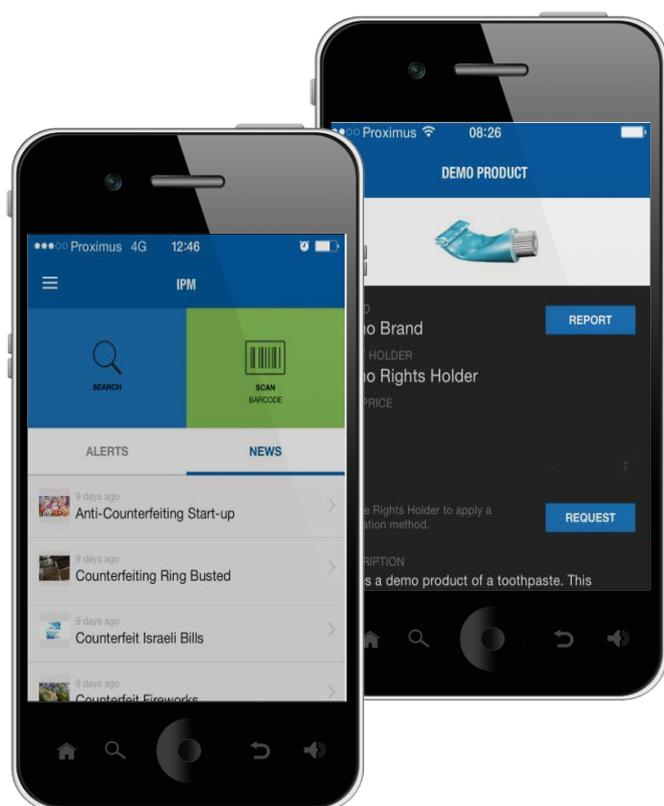
Three environment-focused enforcement operations were supported and coordinated by the WCO: COBRA III in May 2015, which targeted wildlife crime, involved 37 countries; SESH in March 2015, targeting red sanders and other endangered plant species, involved 11 countries in the WCO Asia Pacific region; and FLYAWAY in June 2015, which targeted wildlife smuggling originating in South America, involved 14 countries in the WCO Americas and Europe regions.

The WCO organized a Joint Risk Management Workshop with the UN Environment Programme (UNEP) on countering the illegal trade in environmentally regulated goods in Malaysia, from 6 to 10 April 2015. It was attended by 42 participants from 26 WCO Members, as well as by representatives from UNEP, the Secretariat of the Convention on International Trade in Endangered Species of Wild fauna and Flora (CITES), TRAFFIC, and the RILO and Regional Office for capacity Building (ROCB) in the WCO Asia/Pacific region.

In January 2015, the WCO and TRAFFIC – a wildlife trade monitoring network – organized a consultative workshop in Thailand. It was attended by representatives from across the transportation and logistics sector, together with Customs officials, supply chain experts and wildlife professionals, in order to find actionable solutions to deter wildlife smuggling activities while strengthening supply chains and corporate policies.

#### INAMA Project

This WCO project, undertaken in conjunction with the WCO Secretariat's Capacity Building Directorate, was launched as a follow-up to Project GAPIN. It aims to strengthen the enforcement capacity of targeted Customs



The mobile version of IPM enables officers to obtain information from the IPM system simply by scanning bar codes. The new mobile version is now available to all IPM users.

administrations in Sub-Saharan Africa, while focusing on the illegal trade in wildlife, particularly endangered species listed in the CITES Convention. Project INAMA is expected to run for a five-year period as a multi-donor funded project.

In the framework of this project, the following events have been conducted:

- A Workshop on Controlled Deliveries of Illegally Traded Wildlife Products, funded by the CITES Secretariat, was held in Thailand in January 2015, attended by 30 delegates from Customs administrations and other relevant authorities, such as wildlife authorities, the police, etc., representing 8 Asian and African countries;
- A 5-day training course on Basic Intelligence Analysis on CITES was held in Mozambique in May 2015 for Member States of the Southern African Development Community (SADC).

Discussions have also been held with TRAFFIC and the UN Environment Programme's World Conservation Monitoring Centre (UNEP-WCMC) to explore possible synergies and areas of cooperation.

### Electronic crime

During its last meeting, the WCO Electronic Crime Expert Group (ECEG) examined the DarkNet (an overlay network that can only be accessed with specific software, configurations, or authorization, often using non-standard communications protocols and ports), virtual currencies/bitcoins, mobile phone surveillance technology, new technology for data-mining and visualization, and software and hardware for computer forensics.

The new ECEG work plan will intensify the Group's activities on DarkNet investigations and virtual payment systems/Bitcrime, in addition to providing advice on training for undercover online investigations. Meeting reports and presentations on the activities of ECEG may be perused by WCO Members on the WCO website.

### WCO tools

#### *The CEN suite*

The Customs Enforcement Network (CEN) application was developed as a central global depository for enforcement-related information, enabling the Customs community to produce valuable analyses and intelligence on the basis of the available data. Compared to 2013, the number of cases reported by WCO Members to the CEN decreased in 2014. The WCO therefore calls on those of its Members not reporting data to the CEN to do so as soon as possible and on a regular basis. It also urges its Members to do their utmost to ensure that every seizure related to illicit trade is inputted into the CEN, keeping in mind that the quality of the provided information is crucial for identifying pertinent trends, preparing risk indicators, and formulating appropriate strategies.

The CEN communication platform (CENcomm), an operational tool enabling the exchange and diffusion of information in a secure environment, remains the most popular application in the CEN suite. In 2014, CENcomm was used in 71 operations and projects, constituting an increase of 20% from the previous year. In the first two quarters of 2015, this number had already reached 68, indicating a continuing upward trend.

The nCEN application gives Customs administrations the ability to collect, store, analyse, and disseminate law enforcement data effectively at the national level, with the additional possibility to exchange this information at the regional and/or international level. In the course of 2014, nCEN was successfully implemented in Angola, Botswana, Georgia, Malawi, the Maldives, Mali, Mauritius, Namibia, the Seychelles, Swaziland, Tanzania, Uganda and Zimbabwe, bringing the total number of countries where it has been deployed thus far to 13. In addition, two workshops for nCEN project leaders and nCEN IT experts, aimed at promoting regional cooperation and cohesion amongst countries that are using the nCEN application, were conducted in 2015.

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

The CTS enables user countries to capture advance electronic cargo manifest information, and to perform risk assessment, profiling and targeting. To date, the CTS has been deployed in five countries, namely the Bahamas, Jamaica, the Maldives, Panama and Sri Lanka. Further deployments are planned in the coming months. In addition, preparations for the development of the CTS' air cargo capabilities are well underway.

Work related to cooperation with international shipping lines to ensure and increase the availability of pre-arrival cargo information for WCO Members' risk assessment activities through the use of the CTS, although not exclusively, continues. As a result of this dialogue, an increased number of shipping lines are providing pre-arrival cargo information to WCO Members, particularly, but not limited to, those implementing the CTS.

#### *Air Conveyances' Risk Indicators and Manual (ACRIM)*

The WCO Customs Risk Management Compendium was released in 2011. Since it is considered a 'living' document, in addition to previously developed documents, a two part document, called ACRIM, has been incorporated into Volume 2 of the WCO Customs Risk Management Compendium. Annex I covers risk indicators for air conveyances, while annex II – the Manual – covers general information on

air conveyances and the meaning of each risk indicator, including explanations on the application of risk indicators, as well as examples to illustrate indicators that caused a movement/shipment to appear suspicious.

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

The COPES Compendium was published in 2012. In 2014, the WCO secured funding for training on the important content of the Compendium, and subsequently recruited a Project Manager in March 2015 for the implementation of these training activities.

As a first step, two experts devised courses to be tested at two seminars, in Sri Lanka and Albania respectively. In keeping with the project's objectives, and in partnership with the UN Office on Drugs and Crime (UNODC), these seminars aimed to provide information and raise awareness on the assessment/analysis of risks, and of good seizure practices and procedures, in line with relevant national legislation. The two seminars essentially led to the modification of some modules by simplifying their content, and making adjustments in the event of interpreters being used.

As a second step, and to achieve the delivery of the courses, a one-week workshop

bringing together the COPES team led to the delivery of the new COPES training modules. The training covers the following topics: consigning, storage and deposition of seized goods; sharing of information and use of/access to intelligence sources; coordination with other agencies; recording and documentation of information; definition and types of evidence; forensic integrity and chain of evidence; interviewing techniques; and the role of the Prosecutor. Over the next few months, the modules will be delivered through regional seminars.

### **More information**

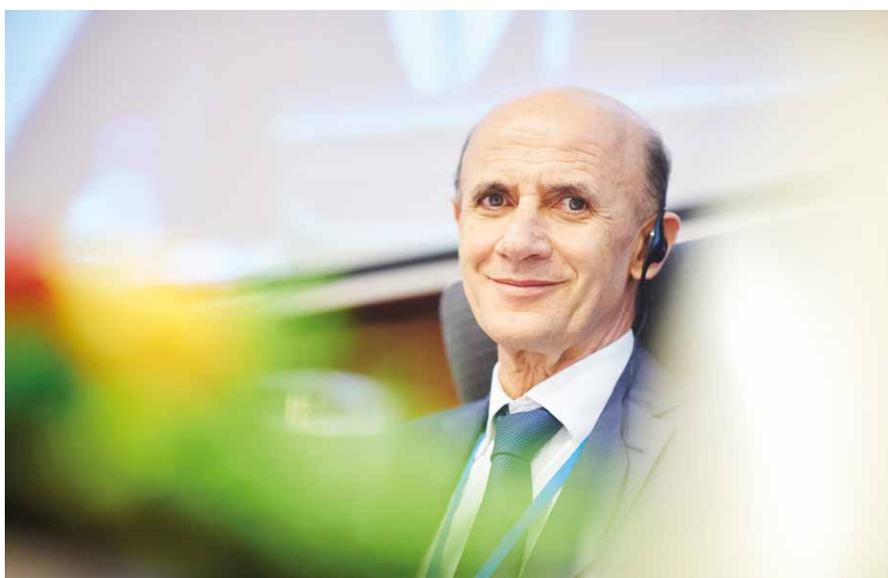
[enforcement@wcoomd.org](mailto:enforcement@wcoomd.org)

## Election highs

SEVERAL ELECTIONS TOOK place during the Sessions with the following results:

- Mr. Zouhair Chorfi of Morocco was re-elected as Chairperson of the Council.
- Ms. Ana Hinojosa of the United States was elected as Director of Compliance and Facilitation.
- Mr. Ernani Checcucci of Brazil was elected as Director of Capacity Building.
- Mr. Ping Liu of China was elected as Director of Tariff and Trade Affairs.

The new Directors will take office on 1 January 2016.



From top to bottom and left to right: Ana Hinojosa, Ernani Checcucci, Ping Liu and Zouhair Chorfi.

## 2015 WCO Photo Competition

"BORDER AHEAD" IS the caption of this year's winning entry from Sudan Customs. The photo was taken at the the Askeit border post and shows goods trucks ready to cross the border with Egypt. Since April 2015, this border post is the first and only border crossing point in Sudan benefiting from a Single Window environment, with all relevant authorities gathered under one roof. The volume of trade exchange between Sudan and Egypt through this post amounts to about 185 million US dollars per year, a figure which is expected to increase twofold, or even threefold, over the next few years.



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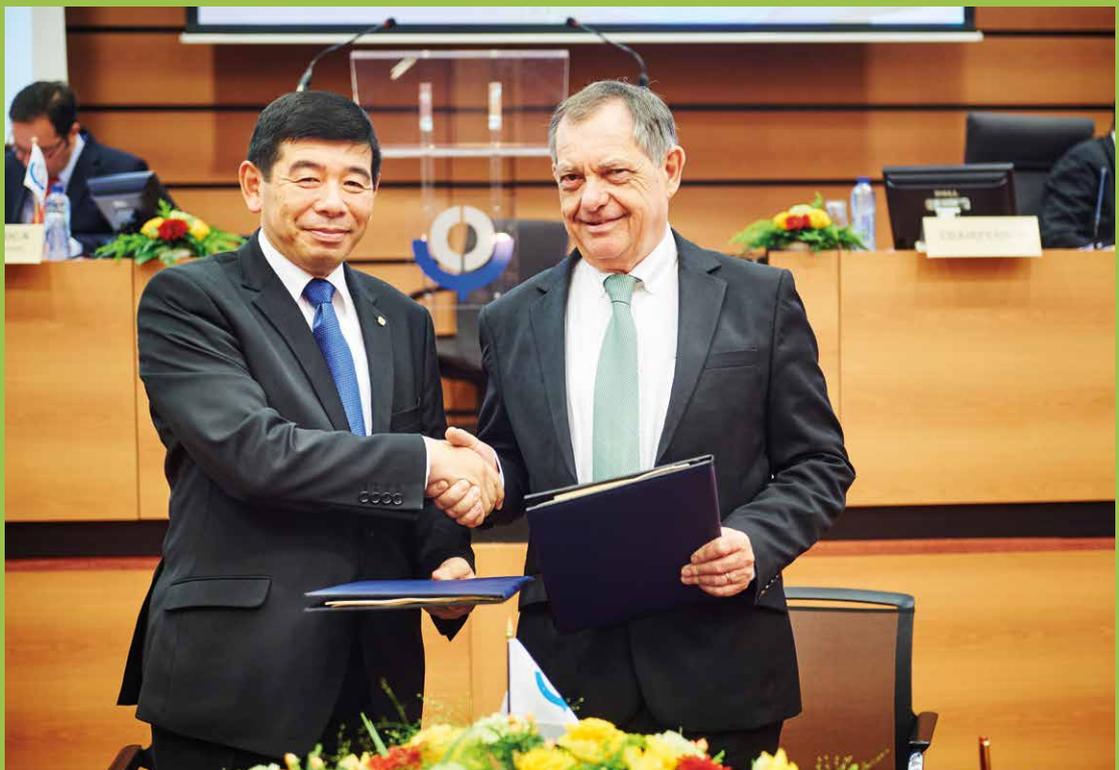
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## Signing ceremonies

THE WCO AND Jordan signed a Memorandum of Understanding on the creation of a Regional Training Centre in Amman. A Cooperation Agreement was also signed between the WCO and the World Organisation for Animal Health (OIE) to strengthen cooperation between the two Organizations, and to boost collaboration between Customs and veterinary services on the ground around the world.



# Facilitating e-commerce

WITH THE DIFFUSION of user-friendly technologies and increasing penetration of the Internet globally, e-commerce is witnessing exponential growth: the global online retail market now topping 1 trillion US dollars a year, and is set to double within four years.

Some of these online transactions are cross-border related, with many companies, especially small and medium-sized enterprises (SMEs), seizing the opportunities offered to enhance their participation in global value chains, and increase their market access and outreach in order to develop their exports. An eBay report on SMEs based in member countries of the Asia-Pacific Economic Cooperation forum, for example, showed that the average commercial seller on eBay exported to 36 countries.

In a declaration on e-commerce adopted by the WCO Council in June 2001, Members of the Organization recognized the potential impact of e-commerce on the economic and social wellbeing of nations, as well as the need for Customs to develop an appropriate response to reconciling facilitation and control in order to meet

traders' needs. The topic was also high on the agenda of the 2015 WCO Council and Policy Commission sessions, and will continue to be further discussed in the coming months.

Members of the World Trade Organization (WTO) attending the December 2013 Ministerial Conference in Bali also noted the importance of e-commerce in the WTO's future work programme. The WTO Ministerial Decision – WT/MN(13)/W/3 – stated that “It shall take forward the issues emerging in the discussions and the evolving application of e-commerce to enhance economic development, with special consideration of the situation in developing countries, particularly in least developed country members and least-connected countries. It shall continue to examine opportunities and challenges for access to electronic commerce by micro, small and medium-sized enterprises, including small producers and suppliers.”

Customs, transport and logistics services are critical elements in the global supply chain, and as such, the effectiveness and efficiency of a Customs administration has a significant impact on the extent to which

a country can benefit from the increase in cross-border trade caused by the growth in e-commerce.

The overall challenge for Customs is to be able to operate in a modern e-enabled environment and, in doing so, to operate more effectively and efficiently. In particular, Customs needs to make available a range of electronic services which allow e-enabled traders to deal with Customs authorities entirely electronically, using simple, easily accessible services.

This article examines some key measures that Customs administrations may like to take to support cross-border e-commerce, as well as to address the challenges and opportunities that e-commerce represent.

## Borderless marketplace

Besides the traditional global players, the Internet provides those market participants who were formerly conducting their business on a local or regional level with easy access to global markets. New applications, platforms and services are making e-commerce more accessible and easier to navigate, thereby lowering the entry barriers into this type of business

## Parallel model for trade



Source: eBay

model. Among these are mobile apps and remotely delivered services – for example, microwork which enables e-commerce sites to manage small tasks, such as translating text, tagging an image and modifying content.

The tasks involved in the global supply chain in physically delivering goods across borders remain the same, namely order, ship and pay. However, e-commerce has been changing the trading landscape by creating a system which requires very few, and sometime new, intermediaries in the supply chain. Under the traditional ‘brick and mortar’ trading system, goods are imported in bulk by an intermediary, as part of a single operation, and any increase will not produce particular control difficulties. With cross-border e-commerce however, private/individual purchasers order goods for their own use via computer networks directly, thereby bypassing intermediaries – a phenomenon which leads to the fragmentation of traffic with large number of small shipments, and places additional pressures on Customs resources.

#### **E-Customs**

In the e-commerce environment, when the supply chain and its various actors are e-enabled, there is a growing need for moving towards e-Customs, which would support and facilitate the clearance of ever increasing shipments, thereby ensuring effective control and efficient collection of revenue.

The WCO Revised Kyoto Convention – ICT Guidelines, provide details on how Customs can use information and communication technologies to enhance program delivery and move towards a more electronic environment. The Moreover, the WCO recently developed the ‘IT Guidance for Executives’ and is currently engaged in mapping its IT related tools and instruments to provide further support to ‘Digital Customs’.

The most obvious applications which some Customs administrations are already implementing include:

#### ***E-processing – a paperless environment***

Since the beginning of the 21<sup>st</sup> century, Customs services have undergone rapid transition, with traditional paper-based procedures being eliminated in favour of electronic forms of delivery, which are also capable of incorporating security elements and trade facilitation measures for trustworthy economic operators.

Moreover, WCO Members are encouraged to identify supporting documents that are normally required to accompany cargo and goods declarations, and to examine their necessity with a view to eliminating them, at the same time creating a single window environment for ‘one filing, one processing and one release’.

#### ***24/7 automated Customs processing and adapted working hours***

E-commerce has no time and space limitations. Orders for goods can be placed, accepted and delivered, cutting across various time zones. As a result, there is a potential need for Customs to allow 24/7 clearance facilities. This may require automated processing with a robust risk management system, along with the redeployment of staff at border points.

# WCO Instruments & Tools

## facilitating e-commerce

#### **Revised Kyoto Convention**

- Standards 3.18, 3.21, 6.9 and 7.1 of General Annex (GA): application of ICT for Customs operations.
- Standard 7.4 of the GA: establishment of new or revised legislation for e-commerce methods and right of Customs to use and exchange of information with others.
- Transitional Standard 4.13 of the GA (*De Minimis*): specify a minimum value and/or a minimum amount of duties and taxes below which no duties and taxes will be collected.

#### **Baku Declaration on e-commerce (2001)**

- for acceptance and implementation of the RKC for a simplified e-Customs environment.

#### **Immediate Release Guidelines (2014)**

- expeditious clearance of small or negligible value shipments.

#### **RKC – ICT Guidelines (2014)**

- Use of ICT to enhance programme delivery and improvements in services.

#### **Recommendation on Dematerialization of supporting documents (2012)**

- identify and examine the need for supporting documents for Customs clearance with a view to eliminating them and where necessary accepting electronic form, if already available.

#### **SAFE Framework of Standards 2015**

- Pillar 3 (Cooperation between Customs and other Governmental Agencies).
- Preloading Advance Cargo Information for air cargo.

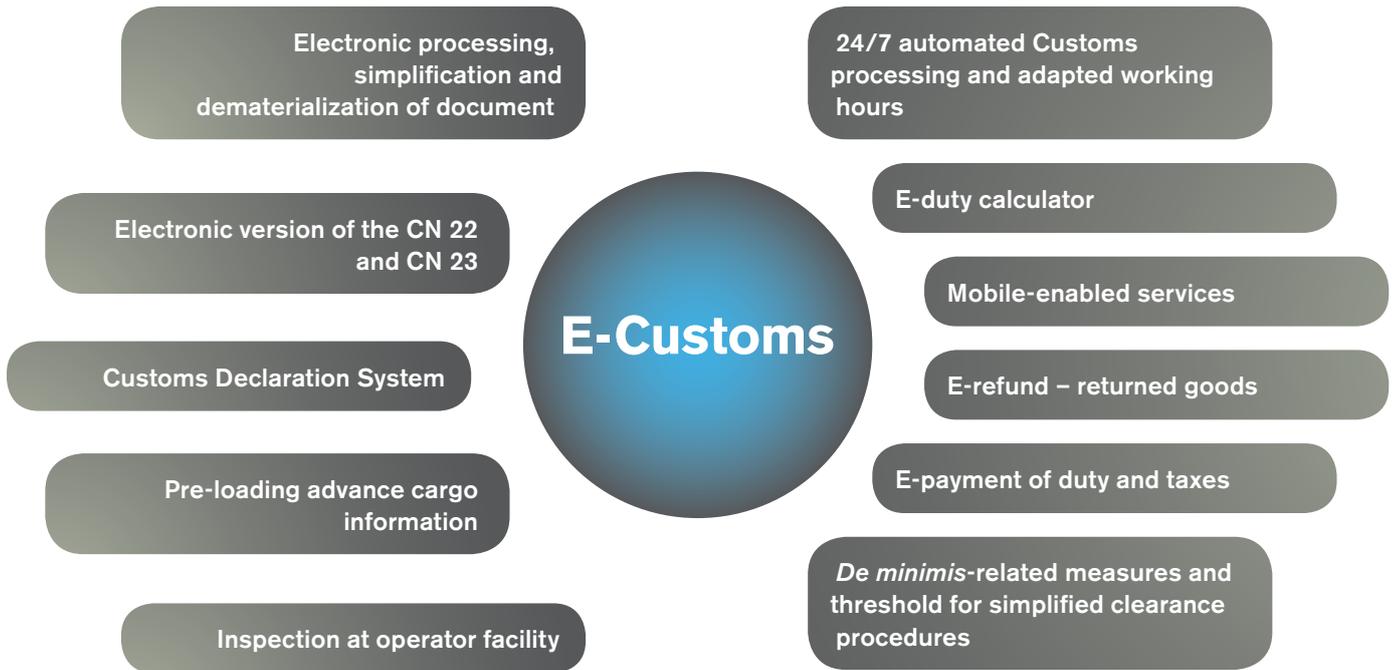
#### **IT Guidance for Executives**

#### **Single Window Compendium**

#### **WCO Data Model**

#### **Coordinated Border Management Compendium**

#### **Customs-Business Partnership Guidance**



Some WCO Members have already introduced this facility for specified categories of shipments at designated places of entry and exit. In order to make a 24/7 clearance facility effectively operational, the commitment and active involvement of other government agencies and stakeholders is essential.

#### ***E-Payment of duties and taxes***

E-payment is advantageous to both taxpayers and governments. For taxpayers, it affords them the facility of making payments from anywhere on a 24/7 basis, and for governments, it ensures immediate collection of taxes and discrepancy-free efficient reconciliation. Besides expediting the process of paying duties and taxes and clearing imported goods, the e-payment facility also results in reduced transaction costs for traders and Customs, while supporting e-commerce. Many Customs administrations have taken initiatives in this regard, even to the extent of making e-payment mandatory in certain situations.

Article 7.2 of the WTO Trade Facilitation Agreement (TFA) also provides that “each member shall, to the extent practicable, adopt or maintain procedures allowing the option of electronic payment for duties, taxes, fees and charges collected by Customs incurred upon importation and exportation.” The WCO has developed tools, such as the ICT Guidelines

and the Single Window Compendium, to help its Members establish automation systems for electronic payment methods.

#### ***E-duty calculator***

A web-based interactive duty calculator provides sellers and buyers with full information on duty and tax rates in a transparent and easily accessible manner. This helps sellers and buyers to know, in advance, the leviable duties and taxes while negotiating their orders, and to make provision for such payments. Such a facility may also provide information about prohibitions, restrictions and licensing requirements, so that sellers and buyers are fully aware of all requirements when placing orders.

#### ***Mobile-enabled services***

In line with the ‘any time anywhere’ concept of e-commerce, Customs has also started providing several mobile-enabled services, such as notifying clients of the status of their declaration, as well as providing Customs exchange rates and duties payable. Some systems even enable requests to be filed and notify clients directly on the processing status of their requests, as well as the time needed to deliver the requested services. In addition, several Customs services have introduced mobile-enabled duty payment services (MPay), providing significant time and cost savings.

#### ***E-refund and returned goods***

In the e-commerce environment, a customer should be confident that they will be able to return ordered goods if they do not meet their needs and requirements or fall short of their specifications, including quality requirements. Growing volumes in small packets and parcels calls for consideration of streamlined functions like simplified and efficient returns in bona fide cases, and duty cancellation/refunds on such items to reduce administrative burdens and costs.

#### ***Inspection at operator’s facility, transfers and other agency inspections***

Customs could explore the possibility of inspection and of release goods at the operator’s facility or require their transfer to another facility, and also coordinate joint inspections with other agencies, if required, in order to avoid delays in releasing shipments.

#### ***Pre-loading advance cargo information***

To further strengthen the security of the air cargo supply chain, Customs is moving from ‘pre-arrival’ to ‘pre-loading’ advance cargo information (PLACI). Some ongoing PLACI pilots for security risk analysis are also engaging postal operators. In this context, standards for submission of PLACI by various entities in the air cargo supply chain, including postal operators, have been included in the updated WCO SAFE Framework of Standards, which was

endorsed by the WCO Council in June 2015.

### **Electronic version of the CN 22 and CN 23**

The WCO and the Universal Postal Union (UPU) have collaborated to jointly develop electronic messages which enable Posts to exchange data contained in CN 22 and CN 23 forms, the Customs declarations for international mail, via EDI.

### **Customs Declaration System**

The UPU's Postal Technology Centre has developed an electronic Customs Declaration System (CDS) on the basis of the Joint WCO/UPU Customs-Post EDI message. Two sets of electronic messages are involved in the CDS process. The first message replaces the paperwork normally used for Customs declarations. A second message, sent in response by Customs, contains information about whether or not an item should be presented to Customs. This message may also contain additional data, including the value of any duties or taxes the sender may need to pay. The presence of this data could vary depending on the specific agreement between a national postal service and Customs authority.

### **De minimis related measures and threshold for simplified clearance procedures**

The WCO has made express provision for *de minimis* regimes in its Revised Kyoto Convention (RKC) which focuses on the simplification and harmonization of Customs procedures. Among other things, the RKC states that "National legislation shall specify a minimum value and/or a minimum amount of duties and taxes below which no duties and taxes will be collected" (see RKC Transitional Standard 4.13).

In the context of Customs clearance, the *de minimis* threshold is used in two ways: firstly, as a 'value' threshold below which duties and taxes are not collected and no Customs declaration is required; and secondly, as a 'reporting' threshold for goods in respect of which a full Customs declaration must be submitted. In other words many Customs administrations adopt two levels of *de minimis*. Goods whose value falls between the two thresholds are usually the subject of a simplified Customs declaration.

The WCO Immediate Release Guidelines support e-commerce by providing guidance to both Customs and trade, expediting the clearance of goods across borders that are primarily being carried by express cargo and/or express mail service providers. The Guidelines also provide for simplified clearance procedure for consignments for which no duties and taxes are to be collected or low dutiable consignments.

### **Opportunities and challenges**

E-commerce may be seen as an opportunity. An opportunity for Customs to constantly reassess and accordingly realign and adapt their processes with simple, consistent, transparent, non-discriminatory and enforceable trade rules and procedures, providing more reliable, predictable and speedy clearance, while ensuring compliance with various regulatory requirements.

The Internet of Things (IoT) provides a great opportunity for Customs in terms of access to more information, enabling goods to be controlled and regulations to be enforced. E-commerce is indeed a data-rich environment that demands equally strong data capabilities. Customs would need to create an operating model that captures big data from across the industry ecosystem.

Customs could also endeavour to move beyond the electronic processing of declarations, collections of duties and taxes, and risk-based controls, to embrace a more digital environment – one that uses technology and trends to help increase efficiencies.

Predictive analytics capabilities and Customs-to-Customs international cooperation networks, together with partnerships with private stakeholders, may enable Customs to move from controls on non-compliance to, possibly, the timely prevention of illicit trade whilst providing enhanced facilitation to legitimate trade.

Besides a sound legal framework, some of the key challenges relate to mutual agreements between various actors in the supply chain to accept and transmit documents/information electronically, data quality, and a robust information and technology (IT) infrastructure, including its inter-operability and data privacy and protection.

### **Exchange of information**

Exchange of information touches on two key areas:

- Between Customs and e-commerce intermediaries (marketplaces, transporters/carriers, freight forwarders, express operators, postal operators and financial intermediaries).



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- There are already some developments where relevant Customs information are no longer being held by companies within the jurisdiction of a particular Customs administration. The Internet enables businesses to establish a seamless and borderless commercial system, resulting in Customs and other relevant regulatory information being centrally stored in one global location.
- In the context of advanced cooperation with the trade, Customs should be able to have improved access to commercial information directly or indirectly related to an international trade transaction, for risk management and Customs control purposes.
- Cooperation between Customs and postal/express cargo service providers is of particular importance. For instance, besides seamless exchange of information, postal/express service staff usually well placed to bring suspicious postal articles to the attention of Customs.
- Engagement/partnership with vendors/e-tailers focused on enhanced facilitation in lieu of compliance.
  - As part of the selling and delivery process, vendors collect key data sets, including details of the product that is being sold to the purchaser; the price paid for the goods; the place of delivery, the person to whom the goods are being consigned, the price paid for the transport, the payment details, the delivery mode and tracking data (including tracking number and carrier/postal operator), and possibly the amount of taxes due on importation and associated administrative costs when the price made to the purchaser includes these costs. The nature of the purchaser (business or final consumer) may also be known, depending on the contractual arrangements and circumstances.
  - Close cooperation and engagement with vendors and e-tailers could be quite beneficial to Customs in getting the most reliable data, however, such a partnership will need reciprocal arrangements in terms of Customs providing enhanced facilitation,

as well as suitable data privacy safeguards.

**Data quality**

Data quality – the accuracy and completeness of data – is another key issue for risk management, security controls, admissibility checks and other decisions to be taken by border control authorities. Many clients sending international items are occasional shippers, and are often not fully conversant with the requirements of data quality. Missing, illegible, incomplete or otherwise incorrect information in a declaration may affect the risk analysis, and the efficient processing, clearance and release of goods by Customs leading to delays and additional costs.

**IT infrastructure**

Different levels of development in terms of IT infrastructure and Internet usage will require an increased effort from all parties, and will, in particular, call for more effective coordination among donor countries and institutions to bridge the so-called digital divide.

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# E-commerce and revenue collection

Many countries have seen a significant and rapid growth in the volume of low-value imports of physical goods on which duties and taxes are not collected. There are growing concerns about matters related to potential revenue loss, fraud, and the disadvantages experienced by domestic retailers. Therefore, it is appropriate to provide an overview of the traditional collection model, current developments aimed at improving it, and new, alternate models for collecting duties and taxes on these consignments.

WITH THE PROLIFERATION in the use of the Internet, particularly in relation to increasing transmission speeds, and the development of secure means of payment, international trade is witnessing a rapid expansion in sales of goods and services via this medium. A large part of this trade consists of 'low-value' consignments delivered by the Post or by express courier services.

Collecting all duties and domestic taxes – known variously as value-added tax (VAT), general sales tax (GST), goods and services tax (GST), purchase tax, etc. – on cross-border imports requires simple, inexpensive ways to identify a transaction, obtain a description of the goods, value them, ascertain the shipper and buyer details, and collect any amounts that may be payable.

Taxation systems currently structured around traditional business models

need changes to adapt existing systems and procedures, in order to enable more effective prevention of revenue losses while at the same time ensuring that there is no discrimination between businesses using the new technology and those continuing to trade conventionally.

Given the rise in e-commerce, the early establishment of effective revenue collection procedures for international e-commerce comprising small, low-value consignments, especially those with a value below the Customs duty threshold but beyond the tax threshold, is increasingly seen as a matter of vital concern among some tax authorities.

A survey on the VAT/GST treatment of imported goods conducted by the Organisation for Economic Co-operation and Development (OECD) in September 2014 indicated that potential reform of

low-value relief regimes is high on the agenda of many countries.

With Customs in most countries being responsible for the collection of all duties and taxes on low-value goods, the WCO has been collaborating with the OECD and the Universal Postal Union (UPU), among others, to develop a harmonized approach towards more efficient collection of duties and taxes on such imports. It has been noted that there is no ideal solution, a combination of options are being discussed for governments to consider, depending on their domestic situation and their exposure to imports of low-value goods.

This article highlights the work undertaken by the WCO and the UPU to streamline Customs clearance processes for postal items, as well as the work being done by the OECD, with support from the WCO, on exploring various alternate models of revenue collection for cross-border e-commerce.

## Traditional clearance process

The WCO Immediate Release Guidelines, which provide guidance to both Customs and the trade on expediting clearance across borders of items that are primarily being carried by express cargo or express mail service providers, divides such items into four categories:

- Correspondence and documents – no Customs declaration is required;
- Low-value consignments for which no duties and taxes are collected under the *de minimis* value rule – no Customs declaration is required, and immediate release may be granted on the basis of a consolidated declaration that can be a manifest, waybill, cargo declaration or



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an inventory of the items, or following the presentation of a simplified goods declaration;

- Low-value dutiable consignments – packages valued above the *de minimis* value and up to a threshold limit can be cleared using a simplified goods declaration or by providing information enabling the amount of the duties and taxes payable to be calculated;
- High-value consignments – goods requiring a standard import goods declaration.

Besides revenue collection, Customs is equally concerned with preventing contraband and other prohibited items from entering a country. In the international mail and express environment, all packages, regardless of their value, are subjected to risk assessment and, where appropriate, screened by Customs as part of its wider border risk management process. A Customs administration typically determines which items are subject to control, taking into consideration national Customs regulations, and those of

other government departments for which Customs is broadly responsible.

Reporting obligations differ between countries and postal operators:

- Express airfreight (couriers): such companies usually complete all border formalities on behalf of consumers. In many countries, they transmit the required goods declaration data to Customs prior to the arrival of the goods, using electronic data interchange (EDI) messages. This allows Customs sufficient time to process the data against risk selection criteria, and to notify the courier computer system as to which parcels have been selected for inspection – the parcels are identified via a scanning process upon arrival;
- International parcel post (postal operators): usually no advance electronic information is provided about parcels sent through the post, and Customs is required to screen mail manually for revenue collection and other risk management purposes. This process is facilitated by the use of internationally

standardized forms, namely the CN22 – packages under 2 kg in weight or valued at less than 300 special drawing rights (SDR), and the CN23 – packages valued in excess of 300 SDR. These forms provide brief details of the origin, classification and Customs value of the goods, the main difference between them being that the CN23 also requires the name and address of the sender and the importer.

Items falling below the *de minimis* value and not infringing any laws are released immediately. The rationale behind the *de minimis* regime is that revenue collection on low-value shipments should be commensurate with their processing costs. Packages declared to be of a value exceeding the *de minimis* threshold for payment of duties and/or taxes are withheld from delivery until the duties and taxes payable have been charged and collected.

Depending on the country, the postal operator may determine the duty to be collected, with Customs validating the Post's process and helping it to determine the precise tariff applicable to an item. The

Post could also act as a Customs clearing agent, directly or indirectly representing the declarant, typically the addressee. In such a scenario, the Post would pay duties and taxes to Customs, and in turn receive payment from the addressee. As for courier services, they usually pay the duty and tax to Customs, and in turn receive payment from the addressee.

Several countries operate some form of a 'user pays' system. For example, in Canada and the United Kingdom (UK), consumers are charged a processing fee representing the costs incurred by, respectively, Canada Post and the Royal Mail. In Australia and New Zealand, consumers are required to pay a Customs handling fee. These fees are charged on the grounds that Customs, couriers and postal authorities incur additional costs in the identification and processing of consignments on which duties and taxes are owed.

#### Fraud risks

The *de minimis* threshold and its method of calculation are a matter of national competence. Some administrations have different thresholds for Customs duties and domestic taxes, while some even have different thresholds for personal gifts, which are normally higher than for other goods. There are also several exceptions to the application of the *de minimis* rule, such as on books, tobacco and alcohol products. As a result, there is a wide range of models and thresholds for the *de minimis* rule around the world.

With the rapid increase in low-value consignments, the postal and express industries often argue that higher *de minimis* levels would promote cross-border e-commerce, increase trade, and stimulate economic growth and employment. Moreover the costs, both to governments and businesses, of processing low-value consignments, could possibly be greater than the overall revenue collected on these consignments.

From a Customs perspective, the increase in imports of low-value consignments below the *de minimis* level can have an adverse impact on revenue collection. Some Customs administrations are witnessing the growing misuse of the *de minimis* facility, by way of vendors splitting and/or under-valuing consignments for tax avoidance purposes, to keep the

The UPU's Postal Technology Centre has developed an electronic Customs Declaration System (CDS) on the basis of the Joint WCO/UPU Customs-Post EDI message. It allows customers to enter data about an item online, and enables Posts to give Customs advance data about a postal item. It also enables Customs administrations to inform Posts about the action to be taken with respect to any given item.

value of an individual shipment below the specified threshold.

While governments should obviously aim to encourage market competition among emerging businesses based on innovations in operations and business models, they may equally look for strategies on *de minimis* rules, in order to avoid potential revenue leakages as well as providing a level playing field for industry.

#### Improving the traditional collection model

Given the enormous volumes passing through the international mail centres, it is inevitable that even packages exceeding the *de minimis* threshold routinely pass through the border undetected. Improving the clearance process should enable Customs to better assess the revenue risk posed by low-value items, as well as enhancing the capacity of Customs to detect consignments containing illicit products.

The global fast parcel industry is dominated by four large express carriers that already have sophisticated systems in place which allow effective controls to be applied. Her Majesty's Revenue and Customs (HMRC) in the UK, for instance, has direct access to express carriers'

information systems as part of the conditions allowing these companies to operate simplified import procedures.

The situation is rather different where postal operators are concerned. The CN22/CN23, being paper-based, is not sufficient to enable Customs to evaluate risks in advance, or even after the goods have been presented, due to increasing volumes, and the emphasis on speedy clearance of such parcels.

To remedy the situation, the WCO and the UPU have collaborated to jointly develop electronic messages to permit the pre-advice and possible pre-clearance of postal items. In addition, the UPU has recently created a legal basis for the provision of advance electronic data, by amending Article 9 of the UPU Convention. This amendment came into effect on 1 January 2014, and implementing provisions are being finalized.

Moreover, the UPU's Postal Technology Centre has developed an electronic Customs Declaration System (CDS) on the basis of the Joint WCO/UPU Customs-Post EDI message. It allows customers to enter data about an item online, and enables Posts to give Customs advance data about a postal item. It also enables Customs administrations to inform Posts about the action to be taken with respect to any given item. The CDS is currently being used/piloted by some postal operators in conjunction with Customs administrations.

However, a lot needs to be done to improve the interface between Posts and Customs in implementing advance electronic data exchange. There is also a need for sound legal and technological safeguards for data privacy and security, in order to make the exchange of information process efficient and sustainable.

In this connection, a Virtual Working Group of interested WCO and UPU Members has been set up under the auspices of the WCO-UPU Contact Committee, to examine the existing interfaces and forms of information exchange between Customs and Posts (including experiences of using the UPU CDS), and develop a set of recommendations, guidelines, and best practices in this domain.



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### Alternate revenue collection models

Thus, the traditional collection model is improving and becoming more efficient, given the current development of electronic Customs and postal procedures; at the same time, discussions are ongoing to explore alternate new schemes which would allow all duties and taxes to be collected efficiently as soon as goods exceed the *de minimis* threshold. Consideration is also being given to adjusting the *de minimis* threshold, where appropriate. The WCO is currently working with the OECD to explore the alternate models discussed below.

### Vendor collection model

Under this model, non-resident vendors would be required to register in the importing country, and remit duties and taxes to that country. Here, the greatest issue lies in creating a system which provides sufficient incentives for firms to voluntarily collect and remit taxes on behalf of a myriad of countries. Compliance would be facilitated and encouraged by simplifying procedures, and providing additional incentives to compliant vendors, such as fast-track processing of imported goods.

### Intermediary collection model

Under this model, vendors rely on an intermediary to remit duties and taxes on their behalf. Collection could be handled by:

- Postal operators, express service providers or transporters (FedEx, DHL, etc.).
  - However, as postal operators have limited information about the identity and nature of the sender, the content of the packages and the nature of the addressee, their participation in the collection of taxes would require a significant adjustment of their data collection and transmission procedures. Another difficulty lies in the fact that there is often very little commercial agreement with the sender. This combines with the legal obligation to deliver the package to the addressee.
  - Freight carriers could play a role in the vendor and intermediary collection approaches, since they are already collecting information and remitting taxes and duties to Customs authorities. However, they point out the difference between the mere remittance of taxes on behalf

of the vendor and the liability to account for the tax – the latter may be much more problematic.

- E-commerce platforms or marketplaces that provide a trading framework for businesses (eBay, Amazon, Facebook, etc.).
  - Some of the biggest marketplaces offer, for a fee, the services of international shipping experts who manage the shipping and Customs process, and send the item to the buyer. There are usually restrictions in terms of the nature, size, price and destination of the item.
- Financial intermediaries such as online payment providers (Visa, MasterCard, American Express, PayPal, etc.).
  - Whilst the idea of involving financial intermediaries is conceptually attractive, it does not appear to be feasible at present. Information held by traditional financial institutions, such as retail banks and credit card companies, will generally be limited to the details needed to validate a card's authenticity and/or confirm that sufficient funds are available in

the purchaser's account to pay for the purchase.

- As for payment operators, even if they collect information about the vendor, the consumer and the amounts paid, they are lacking some of the information needed to assess the tax due, such as the nature of the item and the applicable rates.

#### Impact on the notion of *de minimis*

With the introduction into traditional Customs and postal procedures of various information and communication technology (ICT) solutions and risk management tools based on advance electronic information, the processing of low-value shipments – in terms of the clearance and collection of duties and taxes – should become far more simple and cost-effective; this could potentially lead to a reduction in the *de minimis* value where appropriate.

By reducing the costs associated with collection efforts, the adoption of new taxation models could also potentially support a case for moving to address revenue leakage concerns and create a level playing field for domestic retailers.

Some tax authorities are already considering the option of reducing or eliminating *de minimis* for VAT/GST. Australia recently decided that with effect from 1 July 2017, the existing threshold for GST liability on cross-border imports of goods – currently 1000 Australian dollars – will be reduced to zero, in line with GST collections for other products and services. Non-residents (overseas vendors) will need to charge, collect, and remit the GST for digital and physical products, as broadly described under the 'vendor collection model.'

However, one must keep in mind that the removal of the tax exemption may trigger significant additional costs for vendors and consumers. Freight forwarders, the express industry and postal operators argue that the removal or lowering of the exemption thresholds would imply an increase in the delivery costs for packages, due to both the tax itself and the cost of management and remittance. They also stressed the huge variation in collection costs between countries. As for e-commerce sellers, they are expressing concern about the cost of

tax collection vis-à-vis the value of the items sold. It is, therefore, essential to develop procedures which are as simple, cost-effective, and consistent as possible.

Customs administrations should fully comprehend the impact of the developments and opportunities generated by the growth in low-value cross-border consignments and, where appropriate, adapt themselves to the emerging trading landscape. To this end, among others, discussions are also ongoing at the WCO on the interpretation of Transitional Standard 4.13 in the General Annex of the WCO Revised Kyoto Convention (RKC) on the simplification and harmonization of Customs procedures, which provides for Customs to specify a minimum value and/or a minimum amount of duty and tax below which no duties and taxes will be collected.

#### Way forward

Regarding the use of electronic messages between postal operators and Customs, Belarus, Canada and Slovakia are currently exchanging ITeM ATT pre-advice messages, with the origin and destination Posts providing information on an item (including details of the sender, addressee and item content) which is required by Customs for security screening, and other risk assessment purposes. Moreover, Paraguay is capturing data for outward mail being sent to some 10 UPU countries, and India is receiving data from Bhutan.

As for the UPU electronic Customs Declaration System (CDS), it is already in use in Canada and the United States (US), and implementation pilots are currently underway or planned in Brazil, Chile, Costa Rica and the UK.

HMRC has set up a system of prepayment of import VAT on goods purchased over the Internet or by mail order. Under the arrangement, the designated postal operator of the country will collect and remit the import VAT due on an agreed periodical basis for goods purchased by mail order that would normally be chargeable at the time the goods are imported. The overseas customs country is responsible for auditing the business and monitoring compliance. These arrangements operate under Memoranda of Understanding (MoU) signed with certain overseas Customs and postal authorities, namely

the Channel Islands, Hong Kong China, Singapore, and New Zealand.

Overseas traders wanting to use this procedure must be authorized to do so by their authorities. Once authorized, foreign businesses are issued with a unique authorization number, which they must show on the Customs declaration or packaging along with the statement 'Import VAT Prepaid'. Where these arrangements are used, importers will not be charged a Royal Mail handling fee when they receive their package.

Intermediary collection model schemes also exist to some extent. Some of the biggest marketplaces are already providing tax compliance services to their vendors. One such example is eBay's Global Shipping Programme, whereby eBay collects the price of the item from the purchaser and remits it to the vendor, and collects the international postage costs and any import duties and taxes, and remits them to the international postage provider – who presumably remits the duties and taxes to the importing country.

It goes without saying that any solutions would have to be tested against the practicalities of compliance, control and enforcement. The impact of the vendor collection and intermediary approaches should be carefully considered, in particular regarding:

- the compliance burden on small and medium-sized enterprises (SMEs) – the intermediary collection model would help SMEs to comply;
- the administrative costs for governments – data collection and transmission processes would need important adjustments to allow postal operators, freight carriers and financial intermediaries to play a role in the collection and remittance of taxes. Therefore, harmonized global solutions would greatly facilitate compliance, since the current diversity of requirements across countries generates costs and uncertainties;
- the practical issues, such as delivery and contractual arrangements between the vendor and the consumer, and the possible invoicing requirements;

- the Customs procedures, in particular how a distinction could be made between packages for which tax has already been accounted for by the vendor or an intermediary for faster clearance, and those subject to a traditional Customs procedure, notwithstanding that security and other risk profiling will continue to be done by Customs even in respect of pre-paid shipments;
- the need to provide appropriate flexibility for businesses, depending on their respective business models;
- tax compliance and enforcement issues, such as ensuring that duties and taxes are correctly assessed (administrations would need to create free databases, available in a variety of formats, detailing their duty/tax rates and exemptions) and that the assessed duties and taxes are actually remitted to the country concerned;
- the remaining risks of undervaluation and misdeclaration of supplies by vendors, and the risk of fraud connected to refund procedures. There is a need to enhance existing working relationships between Customs and Tax administrations, as well as cooperation between and among Customs/tax administrations at the international level in order to ensure that revenue collection for low-value cross-border e-commerce is conducted in an optimum manner.

No mechanism should be seen as stand-alone. A best practice may involve a combination of the models described earlier in this article, in order to increase the effectiveness of the collection of duties and taxes on low-value imports, depending on national policy imperatives and specific circumstances.

Also, in order to improve revenue collection under these alternate models, it would be useful to promote the automatic exchange of information between Customs authorities and e-commerce intermediaries, i.e., marketplaces, transporters, and financial intermediaries. Such information would allow Customs to identify and control the flows of goods and stakeholders.

As explained in the opening article of this Focus on e-Commerce, such solutions will need to be supported by strengthened international administrative cooperation and exchange of information between importing and exporting countries. The WCO has a number of instruments and tools that support the exchange of information, such as the Nairobi Convention and the Model Bilateral Agreement. These existing WCO instruments and working arrangements, with suitable adjustments wherever required, could potentially be leveraged to facilitate the exchange of information for e-commerce purposes, leading to an efficient revenue collection approach.

#### More information

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# Supporting e-commerce: Korea Customs Service's strategy

**By Tae-kon Sung,**

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Cross-border e-commerce is increasing sharply in Korea. This is not surprising given that the country ranked No.1 in the world in terms of Internet connection speed at the beginning of 2015, and that the Korean economy is extremely dependent on foreign trade. However, the increase poses a number of challenges to the Korea Customs Service (KCS) which has, since 2014, been taking various e-commerce measures accordingly. This article gives an overview of the scale of e-commerce in Korea, its impact on tax revenue, and how the KCS is promoting e-commerce and managing the risks around this growing form of trade.

The volume of imports resulting from e-commerce has been growing continuously in Korea over the past few years. Statistics show that there were 7,941,000 transactions in 2012, 11,155,000 in 2013 and 15,530,000 in 2014, indicating an approximate annual increase of 40%. Korea's largest e-commerce partner is the United States (US), accounting for more than 70% of overall imports for the last three years – 79% in 2012, 75% in 2013 and 73% in 2014. However, origin countries are diversifying, with 19 countries listed in 2010 and 38 in 2014, and the number of e-commerce transactions originating from these countries is constantly increasing.

## Tax-exemption system

Most e-commerce goods are delivered by either express cargo service or express mail service (EMS), under procedures which differ according to the status of the service

provider, as well as the value of the goods being traded (see Tables 1 and 2). Korea has a tax-exemption system and simplified Customs procedures in place for low-value goods.

There are several *de minimis* thresholds, which are used in different ways:

- as a 'value' threshold below which duties and taxes are not collected and no Customs declaration is required: for postal operators the threshold is 125 US dollars (USD) using the CIF price; and for couriers the threshold is 100 USD using the FOB price, or 200 USD for goods originating in the US, under the terms of the Free Trade Agreement signed between Korea and the US;
- as a 'reporting' threshold for goods in respect of which a full Customs

declaration must be submitted: for express cargo, a 'list clearance' procedure allows a trader to receive goods and, providing their value is below the *de minimis* threshold, clear them by submitting 26 pieces of information, such as trader's name and address, consignee's name and address, and type and price of the goods; as for goods entering via the international mail channel, they are cleared on-the-spot.

About 96% of e-commerce transactions benefit from the tax exemption system. Only 0.3% of transactions consist of high-value goods that exceed 1,000 USD, but these imports are growing at a high rate, with an eight-fold increase from 2010 to 2014 indicating that the number of Korean consumers buying high-end goods online and paying duties is on the rise.

## Impact on tax revenue

As most e-commerce products are being imported under the tax exemption system, the current increase in such transactions results in lower tax revenue. In 2014 for example, 15 million goods worth 1.2 billion USD were imported, representing a loss in terms of tax collection of 230 million USD. Although this amount is important, it represents only 0.4% of Korea's total tax revenue.

In the view of the KCS, the importation of e-commerce goods under the tax exemption system enables consumers to buy products at a more 'reasonable' price, as the system eliminates price bubbles, such as 'rent-seeking' behaviour, caused by monopolies on imported or domestic goods. In this regard, the KCS has been making various efforts to facilitate e-commerce activities.

## Promoting e-commerce

Measures have been taken by the KCS to streamline the import and export process for goods bought online.



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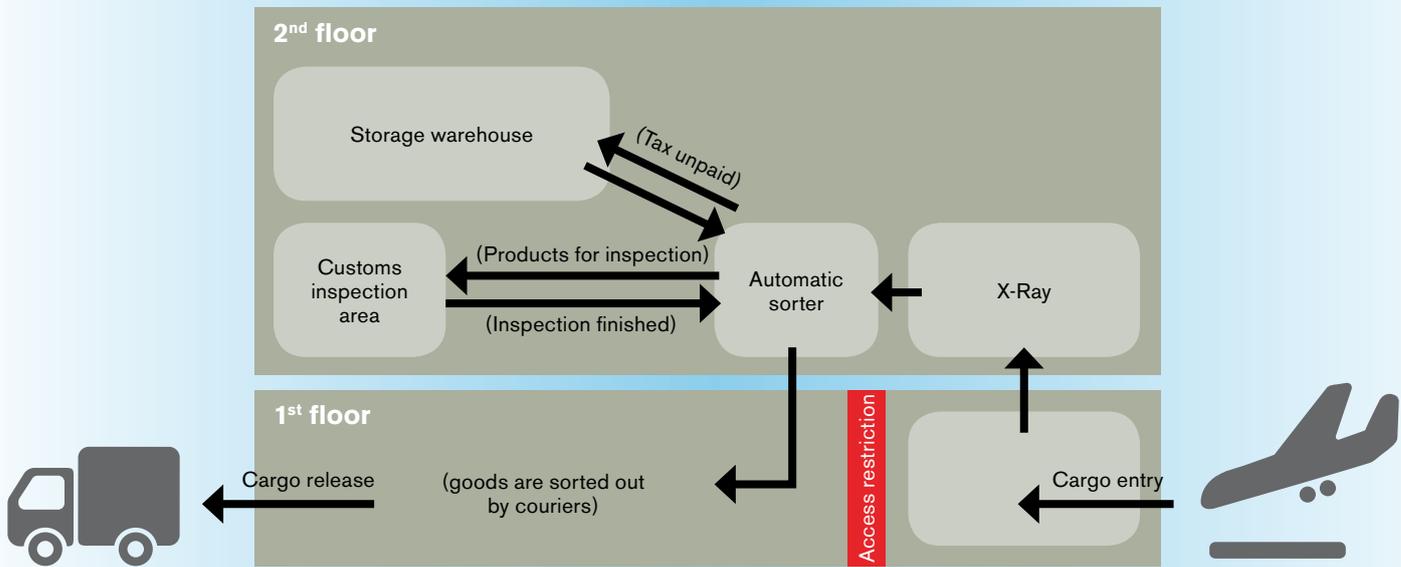
Table 1: Types of import clearance for express cargo

	List clearance	Simplified declaration	General declaration
<b>Reporting requirements</b>	A form listing 26 information fields (name, address, goods, price, etc.).	Import declaration composed of 57 information fields.	Import declaration composed of 69 information fields.
<b>Goods concerned</b>	Goods for personal use or commercial samples. FOB price: under 100 USD, or 200 USD (for the US).	All items. FOB price: 100-2000 USD, or 200-2000 USD (for the US).	All items. FOB price: above 2000 USD.
<b>Tax exemption</b>	All taxes exempted.	If total tax is under 10,000 KRW (about 8 USD), taxes are not levied.	If total tax is under 10,000 KRW (about 8 USD), taxes are not levied.

Table 2 - Types of import clearance for express mail

	Exemption on the spot	Simplified clearance or taxation on the spot	General declaration
<b>Reporting requirements</b>	Standardized forms, namely the CN22 and the CN23, which provide brief details of the goods' origin, classification and Customs value, as well as the name and address of the sender and the importer on the CN23.	Import declaration composed of 57 information fields or issuance of a duty-imposition notice. Import declaration composed of 69 information fields.	Import declaration composed of 69 information fields.
<b>Goods concerned</b>	Goods for personal use and goods with a CIF price under 125 USD (about 150,000 KRW). Commercial samples and goods with a CIF price under 250 USD	All items under 1,000 USD	All items over 1,000 USD
<b>Tax exemption</b>	All taxes exempted.	If total tax is under 10,000 KRW (about 8 USD), taxes are not levied.	If total tax is under 10,000 KRW (about 8 USD), taxes are not levied.

## Express Cargo Logistics Center



### Import clearance

To facilitate the utilization of the convenient ‘list clearance’ procedure, the KCS has extended the types of goods covered by this procedure from six categories (clothes, shoes, etc.) to all goods, excluding food and medicines related to public health and safety.

In addition to the tax exemption, the KCS is also providing a swift clearance process for e-commerce goods. For example, according to data extracted from the automated e-clearance system (UNIPASS), on average it takes only 4 hours to complete the Customs clearance of expedited cargo under the list clearance procedure.

### Export clearance

Given the characteristics of e-commerce goods, which are wide in variety and low in value per transaction, the KCS created a Simplified Export Declaration for e-Commerce, significantly reducing the information items on the export declaration from 57 to 37.

Moreover, to address the difficulties experienced by exporters, who must fill out many export declarations as a result of

the large numbers of sales, the KCS will be setting up an e-commerce export platform, which will be able to convert details of orders and sales of online retailers into export declarations automatically. This platform will be connected to UNIPASS, the Korean e-clearance system.

To make things more convenient for exporters who are not familiar with international trade and the associated procedures, the KCS now offers a Harmonized System (HS) Navigation Service. Users can find the correct HS code which has to be used in export declarations by searching for the actual name of the goods.

The KCS has also begun to keep official records of e-commerce exports conducted via the international mail channel, and to issue ‘certificates of exportation’ in order to enable exporters to enjoy certain benefits, such as a trade finance facility and VAT refunds. For those not familiar with the term, the ‘trade finance facility’ is a loan offered by banking institutions to exporters or importers who are able to prove that they handle a certain volume of transactions.

### E-commerce and security

Trade facilitation and trade security are closely linked. Amid the continuous increase in e-commerce transactions, the KCS is enhancing its monitoring and risk management capacity in order to prevent illegal goods from entering the country.

At present, X-ray inspections of expedited cargo and international mail are conducted by the KCS on a 100% basis. Postal operators and couriers are obliged to send information requested for clearance electronically, in order to permit the pre-advice and possible pre-clearance of items. To do so, postal operators use the electronic version of the CN 22 and CN 23 forms developed by the WCO and the Universal Postal Union (UPU). All information on the packages selected for inspection, such as the X-ray image and the data contained in the form used for clearance, is loaded on the computer screen of the Customs officer handling the inspection.

The KCS has enhanced its monitoring of express delivery service providers. Penalties are imposed on those who submit false declarations. In 2014, the KCS also implemented a measure that obliges

delivery service providers to report the actual destination of express cargo to the KCS once delivery is complete. The objective is to prevent the misuse of the *de minimis* facility by way of vendors splitting consignments in order to wilfully take advantage of the tax exemption system and the simplified procedures for low-value goods.

Since 2014, about 20 delivery companies have been fined for failing to provide information on the actual destination of cargo, and nine cases of 'separated entry of cargo' have been uncovered, most of which were combined with identity theft and changes to cargo destination. The KCS is of the opinion that accumulated data on actual destinations could be more widely utilized for risk management purposes, particularly during Customs audits and investigations.

Lastly, for small and medium courier companies which do not have modern facilities, the KCS is building an 'Express Cargo Logistics Center' with a total floor area of 36,000 square metres, at the Incheon International Airport cargo terminal. Its construction will be completed in the first half of 2016. This Center will be equipped with the latest facilities, including automatic sorting machines, an integrated X-ray reading room, etc. It is expected that the Center will assist with the risk management of express cargo, as well as facilitating clearance procedures.

#### More information

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[yschoi@customs.go.kr](mailto:yschoi@customs.go.kr)

To address the difficulties experienced by exporters, who must fill out many export declarations as a result of the large numbers of sales, the KCS will be setting up an e-commerce export platform, which will be able to convert details of orders and sales of online retailers into export declarations automatically.



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# Australia's tax reforms and e-commerce: a country perspective

## By the Australian Department of Immigration and Border Protection

THE RAPID GROWTH in e-commerce has facilitated Australia's increasing domestic appetite for Internet-based trading and online shopping. Although recent online growth has been more subdued than the 20-30% annual growth rates recorded in earlier years, it is expected that growth will continue and volumes will remain high in the coming months and years.

Industry expectations for rapid clearance, and 'light-touch' law enforcement intervention means Australian border agencies have to work harder and more effectively to facilitate legitimate e-commerce transactions while at the same time ensuring that regulatory, revenue collection, and community safety requirements are met.

Several challenges lie ahead for border enforcement due to the specificities of the processing of cross-border e-commerce transactions, as well as the nature of the actors involved:

- Potential fraud – the rapid proliferation of online retailers offering Australian consumers competitively priced products is likely to further facilitate deliberate non-compliant activities by opportunistic offenders, particularly if these retailers encourage activities like misdeclaration and undervaluation of goods;
- Increased occurrence of illicit transactions – as e-commerce volumes are increasing, there has been a significant rise in prohibited and restricted goods coming through the air cargo and international mail stream in particular, and there are an increasing number of online forums about the importation of a very broad range of goods, including contraband goods. In particular, the volume of drugs being seized is up, a phenomenon which can be explained by the combination of a significant increase in precursors and methamphetamine production

globally, and a growing presence of the 'DarkNet' illicit trade environment.

- New routings – to remain competitive, Australian and overseas postal providers are modifying their routings and increasing their complexity as they try to tranship mail through cheaper and more convenient routes;
- New actors – the growth in e-commerce has facilitated the concept of privately-owned mail forwarding and consolidation companies, forming new pathways of delivery for their customers;
- New operating models – suppliers are increasingly 'drop shippers,' i.e. they can be based anywhere, including in Australia, and never physically be in possession of the goods, as they use a warehouse service that has the goods and which will ship them to the third party purchaser;
- Poor information – major courier companies, utilized in connection with e-commerce, typically have their contract with the supplier, not the importer, and often do not make contact with the imports before seeking to clear the goods. Also, goods descriptions provided by suppliers are often poor, and do not facilitate easy assessment to identify risky consignments.

### Partnerships

To address some of these issues, Australia's Department of Immigration and Border Protection (DIBP) has undertaken a number of actions, including working ahead of the border and the supply chain, in order to prevent import of prohibited goods into the country.

This approach has included having companies prevent the purchase of certain products if there is an Australian delivery address for the purchaser. In one case, this practice enabled the avoidance of about 900 seizures per month. Simply put, the DIBP has used the cost/benefit model to

industry that results from the application of its compliance continuum.

### Risk assessment

To date, the absence of electronic item level information in the mail environment, combined with the changing nature of the mail supply chain, has meant that the application of a sophisticated, pre-border risk assessment model for mail has not been possible.

This means the DIBP's ability to identify and intervene in mail that poses a potential risk relies on manual intervention of these items in real-time at the border. Current risk assessment processes for mail remain highly manual, resource-intensive, and are performed in real-time at the border. This approach is becoming increasingly unsustainable, given increasing mail volumes and a tight fiscal environment.

As a result of commercial responses to the growth in e-commerce, such as postal operator moves to offer enhanced e-tracking options, electronic item-level information for certain mail items is now becoming available for the first time for certain types of mail, particularly express mail service (EMS) items – EMS is the international express postal service offered by member postal administrations of the Universal Postal Union), and parcels.

Due to the possibilities for criminal entities to exploit vulnerabilities in the international mail environment, and the fact that the current system is becoming burdened with growing mail volumes, the DIBP is in the early stages of exploring the application of electronic reporting of mail items.

Australia would welcome any initiative that provides access to electronic data for mail, as the current lack of any transactional data for international mail and the lack of data integrity for air and sea cargo significantly constrain its ability to target key border risks at, or ahead of the border.



© Australia Department of Immigration and Border Protection

Some of the foundation work that has been undertaken includes:

- a joint environmental scan with industry, to understand developments internationally;
- development of a future risk assessment strategy for international mail;
- mapping current processes within international mail gateways;
- how to better focus intervention resources on high-risk goods, and more efficiently facilitate legitimate mail items.

#### Clearance modernization plan

An international cargo clearance modernization plan is part of the DIBP Reform Programme. The plan aligns the international mail environment with the intelligence-led and risk-based Cargo Intervention Strategy. The key features of the plan include:

- electronic item-level reporting;
- leveraging electronic reporting of EMS items, and sea and air parcels, to significantly reduce the volumes of mail requiring real-time assessment;
- a nationally-consistent framework for risk assessment and prioritization for both electronically and manually reported mail;
- a robust sampling programme to monitor and assess leakage;
- review of Australia's 'low-value threshold' (the *de minimis* threshold).

#### Electronic item level reporting

In recognition of the growing availability of commercial electronic information in the international mail stream, under the DIBP's reform agenda, a team was established in November 2013 to explore the potential border intervention opportunities that electronic information may provide. The focus of the team during its period of operation was to undertake a work programme to position the DIBP to be able to leverage electronic item-level information as it becomes available, and to strengthen the intelligence-led approach to mail.

The team explored operations in the context of a future international mail environment that considered electronic reporting in the mail stream, more efficient and effective risk assessment for both electronically and manually reported mail, technologies that support the ability to track goods and enable the DIBP to link individual items to electronic information, and improvements to existing border processes at the mail gateways.

In mid-2014, the Australian National Audit Office (ANAO) released an audit report Screening of International Mail, which identified a number of findings relating to the DIBP's interactions in the mail stream. This includes the updating and refinement of a number of Instructions and Guidelines associated with risk management, as well as the introduction of a revised sampling programme anticipated to take effect in mid to late 2015.

The combined measures should provide a sound framework to ensure Australian consumers benefit from the reduced costs, wider choice, and faster delivery times associated with e-commerce, while at the same time ensuring government objectives are met in terms of economic growth, national security, and community safety.

#### De minimis threshold

Australia currently has a low-value threshold (LVT) in place which exempts most imported goods valued at 1,000 Australian dollars (AUD) or less from both goods and services tax (GST) and Customs duty.

The Australian Government has recently announced a number of changes as part of its tax reform. It is drafting legislation to ensure greater consistency in the application of GST to also include digital products and services. GST collection will also be broadened to cover overseas online transactions (physical goods) under 1,000 AUD.

It is proposed to implement a 'vendor registration model' as a method of collecting GST for the Australian states and territories. As goods would not be stopped at the border, administering such a model would have a relatively low cost.

Non-residents (overseas suppliers) will be the ones who charge, collect, and remit GST for digital and physical products. Only vendors with an Australian turnover of 75,000 AUD will need to register and charge GST. The Commonwealth of Australia will draft legislation for the application of the new arrangements from 1 July 2017.

#### More information

[www.border.gov.au](http://www.border.gov.au)



# Let cross-border e-commerce be

## By the Global Express Association

### Opportunities

E-commerce – broadly defined as the use of the Internet as a platform for sales, sourcing, and the exchange of market information – will play an increasingly important role in supporting global economic growth. According to the McKinsey Global Institute, e-commerce's share of total goods trade grew from 3% in 2005 to 12.1% in 2012 [Global flows in a digital age: How trade, finance, people, and data connect the world economy, McKinsey Global Institute, April 2014].

The global e-commerce market is expected to reach 1.5 trillion US dollars (USD), up by 20.2% from 2013. The average growth rate between 2012 and 2017 is estimated at 17.4%, and global sales in 2017 are expected to exceed 2.3 trillion USD [eMarketer, Jan 2014, [www.emarketer.com](http://www.emarketer.com)]. The economic changes brought by e-commerce have already had a large impact on the changing role of regions in the global economy, for example, with e-commerce markets in the Asia-Pacific region surpassing those in North America in 2014, for the first time.

Governments around the world have recognized e-commerce as an engine of future economic growth, and they need to adopt policies that will stimulate the growth of e-commerce in their economies while ensuring compliance with relevant laws and regulations. The policy implications of e-commerce are no doubt complex, but policy-makers have a unique opportunity to embrace a different way of doing business, and develop regulatory and revenue collection policies to grow e-commerce in a sustainable manner for their respective economies.

### Challenges

The physical flow of goods across borders resulting from e-commerce trade is facing increasing challenges in terms of the cost and time of border formalities. The main problems at the border are regulatory – laws, policies, processes and procedures that slow down the movement of goods. The World Economic Forum's 'Enabling Trade Report 2013' estimates that lowering supply chain barriers could increase e-commerce cross-border trade by as much as 60%-80%.

The tools are readily available. International agreements, such as the

World Trade Organization's (WTO) Trade Facilitation Agreement (TFA), and the WCO's Revised Kyoto Convention on the simplification and harmonization of Customs procedures (RKC), have tremendous potential to help achieve these results. But governments need to adopt them – and implement them.

Complicated border clearance procedures are a problem for all international trade, but they can be an even greater obstacle for small and medium-sized enterprises (SMEs). The high cost of determining import requirements and completing excessive paperwork hampers e-commerce. The reputations of retailers – and in the case of SMEs, often their very survival – are placed at risk by Customs holds, late deliveries or inefficient return procedures – all of which are common in many regions. Retailers in particular are concerned about the quality of fulfilling an order – the most important part of their interaction with their customers.

For e-commerce to be successful, the cost associated with fulfilling the order must be 'worth it' in the eyes of the customer. The Organisation for Economic Co-operation and Development (OECD)



## an engine for growth

has estimated that Customs barriers can add up to a 24% premium onto the price of goods sold [Evdokia Moïse and Florian Le Bris (2013), Trade Costs: What have we learned? A Synthesis Report, OECD Trade Policy Paper No. 150]. Striving to simplify, standardize and harmonize Customs procedures across the world would greatly simplify trade, and have a direct positive impact on costs.

Governments and multinational companies are the main actors involved in traditional cross-border exchanges, but today, digital technologies enable even the smallest company or individual entrepreneur to be a 'micromultinational' that sells and sources products, services, and ideas across borders. Traditional business models are being complemented by micro-scale activities ranging from micro-work to micropayments and microshipments [Global flows in a digital age: How trade, finance, people, and data connect the world economy, McKinsey Global Institute, April 2014].

Governments have a legitimate interest in controlling their borders to prevent fraud, revenue leakage, intellectual property rights (IPR) violations, and other illicit

trade. E-commerce presents new challenges and concerns for Customs and revenue agencies. Among the consequences of the growth in e-commerce are an increasing number of small shipments, and the emergence of new participants in the global economy.

However, new barriers against e-commerce, such as reducing or even eliminating de minimis procedures, increasing inspection rates, and requiring additional documentation (for example, identification or passport data), which many countries are considering or even erecting, will have adverse effects. They will only impede the growth of legitimate e-commerce business, while having very little impact on illicit shipments.

Instead, governments should use intelligence-led and risk-based selectivity and targeting. And they should seek to cooperate with legitimate traders to improve the identification and targeting of high-risk shipments. In addition, governments should consider using a duty/tax collection model, such as the 'vendor collection model' currently being discussed by the OECD. They should move away from the cumbersome model of collecting duties and taxes for each individual transaction

used at present, towards an account-based collection model – after all, such models are already in use for domestic transactions.

An account-based collection model will not only secure and protect revenue streams, it will also help to maintain control of growing numbers of small shipments while facilitating legitimate trade. Now is the time for collaboration between shippers, carriers, and border agencies to assess the risks and opportunities presented by e-commerce, and to design smart and effective policies that both secure and facilitate the growth of this incredibly important economic activity.

### What 'express delivery' can bring to the table

The four express delivery companies represented by the Global Express Association (GEA), namely DHL Express, FedEx Express, TNT and UPS, are committed to cooperating with Customs and revenue authorities to address e-commerce challenges as trustworthy partners. They are assisting governments as follows:

- Advance electronic shipment information – express delivery companies

Allowing consumers to make their own choices about where to shop not only improves citizens' lives, it will also lower costs and drive efficiency throughout the economy.

- transmit electronic information in advance of the arrival of shipments, so that Customs can perform risk assessment and target shipments for further examination;
- Risk assessment – express delivery companies conduct risk assessment and validation of the data provided by the shipper based on plausibility checks, including unacceptable goods descriptions such as those published by Customs;
- Track and Trace systems – they allow packages identified by Customs as suspicious to be removed from traffic flows and provided to Customs officers for further examination;
- Facilities – express delivery companies provide Customs officers at express delivery hubs with adequate facilities and equipment for them to identify and examine suspect shipments efficiently;
- Information on shippers and consignees – express delivery companies provide Customs administrations with available relevant information that may legally be disclosed on the shippers and consignees of shipments identified as containing offending goods;
- Closing the accounts of customers publicly identified by Customs as repeat offenders

However, there are practical limits to what express delivery companies can do. For

one, they are not originators of information about shipments, and there are clearly limits on the quantity of information that can be obtained from customers. Nor are express delivery companies law enforcement agencies, as they are subject to national data protection and commercial information confidentiality rules. Customs is the competent authority to enforce laws, conduct risk assessments, collect duties and taxes, and seize illegal items.

#### **Recommendations for border agencies/governments**

The express delivery industry believes that regulators should work together with responsible suppliers to lower the impediments to business-to-consumer (B2C) e-commerce. Fair competition among public and private delivery service providers will reduce transportation costs, increase quality of service, and promote the growth of e-commerce.

Allowing consumers to make their own choices about where to shop not only improves citizens' lives, it will also lower costs and drive efficiency throughout the economy. And in that spirit the express delivery industry would like to make the following recommendations on how best to address e-commerce, so that it can develop its full potential:

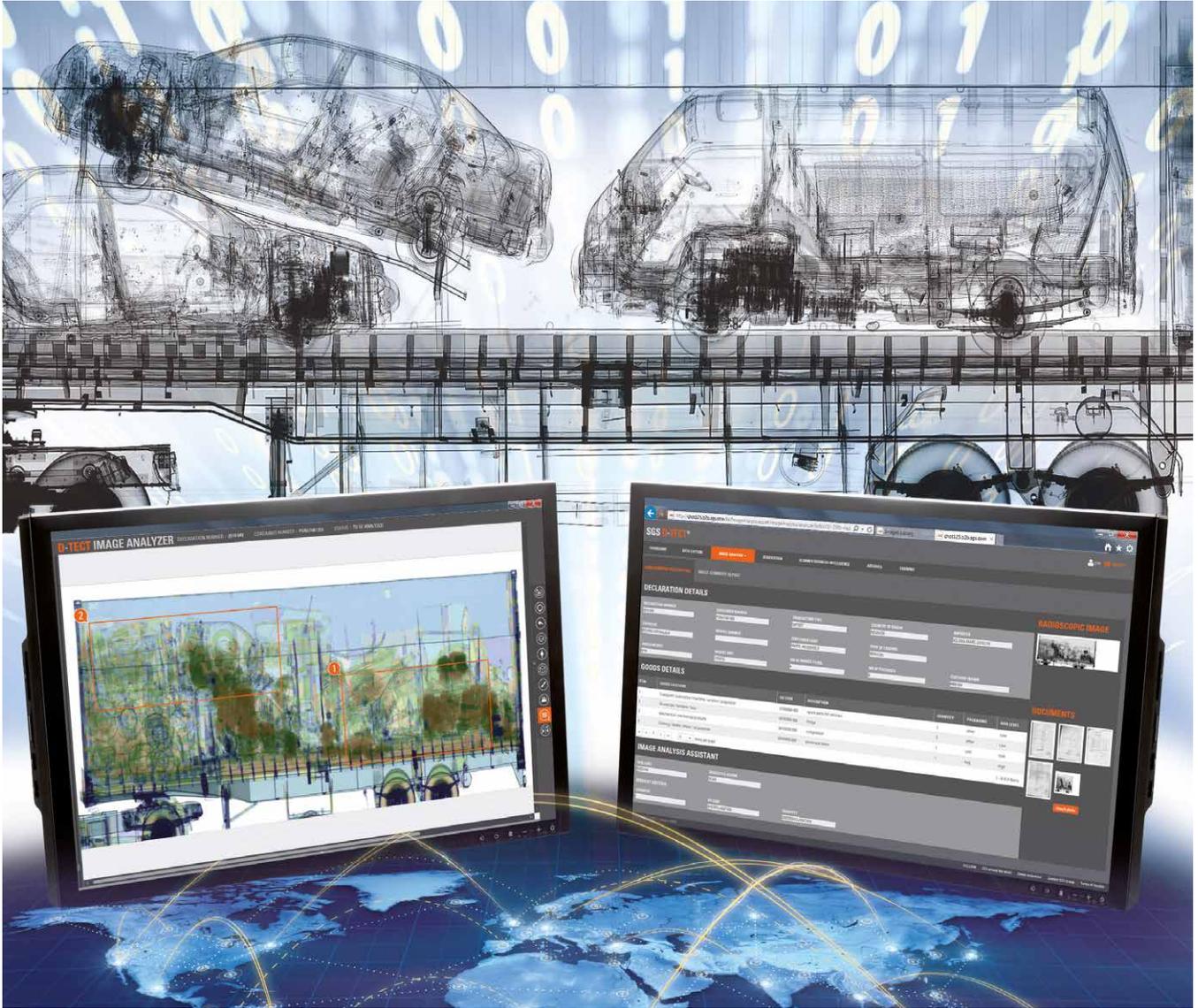
1. Implement the WCO Immediate Release Guidelines, including commercially meaningful de minimis thresholds for all Customs duties and taxes;

2. Use risk management to address revenue, safety and security concerns, and seek cooperation with express carriers to improve targeting;
3. Provide equal and fair border treatment to public and private delivery service providers;
4. Enable periodic filing and payment and by electronic means, preferably through a Single Window;
5. Simplify exporter/importer registration and power of attorney requirements;
6. Implement a simplified process for returned shipments;
7. Apply pre-arrival processing, and separate release from clearance;
8. Adopt simplified rules of origin procedures, including self-certification of the country of origin;
9. Adopt time-definite release commitments;
10. Provide for 24/7 border clearance, where possible and when required by business.

E-commerce can be a tremendous engine for economic growth. Let's unleash its full potential – together!

#### **More information**

[info@global-express.org](mailto:info@global-express.org)



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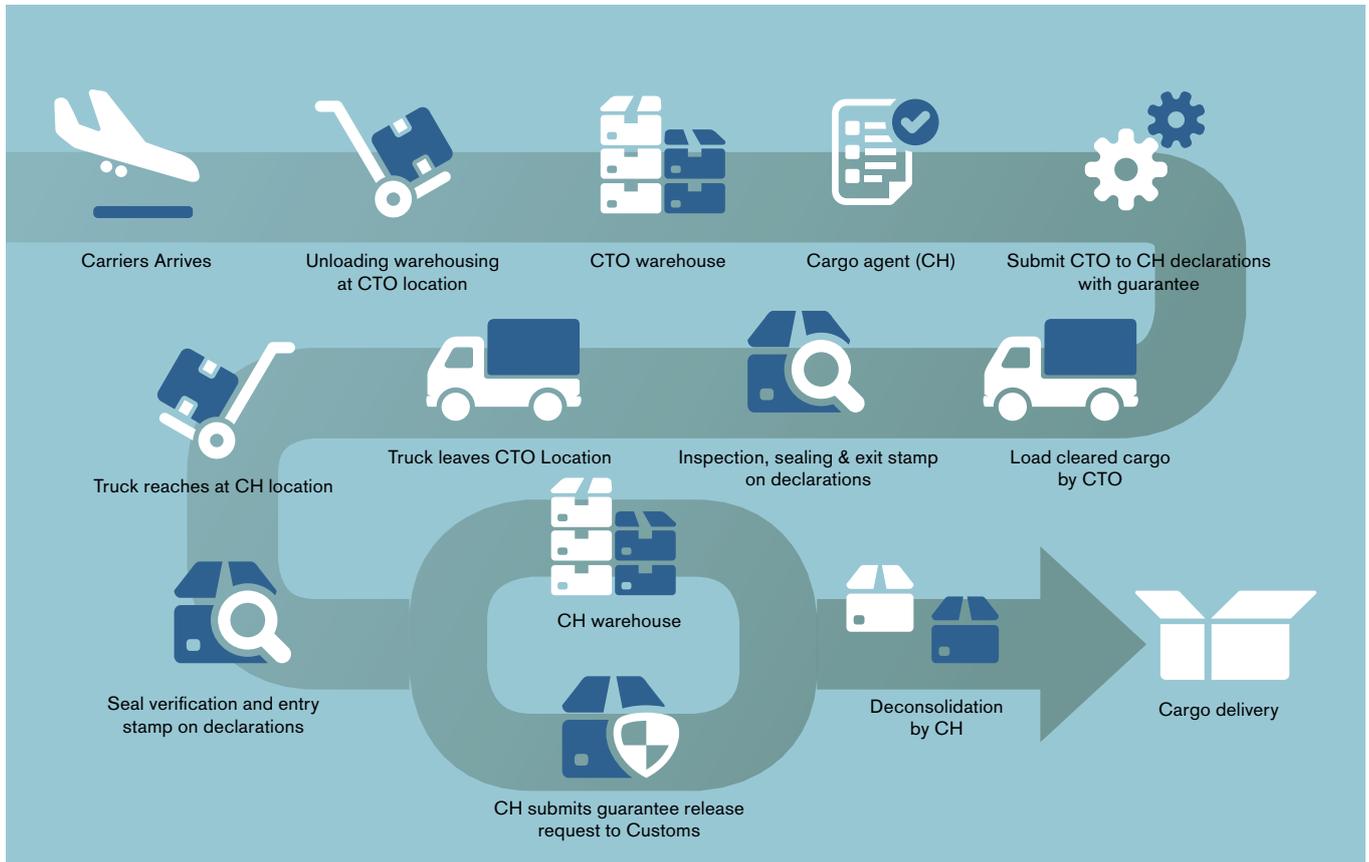
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## Dubai's Virtual Freight & Logistics Corridor streamlines cargo movement

**By Ahmed Mahboob Musabih,**  
DIRECTOR, DUBAI CUSTOMS

An initiative by Dubai Customs facilitating the speedy and hassle-free movement of transferred and transhipped goods augurs well for the supply chain and logistics industry in Dubai and the United Arab Emirates (UAE).

DUBAI HAS ESTABLISHED itself as one of the world's major multimodal hubs over the years, due to its strategic location and excellent infrastructure. The concept of a hub involves the deconsolidation of different consignments of air or maritime transshipment cargo destined for different countries, arriving on board an incoming cargo ship or flight. Within very tight timeframes, this cargo has to be sorted at the port or airport, and then placed on board connecting flights, vessels or trucks according to its respective end destination.

In order to facilitate such operations, Dubai Customs announced the introduction of a Virtual Freight & Logistics Corridor (VFLC) in early May 2015. The Corridor aims to eliminate remaining barriers to these operations in order to ensure the speedy and hassle-free movement of goods being transferred or transhipped.

### Before implementation

Dubai's multimodal transportation and logistics cluster comprise two main economic sectors: transport, storage and

communication on one side; and wholesale/retail trade and repair services on the other.

Together, these economic activities account for over 40% of Dubai's gross domestic product (GDP) and over 30% of total employment. Industries in these sectors are involved in logistics operations, and provide storage facilities for cargo that is in transit or under a local importation procedure.

Before the implementation of the VFLC, consolidated cargo, which can include cargo for local consumption or cargo for transit/transshipment, had to be deconsolidated at the port of landing in separate Customs-approved facilities for handling these kinds of operations.

Agents who did not have warehouses at the port or airport but in the free zone had to hire or build separate facilities for their deconsolidation operations, resulting in most companies having facilities in more than one zone.



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The practice was to move the cargo using manual documentation to a Customs-controlled deconsolidation area attached to the same cargo channel. In the case of sea/air shipping, which consists of moving cargo part of the way by ship, and then by air, it was not permitted to move air cargo into a deconsolidation facility located at a seaport or vice versa.

The movement of goods between Dubai Customs centres located at various ports, border points and free zones could take up to several days, requiring the submission of paperwork, the payment of fees, and the provision of a cash bond or a bank guarantee.

#### After implementation

With the implementation of the VFLC, any registered company can now move cargo by filling in and sending Customs a Cargo Transfer declaration online. Consolidated cargo moving from the port of landing to another location where the client maintains warehouses for deconsolidation can be moved in under a few hours, without the need for the client to submit a cash bond or a bank guarantee, both of which have been replaced by a virtual guarantee.

The earlier barriers of moving cargo between air and sea locations are eliminated, and those companies having warehousing facilities in the free zone can now use such facilities for consolidation or deconsolidation operations without having to hire or build separate facilities.

This results in substantial cost reduction, as a company no longer needs to own and manage separate warehouses for multiple

purposes. It also reduces expenditure on storage charges, and improves delivery standards by cutting the total time taken to deliver cargo.

#### How does the system work?

The VFLC connects the logistics hubs – airports, seaports and free zones – to a single platform. Access to the Corridor is granted to freight forwarders, cargo handlers, consolidators and deconsolidators with warehouses in a Customs-controlled area. Both the company and the warehousing facility have to be registered, and both operations are cost-free.

Registered operators benefit from a virtual guarantee system. Unlike other financial credit facilities, this virtual guarantee does not require the payment of a bond or back-up by any third party guarantee provider, such as a bank. The amount is estimated according to the volume of an operator's transactions, and is credited to the operator's account.

While processing the Transfer Declaration online, a client can use this account to settle any Customs duty liability virtually. Upon successful completion of the transfer of the goods from one Customs-controlled location to another, the Customs duty amount will be reversed to the virtual guarantee account. The account balance is then available for further transactions.

Customs inspectors seal the truck upon departure and track its movement until it reaches the Customs centre of its declared destination. Since the movement of cargo between two Customs-controlled centres is tracked, there is a fair balance

between facilitation and control demands. Moreover, Customs reserves the right to inspect cargo at its departure and/or on its arrival by using X-ray equipment.

#### Benefits and results

The 15 companies who partnered with Dubai Customs in the execution of the pilot provided positive feedback, explaining that the VFLC helped them to improve their business performance and operational efficiency. They were selected for the volume of their operations, their compliance level, and, of course, the fact that they had to move cargo from one location to another.

For these companies and their clients, the major factor is time. Utilizing the VFLC allowed them to transfer cargo from the airport terminal or the seaport terminal to their facility, and to deconsolidate it with a minimal amount of information to be uploaded online and with instant approval, thereby enabling them to save time and money, and satisfy their clients' needs.

More than 12,000 transfers of cargo, weighing over 64,000 tons, were processed in the six months from November 2014 to April 2015. Subsequently, deposit-related financial burdens have, during this time, been considerably minimized by some 120 million UAE dirhams (about 33 million US dollar).

More companies are expected to begin using the VFLC platform, marking strong involvement from the business community in joint initiatives and innovative work mechanisms that facilitate trade and boost economic activity.

As Dubai will host the World Expo in 2020, with hundreds of pavilions and exhibits, the virtual corridor, and the key role it plays in ensuring the efficient movement of cargo, could not have been implemented at a better time ahead of this global event.

#### More information

[www.dubaicustoms.gov.ae](http://www.dubaicustoms.gov.ae)

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# Educating the next generation of Customs professionals

By **Frank Heijmann** and **Martin Lutterop**

FROM THE NETHERLANDS CUSTOMS ADMINISTRATION,

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FROM THE ROTTERDAM SCHOOL OF MANAGEMENT,

and **Joris Hulstijn**

FROM THE DELFT UNIVERSITY OF TECHNOLOGY

Are there ways to improve compliance, safety, security, operational efficiency and information quality in international trade? Reduce the administrative burden for business and government? Foster the uniform application of Customs legislation? Encourage mutual understanding between the public and private sector, and even share responsibilities in the fight against smuggling, terrorism and criminal organizations? We believe there are, but to do so there is a need for people who are knowledgeable in various disciplines. The Master Degree in Customs and Supply Chain Compliance developed by the Rotterdam School of Management offers this type of education by integrating three disciplines: Customs regulations; supply chain management and logistics; and information technology and auditing. In this article, we discuss the objectives of the degree and the educational philosophy of the programme, and reveal some of the lessons learned in setting it up.

THE WORK of a Customs professional is changing, and is filled with new challenges. Trade networks have grown in complexity, and transport and logistics services have been redistributed and optimized, with benefits depending on enhanced reliability and cost reduction. However, the capacity

to ensure transparency and monitor the flow of goods has not kept pace with these changes, leading to risks for the general public, in terms of safety and security, and most probably also in terms of lost Customs duties and a decrease in quality of service.

A typical regulatory response to such a situation would be to impose stricter regulation and tighter controls. The downside is that this increases the administrative burden for businesses and the regulatory costs for governments, already under pressure due to budget cuts. Customs is, therefore, required to improve its overall performance; inspecting more effectively while at the same time reducing interference in logistics processes. As a result, Customs is now on a quest to find a new, optimum balance between trade facilitation and enforcement, as well as innovative solutions to achieve this balance.

Almost a decade ago, the WCO identified the need for this change and developed a visionary model, the SAFE Framework of Standards to Secure and Facilitate Global Trade. Subsequently, research was initiated by several parties into innovative solutions for trade facilitation and improved compliance, one of which led to the development of the 'Data Pipeline' concept to improve data visibility. The important underlying idea, known as piggy-backing, is to re-use reliable commercial data for regulatory control, where possible.

Other important issues include the various forms of coordinated border management (CBM) – for example, the 'one-stop-shop' that integrates Customs inspections with other border controls such as food and product safety inspections – and the development of an electronic Single Window (i.e., the re-use of reporting data for different administrative agencies). These kinds of solutions make use of the information technology (IT) deployed by a network of public and private partners. Therefore, they can only be developed by Customs in close collaboration with businesses and service providers across the entire supply chain, and with other regulators such as tax offices or food and health inspection agencies.

Where enforcement strategies are concerned, the focus is increasingly being placed on 'trusted trader' programmes, ideally enabling resources to be freed up and



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better supervision of non-trusted traders. This change in enforcement policy has also triggered the adoption of new forms of auditing and inspection, such as system-based auditing. Here, authorities increasingly rely on a company's own system of internal controls for monitoring and reporting compliance. In this case, authorities must supervise the effectiveness of the control system, at a meta-level. In the Customs domain, a well-known example of the use of system-based auditing is the certification process for an Authorized Economic Operator (AEO).

Customs officers used to be primarily focused on the physical inspection of goods, and were trained in practical inspection that included legal knowledge, while the business professionals in charge of Customs issues were trained to classify goods and fill in declarations. But today, the increasing complexity of regulatory demands, the reliance on IT and the adoption of new supervision models with integrated risk management and control, all require Customs professionals with specific skills.

#### Specific educational needs

Traditionally, Customs professionals have taken the 'long route' when it comes to education. They are trained on-the-job and also follow various training/vocational courses and internal educational programmes in a wide variety of disciplines. This approach is no longer sufficient to satisfy the demand for Customs experts, as knowledge and expertise requirements have become much more demanding.

In the past, Customs inspection was to a large extent a physical activity, whereas nowadays it also includes the carrying out of audit-related activities which require knowledge of business processes and traders' commercial drivers. This new role requires education programmes that help

existing Customs personnel to further develop themselves in order to cope with these new challenges. And clearly, these part-time programmes are of a higher academic level than was traditionally required in the Customs profession, for the reasons stated above.

On the other hand, business professionals dealing with Customs issues need, in order to be compliant, in-depth knowledge of the legislation in force, the risks involved and the control measures to be implemented, including those touching on the company's information systems. Developments have put Customs-related issues 'in the boardroom' and these professionals need to work at a strategic level, with detailed knowledge of the impact of Customs regulations on processes.

Both categories of professionals need to acquire a broader knowledge of the environment in which they execute their work. In addition, both need to be able to look beyond the boundaries of their own discipline, in order to take advantage of new opportunities and transform them into feasible solutions.

#### A new educational programme

To respond to this educational need, the Rotterdam School of Management developed the Master Degree in Customs and Supply Chain Compliance, in close collaboration with Delft University of Technology, Erasmus University's Rotterdam Law Department and Eindhoven University of Technology. The programme integrates three disciplines or 'pillars': (1) Customs Regulations; (2) Supply Chain Management and Logistics; and (3) Information Technology and Auditing.

It is open to representatives of Customs administrations and other government agencies dealing with trade, inspections

and trade facilitation, as well as to business representatives. As the programme is aimed at working people who are only able to study on a part-time basis, the courses are spread over two and a half years, with employers generally paying the tuition fees.

The programme is built on the competency framework for the Customs profession developed by the European Commission (EC). Courses are taught in English and are open to professionals from around the world. Entrants who are not university graduates need to follow a pre-Master preparatory course. In terms of recognition, the programme gives entitlement to 60 European Credit Transfer and Accumulation System (ECTS) points, which is equivalent to a total of 1,680 hours of study. The pre-Master course gives another 12 ECTS points.

The curriculum has been developed in close cooperation with the Customs Administration of The Netherlands and trade associations, and is one of the many offspring of the close collaboration in innovation and research projects established between Dutch Customs, universities and representatives of the business community.

#### Communities of learning, online education and blended learning

A unique feature of the current programme is the 'learn with and from each other' educational philosophy: an equal number of students from Customs administrations and the private sector are selected to create what are called 'communities of learning,' which can be defined as 'groups of people who share a concern, set of problems or passion about a topic and who deepen their knowledge and expertise in this area by interacting on an ongoing basis' [Wenger, McDermott, & Snyder, 2002, p4].

Working in such a heterogeneous environment helps students to obtain a much deeper understanding of the study material, and enables them to better understand each other's concerns and contribute

to more effective collaboration between Customs administrations and Trade.

Part of the programme is being delivered in e-learning mode, for the following reasons:

- It is very demanding for students not residing in the Netherlands to come to Rotterdam to attend classes;
- It enables students to plan their study workload more flexibly during the week, which explains why even students living in the Netherlands have a strong preference for e-learning;
- It is preferred by employers, who would rather have their employees absent for

a week once every six to eight weeks, rather than for one day every week.

The challenge of educating a student population with heterogeneous backgrounds and expertise while at the same time allowing for flexibility regarding study location and study time, led to the design of a special blended learning programme in which online education is combined with a week of full-time, physical classroom training at the Rotterdam School of Management. Hence, every course module in the programme starts with a six-week online preparation phase, followed by an intensive, one-week residential phase, and then a final, three-week phase during which students complete their final assessment.

In the six-week preparation phase, students read the textbooks, articles and case descriptions, and watch video lectures produced by the teachers. Furthermore, the teachers organize regular video conferences with all the students to answer questions about the study material that the students have not been able to solve by themselves. The residential phase is a four-day session of classroom meetings that are primarily focused on a very interactive learning mode where teachers and participants jointly apply the knowledge to a wide variety of cases; this includes lectures from teachers and practicing guest lecturers, workshops, student presentations, discussion sessions and collaborative team work on case-studies.

### Master’s Degree in Customs and Supply Chain Compliance

**Curriculum**

- Divided between three pillars, plus courses on cross-cutting topics.
- Includes lectures, case assignments, simulation exercises, visits and ‘serious games.’
- Courses on research methods and report writing are also part of the programme.
- Study requires on average 15 hours a week to be dedicated to reading, working on essays, and preparations for assignments and exams.

Pillar I - Customs Regulations	Pillar II - Supply Chain Management and Logistics	Pillar III - Information Technology and Compliance	Cross-cutting topics
<ul style="list-style-type: none"> <li>• The objective is to give participants a robust background in the legal and regulatory aspects of Customs, and in the changes that will take place with the implementation of the new European Customs legislation in the coming decade: the Union Customs Code (UCC).</li> <li>• This last point will require thorough knowledge and understanding of the international background to Customs procedures, the legal fundamentals established by the UCC, and the areas of legislation it interacts with.</li> <li>• The legal framework underlying topics such as trusted trader status (AEO), risk management and the Customs control framework will also be discussed.</li> </ul>	<ul style="list-style-type: none"> <li>• The objective is to enable Customs professionals to understand international supply chains, the hierarchy in companies concerning the supply chain management, logistics management and transportation departments, and the way businesses deal with compliance and control requirements in an international, networked environment.</li> </ul>	<ul style="list-style-type: none"> <li>• The objective is to teach students how information technology innovations can be used to exchange accurate information in the supply chain, and thus improve compliance and enable Customs to facilitate the movement of goods.</li> <li>• The course will also highlight that the degree of compliance relies increasingly on the set-up of business processes and on the information systems which support them.</li> </ul>	<ul style="list-style-type: none"> <li>• These include risk management, sourcing and its effect on corporate social responsibility, and ways of dealing with the European Union (EU) legacy systems for regulatory supervision.</li> <li>• During these courses, participants are asked to analyse problems in their specific domain, and to come up with a well-founded, integrated solution.</li> </ul>

**Course schedule**

- Each period consists of 9 weeks.

March 2015 – September 2015	November 2015 – September 2017		
Research methodology	Customs fundamentals I	Global supply chain management logistics and transport	Quantitative methods and SPSS research methods and methodology
Basics of Customs regulations and auditing	Customs fundamentals II	Developing information chains	Master thesis
Basics of logistics and information technology	Trade regulation and the supply chain	System-based auditing Integration project	

### Future developments

Talented people who choose to work in, and specialize in the Customs field must be given access to good education. This stresses the need for more Bachelor and Master-level education programmes in the field of international trade, border management and supply chain management, which should be open not only to experienced Customs professionals, but also to other students.

Therefore, the next steps include:

- the setting up, in the coming years, of an additional full-time Bachelor and Master degree programme for young students entering directly from secondary school;
- the incorporation of the current pre-Master preparatory course – which is compulsory for non-graduate entrants – into the Bachelor degree, building on the existing collaboration with some Dutch universities for applied sciences in the setting up of a Bachelor degree programme for professionals who are not Customs officials, but are working for the government or the private sector in the area of cross-border management of goods.

### Conclusion

To face the challenges of the future, educational programmes in the Customs domain should evolve. In particular, education should try to make use of the insights offered by scientific research into Customs issues, thereby further stimulating the academic study of Customs-related issues around the globe.

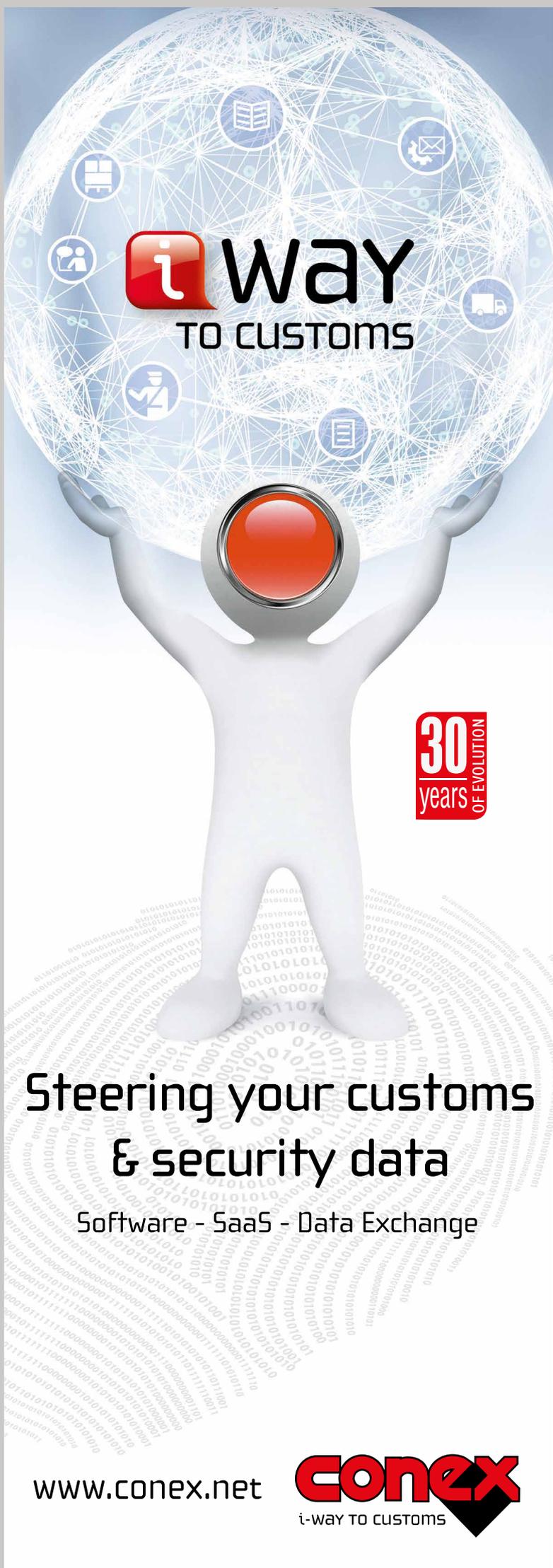
Education should no longer be focusing on the legal aspects of Customs regulation alone, but should instead integrate this knowledge into studies that include supply chain management, information technology and auditing.

Moreover, education should foster a multidisciplinary attitude that encourages collaboration between government and businesses, and across the various disciplines, while strengthening the ability to spot new developments, identify opportunities and translate them into practice.

Last but not least, educational efforts should lead to a recognized degree. We believe that by establishing this new Master Degree in Customs and Supply Chain Compliance, including the upcoming Bachelor degree, we are heading in the right direction.

### More information

[www.rsm.nl/master/executive-masters/executive-master-Customs-and-supply-chain-compliance](http://www.rsm.nl/master/executive-masters/executive-master-Customs-and-supply-chain-compliance)



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# EU launches a new Customs Data Model based on WCO standards

By **Frank Janssens,**

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Between 2016 and 2020, many new electronic Customs systems will be developed within the European Union (EU). The new systems will have new data requirements based on a new WCO compatible data model, called the EU Customs Data Model (EU CDM). The EU CDM will enable further harmonization of electronic data requirements within the EU, and build a three-tier interoperable structure from the global level to the regional and national levels. Among the expected results are enhanced regional integration, better interconnection between Customs and other administrations active at the border, as well as between Customs and economic operators.

IN 2018 THE EU will celebrate the 50 year jubilee of its Customs Union. During its half century in existence, this Customs Union has not only extended its geographic coverage, but gradually harmonized and integrated its procedures too.

The next important step consists of the implementation of the Union Customs Code (UCC), adopted on 9 October 2013 as EU Regulation No 952/2013 of the European Parliament and of the Council, which provides for further EU-wide common procedures and for many new electronic Customs systems with new data requirements.

The initiative meets the need for Customs to adapt its ways to the current trade environment and to respond to the opportunity to improve data exchange efficiency, as well as the quality of information supplied by economic operators.

Optimizing data exchange is indeed critical to the efficient functioning of trade facilitation related projects which require seamless cooperation between involved

public authorities, such as the setting-up of a Single Window environment and the implementation of new developments in the field of supply chain security.

### Three-layer approach

Successfully tackling the above challenges requires an organized and well-documented approach that provides standardization where needed, but which leaves enough freedom for managing information exchanges where regional and national contexts so require.

As a first layer, and as a seminal basis for any further developments, the WCO Data Model (WCO DM) provides the required global approach and offers the needed harmonization to make cooperative work possible with other public services active at the border.

The WCO DM approach not only has indubitable global trade facilitation advantages, but also offers opportunities to further expand regional integration. Where a group of countries wish to enjoy the economic and political advantages of regional

integration, this comes with specific sets of common legislation and administrative practices, which include commonly agreed data requirements and structures.

The EU integrated approach, insofar as data management for Customs is concerned, has found its concrete form in the EU CDM, which constitutes a second layer of development, meant to be entirely compatible with the first one, i.e. the WCO DM.

Whilst the EU Customs Union has achieved remarkable integration, some Customs and border formalities remain nationally defined. The EU CDM, built upon the WCO DM, enables the establishment of national Customs data models as a third layer of completion and detail, themselves compliant with the two others. This layer is especially useful where automated national Customs systems, which need to be compatible with other EU instruments, are developed.

### The EU CDM

From a formal point of view, the information collected by Customs is published

in the Official Journal of the EU as annexes to the UCC Implementing Acts (IA) and Delegated Acts (DA), currently under adoption. They establish the required legal basis for data requirements that need to be provided by economic operators, and also enable all concerned to access, in all the EU's official languages, the legal details which form the basis of the EU CDM.

From a practical point of view, the EU Commission has decided to use a specific tool to develop and maintain the EU CDM – the tool that was already chosen by the WCO to distribute its Data Model. This tool offers many practical advantages, not only providing a source of information for international standards used, but also the environment where data requirements are managed.

The tool comes pre-loaded with the WCO DM and other agreed international standards. As such, it offered an ideal starting environment for mapping EU data requirements against the WCO DM. Whilst doing so, it was found that some EU requirements were not available in

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for errors when translating the legal provisions into a technical form, usable in the modelling world.

In that respect, beside the auto-generation of documents and structures for publication, the tool can also produce XML schemas – a tool for software designers, used to express the structure and constraints of an XML document – following the WCO XML schema design rules or, should the need arise, following other appropriate formats.

The WCO DM includes Information Packages which are templates for information exchange. As part of these Packages,

the WCO DM or that they needed to be adapted. As a result, regional EU data is being added to the WCO DM to reflect the content of the EU CDM.

The tool enables the automatic generation of the data annexes to the UCC IA and DA for publication in the Official Journal of the EU. This functionality ensures a single source of information for legal and technical instruments, thereby eliminating risks

an EU Customs Information Package, that reflects the requirements of all EU Member States, is being produced.

EU Member States can reuse the EU Customs Information Package to cover national needs beyond the EU CDM. These needs can be administrative, technical or be linked to other data sources – for example, transport or veterinary authorities. In the same fashion as is done at the EU level, Member States can also generate their extended XML schemas, and if they follow the same schema, both levels will be interoperable.

In terms of information dissemination, this methodology allows the EU CDM information to be made available to Member States' administrations and their information technology teams, facilitating the development or updating of their systems.

It also allows other users, such as other administrations or economic operators, to inherit the EU CDM and customize it in accordance with their specific requirements, to the extent authorized by EU law. The publication can be done in the native tool format or in other formats which are more widely available.

#### **The 'Views' options**

Whilst developing the EU CDM, the Commission noted that all procedures related to the UCC could not be mapped to the WCO DM according to the same principles. This stems from the fact that certain economic operators' submissions derive from the transportation world and others from the import/export environment.

As their respective ways of perceiving information differs to a point that they cannot be reconciled within a single mapping structure, they have to be approached according to two different perspectives that imply the definition of two different 'views', namely the 'shipment' view and the 'consignment' view, both equally acceptable within the overall data model.

The EU CDM attaches great importance to ensure that both the shipment and consignment views are available in the WCO DM to fully reflect all trading practices, thereby enabling the adequate mapping of all data submissions received by Customs. Expressed in a simple way, one could say that:

- the 'EU CDM Shipment view' mainly contains traditional Customs declaration information, such as import, export and transit declarations, both in a standard and simplified format;
- the 'EU CDM Consignment view' is more geared towards safety and security information, such as the entry summary declaration and arrival and presentation notifications.

Whilst the perspectives are different, both views are structured in a very similar way with a clear tree structure and an indication of each data element within its own specific place, within the overall structure of the data model.

#### Using the EU CDM

The EU CDM is not only available to EU Member States' Customs administrations as a source of information on EU legislation and as an instrument to manage data in Customs procedures and automated systems, but also offers a number of additional opportunities at the national level:

- The reuse and customization at the national level of the WCO DM and the EU CDM Information Package;
- It provides the basis to cover EU Member States' national requirements by extending the EU CDM Information Package, itself based on the wider WCO DM enriched by data maintenance requests (DMRs) discussed within the WCO's Data Model Project Team (DMPT) and

the Information Management Sub-Committee (IMSC).

From a technical perspective, the EU CDM and the tool used to manage it will enable the auto-generation of national document structure publications for both single documents and their supersets, and the auto-generation of nationally used XML schemas – exchange interfaces of all Member States which follow the same XML design will be technically interoperable.

Both the publication of a national document structure and XML schemas constitute intermediate technical documents, which take the legal requirements and translate them into a readable format for IT developers, enabling software developers to perform their tasks. They include message structures, rules and conditions, as well as specifications, applying to the national document structure and XML schemas.

The EU Member States and economic operators will, beside the legal texts to be published in the EU Official Journal, also be able to obtain the EU CDM in an editable format, such as in pdf, MS Excel and/or MS Word, as well as in a read/print only format directly derived from the tool in a separate 'publishing' environment. For those who decide to choose the tool used by the WCO, the European Commission plans to make available the EU CDM in its native editable format as produced within the tool. Any completion, modification, etc., will need to be performed by the user using a tool of his/her own choice.

#### Coordinated border management

The EU CDM is an excellent basis and tool for integrating the needs and requirements of other administrations active at the border. Special mention should also be made on the establishment of an EU Single Window environment. The EU Council, in its conclusions on this subject, recommended to «accelerate the harmonization of required data by different authorities at the EU and national level, building on existing international standards, and proceeding with the digitalization agenda ». This implies:

- reusing and customizing the WCO DM, in line with the needs of associated

administrations active at the border, in order to establish and operate a Customs Single Window environment;

- implementing national adaptations in combination with the above customizations, whilst ensuring compatibility with the WCO DM and the EU CDM, the objective being to allow administrations to adapt the EU CDM to include their own national specificities which are not provided for in EU law, and therefore not included in the EU CDM – an obvious example being the national fiscal, notably excise, idiosyncrasies that can be different in each Member State;
- including additional border agencies' requirements via the submission of DMRs to the WCO DMPT and IMSC.

In parallel, exploring additional opportunities for cooperation with economic operators is envisaged in relation to the use of the EU CDM for streamlining and automation projects, which should further facilitate and harmonize the exchange of information between Customs and economic operators.

Such initiatives include the data mining tool for the 'Surveillance 2+' system which ensures the collection of data within the framework of import/export monitoring, and the Binding Tariff Information (BTI) system which includes a database of all BTI applications, as well as the Central System/Reference Data (CS-RD2 system) which provides the bedrock for the use of common codes in the EU's multilingual environment.

In this way, Customs will considerably improve its role, both in relation to trade facilitation and control. Moreover, the improved interoperability, induced by better data integration throughout the supply chain and enhanced data quality that will result from the EU CDM, will contribute to a more efficient risk management approach.

#### More information

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## Violent extremism, borders and action by Customs teams

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PEOPLE, GOODS AND capital involved in preparing and perpetrating terrorist acts generally, cross borders and transit between different countries. The border is therefore the ideal place for thwarting the preparation of violent acts in advance, and for intercepting individuals linked to a terrorist organization.

Thanks to its privileged positioning at different points of entry, its expertise, and its work managing cross-border flows, Customs is a strategic partner in establishing any policy targeting these objectives.

I would like, in this article, to give some useful guidance on counteracting the transport of goods and the movement of people posing a risk, and to share my

thoughts on training Customs teams in detection, the specific missions which may be entrusted to them, the support they can receive, and cooperation with other specialist services.

### Training, equipment and instruments needed for detection

Faced with the escalating risks of violent extremism, it is essential to build up the operational capacities for intervention by Customs teams in countries potentially facing this threat. This capacity building should focus, as a priority, on specific and practical objectives in terms of training and equipment:

- training Customs teams responsible for security missions relating to the detection of sensitive flows, i.e. in the use of instruments for managing and safeguarding flows, and in information and management systems employed in cooperation with

specialist services in the fight against terrorism;

- the roll-out of customized communication and protection equipment to protect Customs teams and safeguard the conditions in which they intervene, such as service weapons, encrypted communication media, radios, and intermediate means of defence, particularly at sensitive borders.

I would like to underline the first point, and stress that the management and effectiveness of programmes and instruments to promote the security of flows of goods and people depends on the appropriate training of the Customs teams which use them.

In line with WCO recommendations, Customs administrations are the drivers, at national level, of programmes to safeguard international trade in goods,

particularly those goods carried by air and sea. The instruments used to this end constitute relevant tools which help both prevent and counter potential attacks on international flows of goods, while also helping to detect goods or people potentially linked to a terrorist activity, or allowing the financing thereof.

Among the programmes and tools used by French Customs are the Authorized Economic Operator (AEO) programme, its linkage with the approvals and audits carried out on companies in charge of air freight security, or the Import Control System (ICS) – a European Union (EU) programme which helps prevent terrorist attacks against means of transport, particularly aeroplanes, by contaminating commercial shipments.

The Advance Passenger Information (API)/Passenger Name Record (PNR) Programme, which provides for the collection and processing of data on air passengers to combat the phenomenon of foreign combatants inter alia, also falls within this approach.

The functionalities of these tools must be used to their full potential, in particular those which target security, with automated reports helping to select consignments and individuals likely to be of interest in the fight against terrorism. The processing of useful, actionable information, particularly on the exchanges made by individuals, is key to combating violent extremism.

However, the effectiveness of these instruments depends on the level of training, and the competences of the Customs teams in charge of monitoring them. Emphasis should be placed on training in the use of such tools, and on ensuring Customs teams embrace their use.

#### Specific missions

Specific missions are allocated to all Customs services involved in fighting terrorism and dedicated to promoting the security of flows of goods, and securing the movement of people. These administrations traditionally exercise controls on the movement of, and on trade in, arms, explosives, and ammunition. Their expertise is recognized and regularly allows the interception of illegal or suspect flows.

These Customs authorities are also associated with specific initiatives when it comes to counter-proliferation.

The modus operandi used in terrorist attacks or attempted attacks in France, particularly those in Paris on 7 January 2015, and in the Thalys train connecting Amsterdam and Paris on 21 August 2015, attest to the need to strengthen the role of Customs administrations in combating illegal flows of arms and ammunition, in particular those generated by individuals.

At national level, Customs may also be charged directly with preventing terrorist acts through specific security missions on certain means of transport, or controls on people at borders – security checks on sensitive means of transport or communication, security of air freight, etc. Such action may also be carried out within a framework of supervision or audit. On certain means of transport, Customs may also be assigned to carry out security checks on the means of transport, and on the goods, people and baggage being carried.

Fighting against illegal financial transfers, money laundering and the financing of terrorism must be a top priority for Customs administrations. The checks carried out assist in the interception of financial flows from, or destined to help, terrorist networks. These actions regularly uncover structured networks and their financing methods. Strengthening legislation to authorize asset freezing, in particular, should be encouraged, so as to immobilize goods and people, and ultimately prevent the financing of terror organizations.

#### Securing and building up intervention capacities

While Customs administrations are clearly identified as key stakeholders in the fight against terrorism, it is necessary to secure and build up their intervention capacities, particularly through concrete and specific measures.

#### Regular training and raising awareness about threat assessment

Raising awareness and regular exposure of Customs officials to threat assessment and to detection when checking elements likely to be of interest in the fight against terrorism are essential. Given their strategic positioning on external borders in particular, Customs

teams may, during controls, be confronted at any time with people, goods or documents linked to a terrorist organization. It is imperative that they have the reflexes and processes needed to intervene appropriately in such situations.

Measures to raise awareness of the modus operandi of terrorist organizations, sensitive origins, financing methods, behavioural analysis, etc. can guide the action of Customs services, and facilitate the detection of elements linked to violent extre-

mism. These elements can be extremely tenuous at the start of a Customs check – hotel bills or parking receipts in a sensitive area, specific responses to questions, the behaviour by the person which draws the attention of the Customs official, etc.

#### Training and situational exercises

During targeted control operations, or in random checks, Customs officials may find themselves in direct contact with goods, documents, capital or people linked to

**During targeted control operations, or in random checks, Customs officials may find themselves in direct contact with goods, documents, capital or people linked to violent extremism. Managing this type of situation requires an appropriate response, in terms of security, confidentiality and protection of information, the definition of follow-up measures and action to be taken, and finally stress management and behaviour management.**

violent extremism. Managing this type of situation requires an appropriate response, in terms of security, confidentiality and protection of information, the definition of follow-up measures and action to be taken, and finally stress management and behaviour management – management of a finding by a Customs service in connection with violent extremism requires equanimity and responsiveness. These elements should be integrated into training courses for Customs officials.

To allow officials to develop the reflexes and processes needed to manage this type of event, regular programming of situational exercises for the detection of arms, explosives and sensitive goods, and even the questioning of people suspected of having links to violent extremism, must be encouraged. The repetition of this type of exercise, with consistent scenarios, will allow Customs teams to manage such events if they occur. The participation of specialist services in the fight against terrorism, such as intelligence services, mine disposal teams, and services responsible for dealing with nuclear, radiological, biological and chemical threats, is recommended.

These exercises may usefully be accompanied by instructions and good practices designed to preserve the confidentiality of instructions, protect the documents and tools used, and improve the protection of premises harbouring sensitive information and documents. An additional consideration may also include protective measures for the information systems used by Customs services.

### Cooperation with other specialist services

Action by Customs administrations in the fight against violent extremism must be carried out as part of a complementary approach with dedicated specialist services. Thanks to the instruments at their disposal and the control missions they perform, Customs services regularly receive useful information about violent extremism. Processing exchanges of information depends on both the establishment of specific circuits and processes for the management of information.

The establishment within Customs administrations of an operational service

interfacing with specialist services may be an option. This dedicated level can help ensure the secure transmission of strong or weak signals, and useful and trusted information. It may constitute a reference support point both internally and for specialist services.

It is also important to share, by ensuring the sharing of experience about detection and selection, as well as ways of managing controls. The expertise of Customs teams engaged in security missions and their knowledge of threat assessment may usefully be harnessed by other teams controlling external borders.

The action of Customs services should therefore be geared towards a coordinated approach to handling the instruments they have for managing and controlling cross-border flows. These instruments are complementary, and may allow the cross-checking of potentially useful information in the fight against terrorism. Regular coordination between the services charged with steering these tools may also allow targeting and selection criteria for the purposes of consistent control to be defined.

In cross-border action to fight terrorism, any measure or act should also be accompanied by cooperation mechanisms, and mechanisms allowing exchanges of information with specialist services in neighbouring countries. By way of example, French Customs participates directly in such actions through the police and Customs cooperation centres set up in border regions with Belgium, Germany, Italy, Spain and Switzerland.

These centres bring together, at the borders, officials from the police, the Gendarmerie and French Customs, as well as their counterparts in a neighbouring country. The border cooperation centres primarily allow the collection, analysis and exchange of useful information in terms of police and Customs cooperation. They can also help coordinate cross-border monitoring and control missions, particularly in the event of a terrorist attack.

### More information

[www.douane.gouv.fr](http://www.douane.gouv.fr)

# Illegal wildlife trade: an outline of the problems facing Peru

**By the Intelligence and Tactical Operations Team, Peru Customs**

The land of Peru can be divided into three natural areas: the coastal region; the mountains; and the forests. All these areas have different species of fauna and flora, making it a country with a rich and varied biodiversity, and the home of species sought by collectors throughout the world. With illicit trafficking being one of the biggest threats facing Peru's wildlife resources, exports of wildlife and wildlife products has become a focus of attention for Peru Customs (SUNAT). This article introduces the Customs administration's efforts to counter the illegal wildlife trade.

## **Regulation of trade in wild fauna and flora**

ARTICLE 68 OF the Peruvian Constitution stipulates that the State is obligated to promote the conservation of biological diversity and protected natural areas, while Article 364 (f) of the 'law on the regulation of forestry and wild fauna' states that the hunting, capture, collection, possession, transportation, marketing or export of specimens of wild fauna without the corresponding authorization constitutes an infringement of the respective legislation.

The internal transportation, trading and/or export of specimens of wild fauna, therefore, requires appropriate documentation, whether a licence to transport wild fauna or, for species protected by the Convention on International Trade in Endangered Species of Wild Flora and Fauna (CITES), a CITES permit or certificate.



CITES permits are granted by Peru's two CITES management authorities:

- National Forest and Wildlife Service (SERFOR), which reports to the Ministry of Agriculture and Irrigation (MINAGRI), manages wildlife that reproduces on land, including all types of amphibians. Although SERFOR is in charge of the forests, the Supervisory Body for Forest Resources and Wildlife (OSINFOR) manages the issuing of forestry licences;
- Ministry of Production and Foreign Trade (PRODUCE) manages aquatic flora, marine, and continental hydrobiological species included in appendices I, II and III of the CITES Convention.

Traffickers trading wildlife illegally use third-party and/or fraudulent permits to trade controlled species. This involves a variety of players in a system that begins with communities close to wildlife, and extends right through to intermediaries and collectors.

#### Illegal wildlife trade

The trafficking of wildlife, which includes live or dead animals, plants, and readily recognizable parts or derivatives of them, is a lucrative business. Transport costs are low, and there are no concerns over decent wages or these potentially damaging environmental practices. According to SERFOR, it is the third most important business in the world after the illicit trade in drugs and weapons.

It is also a heinous and potentially lethal trade. Experts from the WWF, the nature conservation group, have calculated that between 60% and 80% of all live animals targeted by smugglers die during their capture, transportation or subsequent trading. Moreover, the fact that an animal is seized does not guarantee that it will survive. Using appropriate handling methods during seizures – the period of time from the seizure to the transfer of an animal to an authorized establishment – is critical, as

it might contribute, among other factors, to the survival of a species.

Traffickers overexploit authorized species or focus on endangered and rare species, which directly threatens the country's biodiversity. The Government of Peru estimates that 400 species of fauna and flora are in danger of extinction. In addition, illegal trade generates unfair competition, to the detriment of legal traders who comply with the rules.

#### Operation FLYAWAY

During the 12<sup>th</sup> Meeting of the National Contact Points of the WCO Regional Intelligence Liaison Office (RILO) for South America, the United States (US) proposed the setting up of an international enforcement operation targeting illegal wildlife trade, and encouraged Members from South and North America, as well as Europe, to participate.

The proposal was fully supported and the operation, code-named FLYAWAY, was run from February to July 2015 with 14 Customs administrations participating, i.e. Brazil, Chile, Colombia, Peru, Mexico, Uruguay, Venezuela and the US, as well as Germany, the Netherlands, Portugal, Spain, Switzerland and the United Kingdom. It was divided into three stages: pre-operative; operative; and post-operative, with national controls being intensified in the operative stage, which ran from 17 to 26 June.

Countries exchanged information on seizures made, as well as on risk indicators. They also alerted each other when a suspicious shipment had left the country of origin without being controlled – Peru, for example, alerted US Customs and Border Protection officers that a shipment of 170 birds destined for Kuwait, and potentially in breach of wildlife laws or treaties, was coming their way. In this regard, they suggested that a wildlife specialist be present while the species was being checked in the US against the accompanying documents.

The US authorities did not allow the transit of the shipment as the species was protected under the US Migration Bird Act, and sent the shipment back to Peru. As the export operation was done in compliance with Peru's national standards, Peru Customs did not proceed to seize the birds.

At the national level, Peru Customs took up contact with the Public Prosecution Service Specialized in the Environment (FEMA), the National Police Force's (PNP) environmental division, OSINFOR, PRODUCE, and SERFOR to generate intelligence in order to build a database of indicators that would allow risky destinations, recipients and forwarders of wildlife shipments to be monitored.

The participation of OSINFOR, PRODUCE and SERFOR was essential to ensure that controlled products were covered by a title document that had been verified or checked, and found to be in conformity with national legislation. In coordination with these government agencies, Peru Customs carried out operations in primary areas, such as airports, land terminals and border control posts, and in secondary areas, such as highways and at specific establishments.

These interventions led to 35 documented findings of wildlife at the national level, 32 of which resulted from the intensification of controls at various national control points (primary areas), while three finds took place thanks to joint operations with different state bodies such as SERFOR, the PNP and FEMA (secondary areas). In addition, various national joint operations were carried out that did not record any positive finds.

#### Types of fraud

Operation FLYAWAY revealed or confirmed the use of certain types of fraudulent practices:

- Declaration of animals as being dead, when they were actually alive;



Operation FLYAWAY brought together national participants from Customs, police and wildlife authorities to target the illegal trade and transport of protected specimens.

- Incorrect classification, leading to diversion from a tariff heading for which a permit is required;
- Exports of unauthorized specimens among authorized specimens;
- Exports of quantities greater than those authorized;
- Exports to consignees other than those indicated on the permits;
- Exports to destinations other than those indicated on the permits;
- Unauthorized use of permits issued in the name of another person, although permits are transferable;
- Change of permit number;
- Declaration of an entity code different from the administrative authority or the omission of such information from the Peruvian Customs declaration (DAM).

**Challenges and prospects**

On the subject of Operation FLYAWAY, the WCO Secretary General, Kunio Mikuriya, declared that “operations such as FLYAWAY are excellent for ensuring that organizations move from words to deeds, ...and for acquiring and sharing experience.”

In Peru, the operation revealed Customs clearance officers’ lack of awareness of the technical identification characteristics of species protected by the CITES, and confirmed the necessity of establishing

strong communication mechanisms with other institutions. It also highlighted a critical issue related to the DAM: the declaration does not require the exporter to indicate the scientific name of the species to be exported, making it harder for an officer to determine whether the species reported in the document is protected under the CITES or not.

Operation FLYAWAY also addressed an issue that applies to the international wildlife trade as a whole. In many countries, a ‘stamp’ on an official document is not a sufficient guarantee of genuine legality. In such an environment, the challenge facing Customs controls can be met only if all government monitoring and control bodies cooperate with each other. Without this cooperation, the sustainability of threatened species, a product of indiscriminate trading, cannot be guaranteed.

Peruvian Customs, for its part, intends to reinforce its links with SERFOR and PRODUCE. An inter-institutional agreement is recommended, as are training courses and a mechanism for officials to exchange information on CITES protected species of fauna and flora. Too often, especially in the case of enhancing and reinforcing skills, activities are carried out unilaterally, preventing feedback and the

exchange of ideas, and also hindering the unification and standardization of policy.

Such an inter-institutional agreement already exists between SUNAT and MINAGRI. Both bodies help to improve efficiency in the fulfilment of their inter-institutional objectives by carrying out operations, exchanging information, and carrying out joint operations, including training. With SERFOR falling under MINAGRI, one would think that there is no need for an additional cooperation agreement. However, Customs believes that it would help to boost collaboration in the domain of training and the exchange of information.

Last but not least, the weaknesses identified in Peruvian national legislation must also be assessed in detail. Any new national legislative framework must, in particular, establish enhanced control measures, and must ensure that the import and/or export declaration includes the scientific name of the species being traded, something that is not adequately covered by the current legislative framework.

**More information**  
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## Singapore's 'whole-of-government' approach to coordinated border management: maintaining its edge amidst new challenges

### By Singapore Customs and the Immigration & Checkpoints Authority of Singapore

#### A dynamic and challenging operating environment

AS A GLOBALLY-ORIENTED and open economy, trade is of paramount importance to Singapore. The importance of trade to the country is reflected in the fact that the value of Singapore's external trade has consistently been three times that of its gross domestic product (GDP). In 2014, Singapore's ports handled 33.55 million Twenty-foot Equivalent Units (TEUs) of containers.

The expansion of trade volumes in an increasingly globalized world has brought about increased prosperity, but also increased risks. Errant traders, organized crime groups, and terrorists have become more sophisticated in exploiting supply chain vulnerabilities to move goods illegally across borders.

Increasing public expectations add a new dimension to the already daunting challenges faced by Singapore Customs. Improved levels of education, greater exposure, and more familiarity with international trade and regulatory practices mean that traders increasingly expect a high level of transparency, predictability, and effectiveness from government agencies. The public also expects government agencies to protect society from the effects of harmful and illegal goods.

The emergence of new industries and business models also increases the need for regulatory authorities to introduce new schemes and customized service offerings to meet their needs. Singapore Customs consciously seeks to keep up with the rapid pace of the changes, and to pre-empt the needs of traders by engaging them actively, in order to add value to their operations, and ensure that legitimate trade thrives.

#### TradeNet: building consensus through stakeholder engagement

Singapore's early experience in developing its National Single Window (NSW), known as TradeNet, provided it with the insight that coordinated border management (CBM) is fundamental to developing and sustaining a SW environment. Both the NSW and the CBM mind-set are complementary elements of Singapore's 'whole-of-government' (WOG) approach to providing efficient services to the trading community.

Using TradeNet, the trading community is able to submit permit applications electronically for processing, via a single point of entry to government agencies. All national competent authorities involved in regulating trade flows, including the Agri-food and Veterinary Authority of Singapore (AVA) for food and plants, the Health Sciences Authority (HSA) for medicines, and the Infocomm Development Authority of Singapore (IDA) for telecommunication equipment, are part of TradeNet. Once



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provided a strong foundation for the then Customs and Excise Department, and partner government agencies involved in trade regulatory issues. This foundation was followed by further consolidation, continual improvements, and increased coordination over the years.

One of the most noteworthy developments in recent times took place in 2003, when the government recognized the need for greater synergy, and for a reorganization of the trade and border authorities in Singapore. This resulted in the formation of the Immigration & Checkpoints Authority of Singapore (ICA) as the single command for checkpoints and border control functions, while Singapore Customs was established as the single contact point for all Customs, revenue, and trade matters.

Whereas the former Customs and Excise Department was mainly focused on revenue matters, the new Singapore Customs is vested with responsibility for both revenue and trade facilitation matters. This working arrangement allows the ICA and Singapore Customs to share the responsibility of securing Singapore's borders, and yet be effective in facilitating legitimate trade.

#### Improved sense-making and detection through collaboration

Data is essential in the modern border regulatory environment. Effective risk management is heavily dependent on the availability of data, as well as the ability to integrate the available data so as to inform selectivity and tactical decision-making.

Through TradeNet, all agencies with border regulatory functions are able to process their respective regulatory requirements through an integrated interface. In this way, agencies are able to focus on their respective control areas, while the system provides the functionalities to route declarations to the relevant agencies, and provide approval responses to trade.

However, the challenges of the modern trading environment require a higher level of sophistication. Agencies must not only focus on their respective control areas, but also recognize cross-cutting risks, and ensure coordination between different government stakeholders. The security and integrity of the trading

system is not merely the job of one agency, but affects the entire country as a whole.

With this in mind, Singapore Customs works closely with the ICA, using a risk-based approach, in order to identify shipments posing security risks, and take steps to mitigate such risks through actions on the ground. The two agencies cooperate on joint risk profiling and targeting efforts, rendering operational assistance to each other when suspicious shipments are detected. Singapore Customs and the ICA would consult each other on decisions to inspect or interdict shipments when necessary.

An example of this coordination was demonstrated in January 2014, when Singapore Customs and ICA officers jointly supervised the scanning of a 40-foot container which had been targeted by both services. The scanning results revealed inconsistencies in the radiographic image. As a result, a controlled delivery was carried out by Singapore Customs, leading to the successful dismantling of a cigarette smuggling ring – 14,999 cartons of duty-unpaid cigarettes were seized, and four suspects were arrested and successfully prosecuted.

Such cooperation efforts to secure Singapore's borders are not limited to Singapore Customs and the ICA alone. Singapore Customs and the ICA also collaborate with other competent authorities to ensure that illicit goods under their respective jurisdictions are not unlawfully imported into Singapore.

In May 2015, Singapore Customs and the ICA worked with the AVA – the competent authority for species protected under the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) – to identify and subsequently seize a shipment of about 3.7 tonnes of ivory tusks, rhinoceros horns, and teeth believed to be from endangered feline species. The shipment had been declared as tea leaves, and had been concealed among bags of tea dust. The haul was estimated at 8 million Singapore dollars (about 5.6 million US dollars), and was preceded by another significant seizure in 2014.

TradeNet receives the declaration submitted by the trader or their appointed agent, it will automatically route the declaration to the relevant competent authorities for processing.

The major realignments needed to support Singapore's NSW implementation were achieved through extensive discussions and consensus building with government agencies, companies, organizations and industry associations. This focus on achieving a 'win-win' outcome enabled all parties involved to overcome the initial difficulties, as they saw the potential savings and benefits from reducing the burden associated with handling trade documentation.

#### Towards a 'whole-of-government' approach

The journey to achieve a WOG approach for trade regulatory issues did not start overnight. The business process re-engineering undertaken as part of Singapore's NSW environment in 1989



1,783 pieces of raw ivory tusk, four pieces of rhinoceros horn and 22 pieces of canine teeth, believed to be from African big cats, concealed among bags of tea dust



Exhibits seized in January 2014

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These seizures were the result of sustained collaboration between Singapore Customs and the AVA to curb the trafficking of illegal wildlife products through joint targeting efforts. Over the years, this collaboration has led to a number of successful seizures involving goods protected under the CITES.

**Coordinated border management**

CBM is a necessity for Singapore, given its need to be a secure and business-friendly global trade hub. This national imperative is recognized by all border regulatory agencies as a shared responsibility. While organizational boundaries may exist, maximum efforts are exerted to seek out positive synergies to improve border processes, and assure the integrity of the trading system.

Singapore’s small physical size and manpower constraints also mean that no single agency is able to discharge all of its regulatory responsibilities in a self-contained way. Agencies, by virtue of their specializations, will best know the risks that affect the commodities under their control. Even though Singapore Customs and the ICA may have broad powers under the law to act on behalf of partner government agencies, both Singapore Customs and the ICA recognize that such authority needs to be exercised in collaboration with those partner

agencies so that their specific knowledge of their domain can be brought to bear, for maximum success rates in detection and enforcement.

In this way, relatively larger agencies, such as Singapore Customs and the ICA, which have stronger enforcement competencies and experience of cross-border regulatory offences, are able to provide support to other agencies for undertaking seizures and carrying out enforcement on suspicious shipments detected. Consequently, all agencies work together to achieve the synergies necessary to meet their respective regulatory mandates, and contribute to the prosperity and security of the country.

**More information**

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- [customs\\_international@customs.gov.sg](mailto:customs_international@customs.gov.sg)
- [www.ica.gov.sg](http://www.ica.gov.sg)

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Duty-unpaid cigarettes concealed in specially constructed hollow spaces beneath stacks of board partitions

**Immigration & Checkpoints Authority of Singapore (ICA)**

As a department under the Ministry of Home Affairs, the ICA ensures that the movement of people, goods, and conveyances through Singapore’s checkpoints is legitimate and lawful. Aside from its border security functions, the ICA also performs immigration and registration functions, such as the issuing of travel documents and identity cards to Singapore citizens, as well as the issuing of residence passes and work permits to foreigners living and working in Singapore. The ICA also conducts inland enforcement operations against immigration offenders. In 2014, the ICA cleared about 200 million travellers, and detected 93,380 contraband cases at the checkpoints.

**Singapore Customs**

As a department under the Ministry of Finance, Singapore Customs is the single implementing agency for Customs laws and trade laws, and possesses regulatory oversight over the entire trade process. This enables traders to deal with only one agency for regulatory procedures involving the import and export of goods, and puts Singapore Customs in a strong position to facilitate Singapore’s 900 billion Singapore dollars’ (about 630 billion US dollars) worth of annual trade.

# Vanuatu Customs' response strategy to Cyclone Pam

**By John Sala,**

DEPUTY DIRECTOR OF CUSTOMS, VANUATU  
CUSTOMS AND INLAND REVENUE DEPARTMENT

LATE ON 13 March 2015, tropical Cyclone Pam hit Vanuatu, packing wind gusts of up to 320 kilometres (200 miles) an hour, and causing widespread damage in the archipelago nation located in the South Pacific Ocean. It was the most devastating tropical cyclone that the southern hemisphere has ever experienced, and the worst natural disaster in the history of Vanuatu. Eleven people were reported dead, and many others injured. More than 200 houses were permanently destroyed, and up to 10 thousand people were made homeless.

Using its strategic and tactical risk management plans, the Vanuatu Customs and Inland Revenue Department (DCIR) responded immediately in the aftermath of this catastrophic cyclone. The DCIR was part of the National Emergency Operations Centre (NEOC) set up in 2012 in the capital city of Port Vila within the facilities of the National Disaster Management Office (NDMO) – the national coordinating agency for responses to emergencies leading to disasters. Before the cyclone hit, a series of meetings were organized by the NEOC to coordinate the preparedness and responses of Customs and other key border agencies involved in the logistics supply chain.

Immediately after the cyclone hit, Customs was again present at the Council of Ministers' meeting, advising on key strategies and options. A state of emergency had been declared, following the cyclone, by the Head of State and the Minister for Climate Change, calling for fast release of disaster relief supplies coming into Vanuatu. After receiving the state of emergency declaration, Customs was again present at the Bauerfield International Airport to facilitate the arrival of C-17 military aircraft and expedite the release of goods. Customs also participated in multiple logistics cluster meetings with local and international aid agencies, such as the Red Cross, World Vision, Save the Children

and Oxfam International, as well as with shipping and airline companies, such as DHL and South Seas Shipping.

However, a number of challenges had to be overcome: two Customs vehicles were damaged, causing a set-back to operations; debris of trees and buildings were all over the streets, causing flat tyres to the few vehicles at hand; and fuel shortages across the country limited the use of the vehicle fleet in general. Moreover, Customs and other authorities were hindered in their response due to a communication blackout, resulting in Customs having to revert to manual procedures to allow for the smooth clearance of goods. All records were kept in paper files until the systems were back online, two weeks after the cyclone had hit.

Over 1,000 tonnes of relief supplies landed in Vanuatu during and after the state of emergency period. These supplies included tarpaulins, tents, chain saws, building material, seeds for agricultural purposes, planting tools and material, food supplies, health and hygiene kits, water, water tanks, and many other types of supplies. Despite the absence of a Memorandum of Understanding (MoU), good working relationships were established informally between Customs and key stakeholders, such as the NDMO.

According to import duty regulations, the Director of Customs delegated powers to the Director of the NDMO to allow for speedy approval of disaster relief supplies. Customs accepted landing orders and

cargo manifests to clear goods. However, if goods were found to have been diverted for any non-humanitarian aid purpose, Customs could demand that the importer follow normal clearance procedures and pay any Customs duties owed to the government.

All releases of relief supplies were reported back to the NDMO to assist the distribution plans and the monitoring of relief supplies. Import regulations in these circumstances authorized the Director of the NDMO to keep records on importations of such relief supplies.

Given Vanuatu's experience, it is recommended that a formal MoU should be signed between Customs, as the lead agency at the border, and other relevant institutions, such as the NDMO, to allow for more preparedness in order to mitigate the challenges of similar catastrophic natural disasters in the future.

Such a MoU would clarify the responsibilities of each agency, define each agency's specific roles and assignments, set out who reports to who, and contain any other relevant measures. More work also needs to be done to ensure that cooperation mechanisms are in place, and that the staff of the different agencies work as a team to effectively coordinate operations, thereby ensuring the timely distribution of relief supplies to those affected within a minimum number of days.

## More information

<https://customsinlandrevenue.gov.vu>



# Sri Lanka Customs' response to a natural disaster: challenges faced and lessons learned

By **JP. Chandraratne,**

DIRECTOR OF CUSTOMS, SRI LANKA CUSTOMS

ON 26 DECEMBER 2004 almost two-thirds of the Sri Lankan coast was severely affected by the Indian Ocean tsunami, which left thousands of people displaced, injured or dead in its wake, highlighting the country's vulnerability to a natural disaster.

Besides low-frequency but high impact events, such as the 2004 tsunami, Sri Lanka is regularly affected by weather and water-related hazards due to monsoonal rain and the development of low pressure in the Bay of Bengal. As a small island state, with a high population density, whose economic activities are mainly concentrated in flood-prone and coastal areas, such events have disastrous human and economic effects.

In the immediate aftermath of the tsunami, a number of sympathizers, volunteers and organizations involved in the distribution of humanitarian relief goods arrived in Sri Lanka via air and sea routes to provide assistance in an effort to save lives and property, as well as to ensure the physical and psychological health of survivors. This flow of goods and persons created bottlenecks at main entry points, such as Colombo harbour and the airport.

Sri Lanka Customs was ill-prepared to react effectively, unable to ensure the swift release of relief cargo, and the quick processing of relief workers and media personnel, with their working instruments and belongings. Although there were provisions in the Customs Code to regulate the handling of relief cargo, lack of preparedness, insufficient staff numbers, and poor physical and IT infrastructure led to inefficiencies in the management of this enormous volume of people and goods.

Moreover, there was poor coordination with stakeholders, and between government agencies. There was, in particular, no Single Window environment to coordinate the clearance of goods among regulatory authorities, and no system, such as a 'one-stop shop' (OSS), gathering all government agencies with roles to play in processing

duties and/or tax exemptions and releasing goods, in order to expedite the process.

The urgency that prevailed during the tsunami prompted Sri Lanka Customs to formulate new regulations and mechanisms through the issue of a Departmental Order which provided for the following:

- The implementation of new Customs procedures, such as a simplified goods declaration for the clearance of relief consignments, and the relaxation of mandatory requirements – for example, relief goods no longer needed to be classified under a specific HS code, instead a mere description of the imported items sufficed;
- The creation of a Relief Facilitation Unit (RFU) led by a Director from Customs, and staffed with officers from Customs and other relevant agencies who were assigned to each and every entry/exit point in the country. They were tasked with assisting consignees in completing goods declarations, and offering round the clock guidance, seven days a week, including during weekends and public holidays. Although they could still examine cargo which represented a risk, limited space made such examinations difficult;
- The issuing of several circulars by the General Treasury in consultation with relevant agencies, including Sri Lanka Customs, containing instructions on how relief cargo should be cleared.

With new procedures and mechanisms in place, Sri Lanka Customs successfully managed to clear a considerable amount of consignments over a short period of time, and Customs staff remember this with great pride. When the tsunami hit Sri Lanka, the northern and eastern part of the country were heavily affected by a civil war and ethnic tensions, and there were many restrictions on items that could be sent to these regions. Despite these constraints, essential relief items were sent to the affected communities through

the established coordinated mechanism among relevant agencies.

Consequent to the tsunami, the government of Sri Lanka made significant changes to its disaster management systems. A National Emergency Operation Plan (NEOP) was established by the Ministry of Disaster Management with the support of the United Nations Development Programme (UNDP). The NEOP put in place a comprehensive system for emergency operations by articulating communication mechanisms at the national and sub-national level, as well as among relevant organizations.

Sri Lanka Customs is one of the government organizations directly concerned by the NEOP, as it is involved in every emergency response phase:

- the early warning phase;
- the emergency phase;
- the post-emergency phase.

When a potential natural disaster is predicted, Sri Lanka Customs will receive an 'early warning' from the Disaster Management Centre (DMC), requiring the Director General of Customs to immediately inform all relevant authorities, and request that they activate the NEOP. The Plan also provides for Customs officials to have regular contact with the DMC, the Ministry of Finance, other related ministries, and all other stakeholders, enabling the successful implementation of the NEOP.

Sri Lanka Customs is confident that it is now in a position to face any emergency situation that may arise. It can now count on proper IT infrastructure, which enables the automation of Customs declarations and clearing procedures, and on more well-trained officers who benefited from specific training developed by the Human Resources Directorate of Sri Lanka Customs in conjunction with internationally competent organizations, such as the UNDP.

Customs officers also participated in workshops to evaluate their capabilities from a disaster relief perspective, particularly in the areas of handling passengers and relief cargo arriving during a disaster. In addition, a Get Airports Ready for Disaster (GARD) training course, developed by Deutsche Post DHL and the UNDP, held in 2014, enabled authorities to identify potential issues and develop suitable solutions. Guidelines for Customs officials are also currently being prepared in consultation with other relevant agencies also involved in emergency relief operations.

Physical infrastructure has also been improved, and a 'one-stop shop' (OSS) has been created at the Customs Head Quarters in Colombo, which is located close to the port and not far from the airport. It brings together the main government agencies involved in processing goods under one roof, enabling commercial operators to obtain licences required for some imports, such as medicines and medical equipment, without having to go to the Health Ministry or the Import Control Department. This OSS is also linked to the Registrar of Motor Vehicles and the Quarantine Department, and is only a few metres away from the Telecoms Ministry for those who need approvals for media or telecoms equipment.

Another OSS is the Export Facilitation Centre, which was established recently within the Colombo port limits. Most of the approvals required for export can be obtained from this office, which processes Customs declarations for maritime and air cargo consignments. Last but not least, officials from the Quarantine Department and the Food and Health Agency are available 24 hours a day at the airport.

As for the adoption of international standards, although Sri Lanka Customs did not ratify Specific Annex J of the revised International Convention on the Simplification and Harmonization of Customs Procedures (RKC), which includes a specific chapter on relief consignments, the National Import Tariff Guide of Sri Lanka provides for "goods being gifts from persons or organizations overseas for relief disaster caused by natural or other disasters, imported on the recommendation of the Secretary to the respective line



© Direct Relief

Ministry subject to the approval of the Director General of Customs (DGC)," to be exempted from Customs duties.

In addition, Sri Lanka Customs facilitates the declaration process by accepting the submission of a 'Provisional Entry' and a 'Removal Application' by importers, instead of the simplified declaration, to clear their goods, subject to the completion of the declarations within a reasonable period.

Moreover, a committee has been appointed to work on the adoption of international standards, and to ratify Specific Annexes of the RKC. The Customs Department is

also holding discussions on the possibility of signing, with the United Nations (UN), the 'Customs Model Agreement' for the importation of relief consignments and possessions of relief personnel in the event of disasters and emergencies, developed jointly by the UN Office for the Coordination of Humanitarian Affairs (UN-OCHA) and the WCO.

**More information**  
[www.customs.gov.lk](http://www.customs.gov.lk)

# Tobacco Control, International Trade, and Public Health: a review of Holly Jarman's book 'The Politics of Trade and Tobacco Control'

**By Robert Ireland,**

WCO HEAD OF RESEARCH AND COMMUNICATIONS

## Introduction

INTERNATIONAL TRADE IS subject to conflicts that can arise from, among other things, the inherent tension between business profits and governmental protection of health, safety and the environment. Topics such as plain (standardized) packaging of cigarettes; asbestos (the European Communities – Measures affecting asbestos and asbestos-containing products case); and carbon tariffs (border tax adjustments) in the context of global warming have faced such debate and conflict.

The World Trade Organization's (WTO) core principle for resolving these clashes is in the General Agreement on Tariffs and Trade's (GATT) Article 20 (General Exceptions), which provides that WTO Members can "protect human, animal, or plant life or health" if "such measures are not applied in a manner which would constitute a means of arbitrary or unjustifiable discrimination between countries where the same conditions prevail, or a disguised restriction on international trade."

The trade in tobacco is a classic public policy example of this dynamic. With respect to public health, cigarettes are unique in that they are the only product that currently can be sold and bought legally but harms the user if consumed as intended. According to the World Health Organization (WHO), six million

people died in 2014 from smoking-related diseases; one billion people, mostly in developing countries, are projected to die from smoking-related diseases over the course of the 21<sup>st</sup> Century.

In addition to their inherent carcinogenic toxicity, cigarettes have the added health detriment - albeit a business advantage to the tobacco industry - of being a highly addictive product which makes cessation a tall obstacle to overcome. On the business side, the tobacco industry grosses enormous amounts of money and employs

many workers. An ongoing societal choice is thus whether to prioritize the interests of those who profit from tobacco sales or global public health.

National tobacco control regulations seek to protect human health by restricting all cigarette brands, not just a few chosen ones. In addition to higher tobacco taxes (collected by Customs and other revenue agencies), advertising restrictions and smoking bans

in public places, limiting the advertising on cigarette packs with plain packaging is currently at the frontline of tobacco-related public health policymaking. Four countries – Australia, France, Ireland and the United Kingdom – have thus far adopted plain packaging.

Tobacco companies are litigating against plain packaging and are doing so not based on the WTO Article 20 principles but by contending that cigarette pack advertising and logos are trademarks and property

rights, and should be protected under the rubric of intellectual property rights and ownership in general.

## The Politics of Trade and Tobacco Control

The 2015 book 'The Politics of Trade and Tobacco Control' by Dr. Holly Jarman, a political scientist at the University of Michigan in the United States, examines the intersection of public health, tobacco control and international trade. In addition, the book describes how lawsuits are being used to challenge public health laws, both in national courts and also in international trade tribunals.

## Legal actions against plain packaging laws

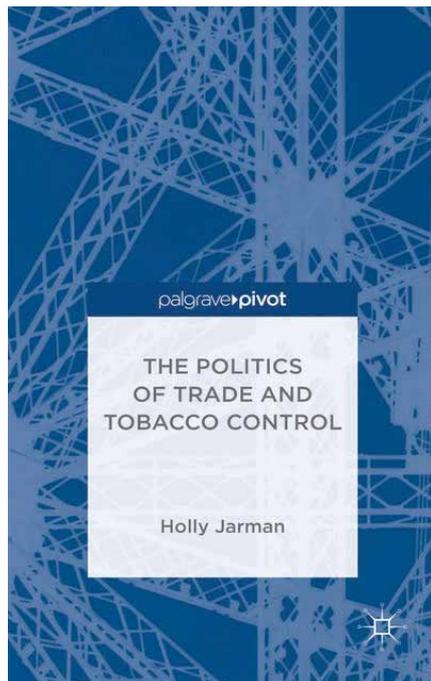
Plain packaging and similar tobacco control laws have been subjected to legal actions in three different types of legal forums: (1) national courts; (2) ad hoc tribunals established using provisions from trade or investment agreements; and (3) WTO dispute proceedings.

### National courts

After the Australian plain packaging legislation was adopted, but before it entered into effect, tobacco companies filed a lawsuit in 2011 at the High Court of Australia. The plaintiffs contended, among other things, that the plain packaging law should be overturned because it entailed "acquisition of property" – in essence a purported violation of property rights. The Australian High Court upheld the plain packaging law in 2012 in a 6-1 ruling.

Following the adoption of plain packaging laws in England and Ireland in 2015, tobacco companies filed lawsuits in British and Irish courts. These cases are ongoing; the British and Irish governments have indicated that they will defend the cases vigorously.

Uruguay has also instituted a number of robust tobacco control measures, including large graphic health warnings on



cigarette packs, bans on misleading words like ‘low-tar’ and ‘light,’ and the limit of one line for the brand name. These measures are part of Uruguay’s efforts to implement the WHO’s Framework Convention on Tobacco Control (FCTC), which it ratified in 2004.

Beginning in 2008, Abal Hermanos – the Uruguayan affiliate of tobacco giant Phillip Morris International (PMI) – and several other tobacco companies, filed lawsuits against Uruguay’s tobacco regulations. In 2009, Abal Hermanos filed a lawsuit at the Supreme Court of Uruguay, alleging, among other things, that its brands had been expropriated. Uruguay prevailed in the national cases.

#### **BIT Tribunals**

The so-called Bilateral Investment Treaty (BIT) and Investor-State Dispute Settlement (ISDS) mechanisms are gaining attention in policy circles. Jarman writes that BITs “allow foreign investors to initiate investment disputes against governments that they believe have violated their rights.” The cases are then heard at a legal forum created for the individual investment dispute. The tribunal arbitrators are typically lawyers, one picked by the plaintiff, one picked by the defendant, and one picked by the arbitrators appointed by the parties.

BITs and ISDSs are unusual in that they give private companies the ability to sue governments using bilateral or multilateral governmental treaties, and to do so in a newly established legal forum with several options for a venue. According to leaked text, the draft Trans-Pacific Partnership Agreement (TPP), a regional trade agreement currently being negotiated, includes ISDS provisions.

Uruguay faces a BIT-based case. PMI used a 1988 BIT (ratified in 1991) between Uruguay and Switzerland to request an arbitration tribunal hearing at the International Centre for Settlement of

#### **Legal milestones concerning tobacco public health laws\***

Date	Legal event
2009	Abal Hermanos (a PMI affiliate) files suit at the Uruguayan Supreme Court against Uruguay’s tobacco control laws.
February 2010	Tobacco companies FTR Holding S.A., Philip Morris Products, and Abal Hermanos file a legal action against Uruguay’s tobacco control law using a BIT between Uruguay and Switzerland.
November 2010	The Supreme Court of Uruguay unanimously rejects Abal Hermanos’s case.
November 2011	A PMI subsidiary files a legal action against Australia’s plain packaging law using a BIT between Australia and Hong Kong.
December 2011	Several tobacco companies file a lawsuit against Australia’s plain packaging law at the Australian High Court.
March 2012	Ukraine initiates a dispute against Australia for its plain packaging law at the WTO.
April 2012	Honduras initiates a dispute against Australia for its plain packaging law at the WTO.
July 2012	The Dominican Republic initiates a dispute against Australia for its plain packaging law at the WTO.
August 2012	The Australian High Court rules in favour of the Australian plain packaging law.
May 2012	Cuba initiates a dispute against Australia for its plain packaging law at the WTO.
September 2013	Indonesia initiates a dispute against Australia for its plain packaging law at the WTO.
May 2015	Ukraine withdraws its WTO dispute against Australia.

\*adapted from Jarman (2015) and the websites of the Australian Government and the WTO.

Investment Disputes (ICSID). The BIT was ratified 13 years before Uruguay ratified the FCTC and 19 years before the PMI BIT-based action. PMI and its affiliates alleged, among other things, that the Uruguayan “80 per cent health warning coverage requirement unfairly limits Abal’s right to use its legally protected trademarks . . .” and caused “a deprivation of PMP’s [Phillip Morris Products] and Abal’s “intellectual property rights.”

The PMI v. Uruguay BIT case is not moving quickly. PMI appointed its arbitrator and Uruguay appointed its arbitrator. They were unable to agree, however, on the third arbitrator, who had to be appointed by the ICSID Secretary General. In 2013, the ICSID agreed that it had jurisdiction to hear the case. The case is expensive for a country of 3.4 million people with a gross domestic product (GDP) of only 57 billion US dollars; Uruguay has apparently received financial support from various sources to defend the case, including from American billionaire and former New York City Mayor Michael Bloomberg.

Similarly, using a 1993 Australia-Hong Kong BIT, a PMI subsidiary launched an

action against Australia’s plain packaging law in 2011. PMI alleged that the plain packaging legislation contravened the Australia-Hong Kong BIT “in that they expropriate the investments, are unfair and inequitable, unreasonably impair the use of the investments, amount to a failure to afford full protection and security for the investments, and contravene obligations Australia has entered into with regard to investments of investors, specifically international trade obligations.” PMI also contended that plain packaging is a “technical regulation that is not necessary to fulfill the objective of protection of public health.” Three arbitrators have been appointed – one by PMI, one by Australia and one by the Permanent Court of Arbitration. The case is ongoing.

#### **WTO dispute proceedings**

Several countries have launched dispute proceedings against Australia for its plain packaging law at the WTO. The case is expensive both for the complainants and Australia. Jarman cites research indicating that the tobacco industry provided legal and financial support to the countries that lodged the dispute proceedings against Australia.

Ukraine, the first complainant in the WTO proceeding, alleged that the Australian plain packaging law is inconsistent with, among other things, various provisions of the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS Agreement). Several other countries later joined the WTO dispute and a panel was convened.

The action did not make contentions regarding human health and possible discrimination, but placed its hope in contending that stylish advertising on a cigarette pack is intellectual property and should be protected. In May 2015, Ukraine requested that the convened WTO panel suspend its proceedings “with a view to finding a mutually agreed solution.” In June 2015, the panel granted Ukraine’s request and suspended its work.

#### Forum shopping and bulk buying

Jarman writes that the aforementioned tobacco industry strategy is called ‘forum

shopping’ and ‘bulk buying.’ She describes forum shopping – or ‘venue shopping’ – as “the practice of selecting the venue, such as an agency, committee, court, or arbitration body, most likely to provide you with a favourable result.” She describes ‘bulk buying’ as “using multiple forums at once to mediate conflicts over tobacco policy.”

The multiple legal actions against Australia and Uruguay have injected significant complexities and expenses into the adoption of public health regulations. Most likely, the actions have deterred or delayed other countries, especially under-resourced ones, from adopting similar public health laws.

#### Conclusion

In Australia, data shows that smoking rates have declined and illicit trade has not increased in the period since December 2012 when plain packaging entered into effect. The evidence reflects that plain packaging is working as intended – it is

reducing tobacco consumption with no ill effects.

The Australian Border Force (formerly the Australian Customs and Border Protection Service), a WCO Member, has been reporting diminishment in the number of illicit tobacco seizures, one proxy for estimating the illicit trade in tobacco, while taxes have been increasing and plain packaging nears its three year anniversary.

There have been few, if any, examples of counterfeiting of Australian plain packs. One might conclude that the Australian plain packaging law is a technical regulation that is necessary to fulfill the objective of protecting public health and that there is credible evidence that it is reducing smoking prevalence.

#### More information

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Knowledge Beyond Borders

# 10 years of promoting the academic standing of the Customs profession

**By Professor David Widdowson,**  
PRESIDENT OF THE INTERNATIONAL NETWORK OF  
CUSTOMS UNIVERSITIES

From its humble beginnings in 2005, the International Network of Customs Universities (INCU) has come a long way. The primary motive for establishing the network was to promote the academic standing of the Customs profession – something that was clearly needed at the time, and which, I am pleased to say, has been well and truly achieved in the intervening ten years. As the INCU celebrates its 10<sup>th</sup> anniversary, it is worth recalling at least part of that journey, and contemplating what might lie ahead.



I recall the day I first proposed the development of a Master's degree with a Customs specialization. One of my professorial colleagues asked why one would need a Master's programme to teach people how to search bags. Those of you who are involved in trade and Customs matters, and who understand the breadth and complexity of the subject, would have shaken your head as I did. There is far more to the Customs profession than baggage search! But that was the perception some 15 years ago, and it was that perception which prompted the establishment of the INCU.

Recognizing the academic significance of Customs and border management, a small number of universities had already developed Customs-specific qualifications and research streams in the 1990s, notably Münster in Germany, and Canberra in Australia. And while national

endorsement of such programmes represented a significant step forward, it was international acknowledgement that was required before Customs studies could be recognized as a true academic discipline.

To this end, the INCU has been working closely with the WCO to further this cause, and together we have developed formal standards for the Customs profession, globally recognized academic programmes, an academic journal that is about to enter its tenth year of publication, and a series of international conferences that focus on academically-recognized research and development.

Notably, neither the WCO nor the INCU could have achieved this outcome independently of one another. While international policy-making is beyond the jurisdiction of the INCU, it can significantly support such decision-making through its extensive research initiatives. Similarly, the WCO cannot award academic degrees, but can influence the development of programmes that lead to such qualifications by formally recognizing those which meet the professional requirements of its Members.

The experience to date has served to highlight the natural synergies which exist between the two organizations. Like many partnerships, the whole has proved to be much greater than the sum of its parts. The key to such a synergistic relationship lies in the fact that competition does not and cannot exist. While common areas of interest are shared, each organization has its own agenda and its own imperatives.

Each pursues its charter to the satisfaction of its Members, and each is given the opportunity to further the achievement of its objectives by actively participating in the activities of the other.

This is recognized by the fact that both organizations feel compelled to collaborate with other organizations in areas which touch on their particular sphere of activity. From an INCU perspective this includes some 20 international organizations. For the WCO it involves many more, as it recognizes the important role that many international organizations play in developing and facilitating international trade and travel, including the associated Customs and border management policies.

In progressing its charter, the INCU has recently introduced global conferences that are designed to complement the WCO's PICARD Programme by establishing a forum that provides its Members with a greater opportunity to present the findings of their research activities in the field of Customs and international trade, and allows younger researchers and students to present their research proposals to the broader research community.

The Inaugural INCU Global Conference was held in Baku, Azerbaijan in May 2014, with the theme 'Trade Facilitation Post Bali: Putting Policy into Practice.' The conference brought together delegates from over 70 countries, including representatives of Customs administrations, 20 international organizations, the private sector, and academia. The conference was also the first of its kind to provide simultaneous telecast via YouTube – clearly a sign of the times!

Proceedings included a welcoming address by the Director General of the World Trade Organization (WTO), Roberto Azevêdo, keynote addresses by three eminent Nobel Laureates, the Assistant Secretary for International Affairs of the United States (US) Department of Homeland Security, and a number of other highly respected speakers. Among them was the Chairman

of the State Customs Committee of Azerbaijan, Professor Aydin Aliyev, who was admitted as an Honorary Fellow of the INCU in recognition of his significant contribution to the objectives of the organization.

A key outcome of the conference was the Baku Resolution, which recognized and built upon the significant achievement of the WTO in reaching its Trade Facilitation Agreement (TFA). Among other things, it was resolved to formally engage with a broader cross-section of the international community, and identify further ways of providing opportunities for academics, students and less experienced researchers to present and publish their research.

Another important resolution was to develop a definition of the term ‘Customs profession’ which includes both public and private sector members of the international trading community, identify the requisite knowledge, skills and competencies of those engaged in the Customs profession, and develop guidelines for accrediting education and training programmes that meet the identified knowledge, skill and competency requirements. This further builds upon the excellent work undertaken to date in collaboration with the WCO.

To further support the development of accredited qualifications, it was also resolved to encourage mutual recognition of INCU Member education and training programmes through credit allocation, cross-institution arrangements, and other means. This is already occurring, with formal arrangements having already been established across a number of educational institutions in Australia, China, Germany, the Maldives, Qatar, Sri Lanka, Tanzania, and the US.

Continuing collaboration with the WCO, other international organizations, and member institutions will certainly provide the basis for future activities, as will focused research designed to inform strategic policy making. It is in this context that the INCU looks forward to its next ten years of working closely with the WCO as we collectively progress our endeavours in Customs academic research and development in order to further raise the academic standing of the Customs profession.

#### **More information**

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

## Prospects for Africa’s Tripartite Free Trade Agreement in the light of lessons learned from the East African Community

**By Creck Buyonge Miriti**

THE AFRICAN UNION (AU) recognizes eight regional economic communities (RECs) as the building blocks for the African Economic Community (AEC), namely the Arab Maghreb Union (AMU), the Community of Sahel-Saharan States (CEN-SAD), the Common Market for Eastern and Southern Africa (COMESA), the East African Community (EAC), the Economic Community of Central African States (ECCAS), the Economic Community of West African States (ECOWAS), the Inter-Governmental Authority on Development (IGAD), and the Southern African Development Community (SADC).



In June this year, at a summit in Cairo, Heads of State and Government from three of these RECs – EAC, COMESA and SADC – launched the Tripartite Free Trade Area (TFTA) bringing together 26 countries with a combined population of 632 million people or 57% of Africa's population, and a gross domestic product (GDP) of 1.3 trillion US dollars (2014 figures). The launch of the TFTA was the culmination of a process that started in 2008 with the first tripartite summit held in Kampala, Uganda. However, it is not time to celebrate yet. The Agreement requires ratification by 14 Members before it can enter into force. After its entry into force, the Agreement shall remain open for accession by other Member States of the AU.

Since ratification is a national process, it may take a while before this magic number is achieved. Even then, the coming into force of the TFTA may not lead to immediate trade facilitation gains. As Robert Ndege and Frank Nyambweke (2014) note, although the EAC is Africa's most ambitious regional integration drive with political integration as its ultimate aim, "progress has been slow with an ever dynamic political environment and strong nationalist sentiments posing the greatest challenge to seamless integration" [Africa Practice, August 2014].

The EAC has seen a lot of progress in terms of investment in new trade-related infrastructure – such as the development and operation of standard gauge railways and oil pipelines, the removal of persistent non-tariff barriers, improved freedom of movement within Partner States, and a reduction of telecommunication charges. All EAC Partner States have also notified their 'Category A' commitments to the World Trade Organization (WTO), with Rwanda demonstrating greater ambition than its regional neighbours in terms of the number of measures notified.

Of relevance to Customs is the fact that all five EAC Partner States are now operating as a Single Customs Territory (SCT) and have brought in the Democratic Republic of the Congo (DRC), which is not an EAC Partner State. In July 2015, Tanzania and the DRC started clearing goods using SCT procedures, where assessment and collection of revenue is done at the first point of entry. Operation of the SCT has included the posting of staff from the Customs administrations of Burundi, the DRC, Rwanda and Uganda to the Tanzanian port of Dar es Salaam and the Kenyan port of Mombasa. These developments are laudable, as they have led to the creation of a climate of trust between the collaborating government agencies and their officials.

The paragraphs above provide enough background information for us to pose and try to find an answer to the following question: what has been the challenge of regional integration in the EAC and what does this tell us about the possible challenges that may face the TFTA? On the positive side, we have already seen that, since "nothing succeeds like success," neighbouring states are quickly adopting the positive aspects of regional integration such as the SCT. While the DRC – a member of ECCAS and SADC – has started implementing the SCT with Tanzania, South Sudan is working towards full accession to the EAC Treaty. Yet, challenges remain.

In early August 2015, Kenya's President, H. E. Uhuru Muigai Kenyatta, met with his Ugandan counterpart, H. E. Yoweri Kaguta Museveni, to discuss a number of issues including the improvement of trade ties between the two countries. Uganda complained that Kenya's Agriculture, Fisheries and Food Authority (AFFA) was delaying issuance of permits for the importation of sugar into Kenya from Uganda.

Since the EAC is a 'common market,' sugar originating from Uganda should enter Kenya without barriers, but suspicions by Kenya that Uganda may be trying to dump cheap sugar from third countries



has made it difficult for this to happen. On its part, Uganda has been restricting entry of Kenyan milk into the country. During their meeting, the two Presidents agreed to remove these obstacles, but immediately thereafter, the Kenyan political opposition started beating the drum against the 'deal.' In actual fact, there were no agreements, just a commitment between the two leaders to uphold the principles of the EAC Treaty and its Protocols.

Herein lies the first challenge of regional integration in the EAC. Despite sensitization efforts by Ministries responsible for the EAC on the requirements and benefits of integration, key constituencies, such as the political class, remain sceptical and uninformed about the provisions. Instead of supporting what is indeed a legitimate process, they create obstacles by negatively influencing public opinion with conspiracy theories. Customs and trade officials who are expected to implement and monitor trade policies may also not take a keen interest. While the EAC has five Partner States, trying to ensure that the 26 countries expected in the TFTA are reading from the same script is a tall order – but it can and must be done.

The second challenge is political. Burundi carried out contentious elections on 15 July 2015, which were boycotted by the political opposition. The incumbent President, H. E. Pierre Nkurunziza, won easily under the circumstances. There was an attempted coup and instability prior to the elections, and the period after has been marked by even greater instability, violence, and threats of violence leading to an exodus of refugees to the DRC, Tanzania, and Uganda. In South Sudan, civil war has been raging since December 2013 between troops loyal to President Salvar Kiir and his erstwhile Vice President, Riek Machar. As a result, some Customs and trade capacity building projects have been suspended or delayed in these two countries, and the impact has been felt across the region. Within the 26-member TFTA, there are countries experiencing significant conflicts or under threat of conflict, such as the DRC, Egypt, and Libya. Other TFTA countries are preparing for political transitions, such as Tanzania (2015), Rwanda (2016), and Kenya (2017). Peaceful elections and political transition are good for regional integration.



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The third challenge is terrorism. Burundi, Kenya, Rwanda, and Uganda have contributed troops to the AU Mission in Somalia (AMISOM) to stabilize the Government of Somalia, and check the threat of Al Shabab terrorists. Kenya has borne the brunt of terrorist attacks in recent times, including one at a major Nairobi shopping mall in September 2013, and another at Garissa University College in April 2015. The latter attack left 147 victims, mostly students, dead. Countering the terrorist threat requires cooperation between governments at the bilateral, regional and global level. Such cooperation includes exchanging intelligence, common training, and capacity building.

Unfortunately, governmental cooperation sometimes leads to suspicions within the citizenry – and a real danger – that human rights, including the right to privacy, may be violated. The TFTA has an Annex on Cooperation on Trade and Customs Matters, but none on security issues. There is a strong link between security and trade so, in the future, TFTA Members may need to negotiate a Protocol on Security whose implementation will be challenging considering the large membership.

In spite of the challenges, we remain optimistic that not only will the EAC continue integrating further, leading to gains in trade facilitation, but that the TFTA may lead to other RECs in Africa crafting such mega-RECs. This

Herein lies the first challenge of regional integration in the EAC. Despite sensitization efforts by Ministries responsible for the EAC on the requirements and benefits of integration, key constituencies, such as the political class, remain sceptical and uninformed about the provisions.

phenomenon may draw inspiration from developments in other regions of the world, such as the Transatlantic Trade and Investment Partnership (TTIP) between the European Union (EU) and the United States, and the proposed Trans-Pacific Partnership Agreement between countries in the Pacific Rim. Finally, the 10<sup>th</sup> WTO Ministerial Conference is scheduled to take place in Nairobi, Kenya in December 2015. This is the first time the Conference will be held in Africa. The confluence of all these factors portends deeper and faster regional integration in Africa, and the potential for gains in trade facilitation.

#### More information

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The author is Principal Consultant and CEO of Customs & International Trade Associates (CITA) Limited, a Customs, border management and international trade training, research and consulting company based in Nairobi, Kenya. A holder of a Master's degree in international Customs law & administration from the University of Canberra, Creck Buyonge Mirito is currently registered for a PhD in higher education (research, evaluation and enhancement) at Lancaster University (2015-2019).



# Calendar of Events

## November

- 16 - 20 Harmonized System Review Sub-Committee, 49<sup>th</sup> Session
- 30 Nov - 2 Dec Working Group on Revenue Compliance and Fraud

## December

- 7 - 9 Policy Commission, 74<sup>th</sup> Session, Punta Cana (Dominican Republic)

## January

- 12 - 15 Scientific Sub-Committee, 31<sup>st</sup> Session
- 18 - 22 Data Model Project Team
- 25 - 26 Global RILO Meeting, 19<sup>th</sup> Meeting
- 26 International Customs Day
- 27 - 28 CEN Management Team (CENMat) Meeting, 15<sup>th</sup> Meeting

## February

- 2 - 3 Technical Committee on Rules of Origin, 34<sup>th</sup> Session
- 16 - 17 Audit Committee, 10<sup>th</sup> Meeting
- 22 - 23 Private Sector Consultative Group
- 23 SAFE Members Only Meeting
- 24 - 26 SAFE Working Group, 15<sup>th</sup> Meeting
- 25 Administrative Committee for the Customs Convention on Containers, 1972, 16<sup>th</sup> Meeting
- 29 Feb - 1 March Agreement on Trade Facilitation Working Group, 5<sup>th</sup> Meeting
- 29 Feb - 3 March Enforcement Committee, 35<sup>th</sup> Session

## March

- 2 - 3 Permanent Technical Committee 211<sup>th</sup>/212<sup>th</sup> Sessions
- 4 Permanent Technical Committee / Enforcement Committee Joint Session
- 7 - 8 Harmonized System Committee, Working Party
- 9 - 18 Harmonized System Committee, 57<sup>th</sup> Session
- 21 - 22 Technical Experts Group on Air Cargo Security, 10<sup>th</sup> Meeting

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

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