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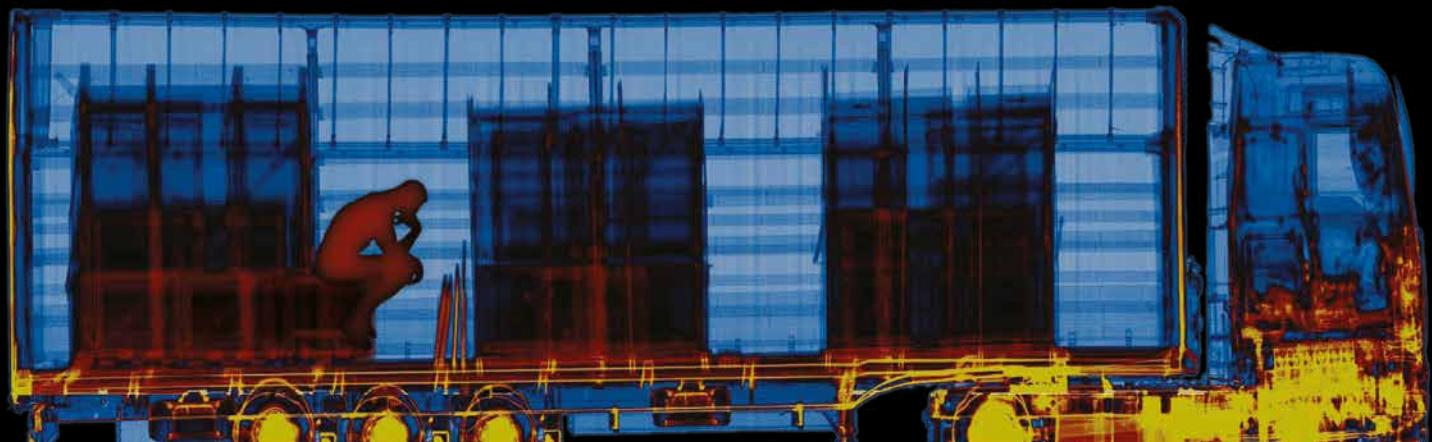
WCO news

Stopping Illicit Trade



World Customs Organization

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Editor-in-Chief
Grant Busby

Writer / Editor
Laure Tempier

Editorial Assistant
Sylvie Degryse

Head, Research and Communications
Robert Ireland

Online subscriptions
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Advertising



Bernard Bessis
bernard.bessis@bb-communication.com

Publisher

World Customs Organization
Rue du Marché, 30
B-1210 Brussels
Belgium

Tel.: +32 (0)2 209 94 41
Fax: +32 (0)2 209 92 62
communication@wcoomd.org
www.wcoomd.org

Editorial note

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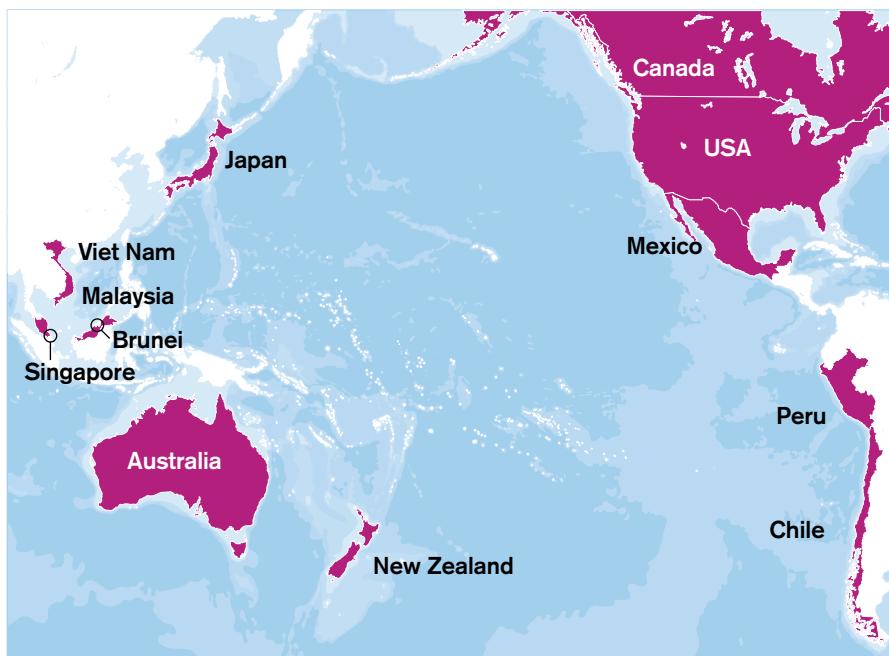
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Trans-Pacific Partnership Agreement added to WCO Comparative Study on Preferential Rules of Origin



TPP Market Snapshot



Source: Australian Department of Foreign Affairs and Trade

THE TRANS-PACIFIC PARTNERSHIP (TPP) Agreement was signed on 4 February 2016. It aims to establish a more seamless trade and investment environment through commonly-agreed rules and the promotion of transparent laws and regulations, providing greater certainty for businesses, reducing costs and red tape, and facilitating participation in regional supply chains.

The TPP is the first of the so-called 'mega-regional' free trade agreements (FTAs), a term which refers to deep integration between countries, or regions with a major share of world trade and foreign direct investment (FDI). The 12 Parties to the Agreement are Australia, Brunei Darussalam, Canada, Chile, Japan, Mexico, Malaysia, New Zealand, Peru, Singapore, United States of America, and Viet Nam.

The WCO issued a first analysis of the main features of the origin provisions contained in the TPP Agreement back in December 2015 (see <http://www.wcoomd.org/en/topics/origin/activities-and-programmes/preferential-origin.aspx>). It is now about to publish a detailed analysis of the TPP rules of origin and a comparison between the new agreement and existing origin models as part of the WCO Comparative Study on Preferential Rules of Origin. This new section of the Study will be available in July 2016.

Rules of origin are important legal instruments for the application of preferential trade agreements. But, with the proliferation of these agreements comes a plethora of divergent and often overlapping preferential rules of origin, a situation which presents challenges, both to the business community and the authorities implementing origin legislation. Thus, enhancing

overall understanding of preferential rules of origin is the main aim of the WCO Comparative Study.

The section of the WCO Comparative Study dealing with the TPP explains and analyses some special features contained in the Agreement, such as full cumulation, provisions on regional value content, including the new 'focused value method,' remanufactured goods, the provision on the updating of the rules of origin to reflect amendments to the Harmonized System (HS), as well as the specific chapter on textile and apparel goods.

Recurrent themes apply to virtually all existing models on rules of origin legislation. The comparison between the different agreements contained in the WCO Comparative Study is made at a topic level – certification of origin, advance rulings, concept of originating goods or cumulation, for example.

Any questions, comments or enquiries on the WCO Comparative Study should be addressed to the WCO Secretariat's Origin Sub-Directorate.

More information
origin@wcoomd.org

Latest accessions to WCO instruments

Revised Kyoto Convention



Iceland

Date of accession: 8 October 2015
103rd Contracting Party

Harmonized System Convention



Oman

Date of accession: 12 May 2016
154th Contracting Party

More information
communication@wcoomd.org

WCO releases new instrument on transfer pricing and Customs valuation

AN IMPORTANT NEW instrument was finalized at the April 2016 session of the WCO Technical Committee on Customs Valuation (TCCV). The instrument is Case Study 14.1, illustrating a specific scenario where Customs took into account transfer pricing information in the course of verifying the Customs value, which should benefit Customs authorities and business alike. Transfer pricing refers to the price for goods and services sold between controlled or related legal entities. Multinational companies determine a transfer price in order to allocate profits among their different parts, which in turn determines how much tax it pays and in which country.

Most tax administrations require companies to calculate the price following ‘the arm’s-length principle.’ Broadly, this means that operations should be priced by comparing them with similar operations carried out on a commercial basis at market prices, as if the parties were independent entities – at arm’s length from one another. This can be a lot more complicated than it sounds, leading to the Organisation for Economic Co-operation and Development (OECD) producing ‘Transfer Pricing Guidelines for Multinational Enterprises and Tax Administrations’ on the application of the arm’s length principle.

Transfer prices are also of interest to Customs when verifying the Customs value and, more specifically, that the price for transactions of imported goods has not been influenced by the relationship between the buyer and seller, as stipulated in the Valuation Agreement of the World Trade Organization (WTO). A previous TCCV instrument – Commentary 23.1 – supported the idea that business documentation developed for transfer pricing purposes may contain useful information for Customs.

In the case study, XCO, a manufacturer in country X, sells relays to its wholly-owned subsidiary, ICO, a distributor in country Y.

ICO imports the relays and does not purchase any products from sellers unrelated to its parent company. Likewise, XCO does not sell relays or similar goods to unrelated buyers. This then led to the question: how can one estimate whether ICO and XCO were buying and selling at a ‘real’ price which was not influenced by the fact that XCO and ICO are related?

The answer is found in the case study. By using the company’s transfer pricing information based on the transactional net margin method – that is, by comparing ICO’s operating margin with those of similar, but unrelated companies doing similar business in the country. On the basis of this information, Customs accepted that the sale price in question had not been influenced by the relationship. The conclusion notes that the use of a transfer pricing study for examining the circumstances surrounding a sale must be considered on a case-by-case basis.

WCO Secretary General Kunio Mikuriya, in congratulating the TCCV on the work that it had recently done in the transfer pricing area, said: “This new instrument is an important step for the WCO and demonstrates its relevance by providing guidance on the management of Customs valuation in an increasingly complex trade landscape, whilst maintaining consistency and strengthening cooperation with tax authorities.”

Writing in an OECD blogpost, Pascal Saint-Amans, the Director of the OECD Centre for Tax Policy and Administration stated: “This will be increasingly important in a global environment. As a result of the OECD’s Base Erosion and Profit Shifting (BEPS) project, more and more countries are applying transfer pricing rules, and those rules are becoming stronger and more sophisticated, in particular with regards to the treatment of risks and intangibles, rather than just tangible goods.”

In view of the strong interest in the business community, the WCO has made Case Study 14.1 available via its website. It will be published in the WCO Valuation Compendium, subject to approval by the WCO Council, in July 2016. Further information on this topic can be found in the WCO Guide to Customs Valuation and Transfer Pricing, which is also available on the WCO website.

The Guide, designed to be accessible to both experts and non-experts in both fields, sets out the relevant methodology for both regimes, and explores the linkages and the possibilities for Customs to use transfer pricing information in examining related party transactions.

Both the WCO and the OECD advocate closer cooperation between Customs and tax administrations in order to strengthen the ability of governments to identify the correct taxes and duties legally due, and to enhance trade facilitation for the compliant business sector. A key message is that Customs and tax authorities are encouraged to work together, and to exchange information and knowledge in this area.

Similarly, businesses are encouraged to take into account Customs’ needs when preparing documentation, such as transfer pricing studies and advance pricing agreements (an ahead-of-time agreement between a taxpayer and a tax authority on an appropriate transfer pricing methodology for a set of transactions at issue over a fixed period of time).

The WCO would like to thank the OECD and the International Chamber of Commerce (ICC) for their ongoing assistance in this important work programme.

More information
www.wcoomd.org

Some thoughts on illicit trade

By Kunio Mikuriya,
SECRETARY GENERAL, WORLD CUSTOMS
ORGANIZATION



The Punta Cana Resolution, which the WCO released in December 2015, encourages Customs authorities to include security as part of their mandate and functions, where appropriate, by incorporating it into their strategic plans and disseminating the goal to the front lines.

MUCH HAS BEEN said about illicit trade and over the years many articles touching on this subject have been published in this magazine covering, amongst others, drugs, tobacco, ivory, counterfeiting, cash and dual-use goods. In this edition we put the spotlight on some lesser known illicit trade issues such as cultural goods, small arms, fisheries crime, and illicit pesticides, in an endeavour to share pragmatic ideas and ways that can help us to devise strategies in which to confront these existing menaces.

In this article I will be taking stock of what we have achieved together in the past few months, guided by the WCO Council, Policy Commission and Enforcement Committee. Circumstances that were out of our control also impacted on our work, such as the recent terrorist attacks in Belgium, France, Lebanon, Mali, Tunisia, Turkey and other countries. This has led to intensively increased discussions on global security and how the Customs community can enhance its response to these threats to international trade and peace.

Building operational capacity

One of the main results of these discussions was the Punta Cana Resolution which the WCO released in December 2015, emphasizing the key role that Customs administrations play in tackling illicit cross-border movements of goods that could ultimately support terrorism and terrorist financing. In this resolution, we encourage Customs authorities to include security as part of their mandate and functions, where appropriate, by incorporating it into their strategic plans and disseminating the goal to the front lines.

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

Under the ‘Strategic Trade Controls Enforcement (STCE) project,’ we continued our work on strategic goods, which are defined as weapons of mass destruction (WMD), conventional weapons and related items involved in the development, production or use of such weapons and their delivery systems. In this regard we produced a curriculum and modules for training purposes, and also oversaw a global law enforcement operation in 2014.

Besides detecting and preventing illicit trafficking of strategic goods in international supply chains, the operation helped us to evaluate standard operating procedures and work practices in this area, and allowed us to tailor our capacity building and technical assistance activities to address any outlined gaps. In particular, we started training front-line officers, providing them with the required information and know-how on how to detect dual-use goods. Future trainers were also targeted in order to strengthen the training capacities of our human resources.

Under Programme Global Shield (PGS) – an initiative launched in 2010 to monitor the trade in 14 chemicals that could be diverted for use in the illegal manufacture of improvised explosive devices (IEDs) – officers are



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trained in the detection and handling of these chemicals, and certain countries were provided with presumptive field test kits for frontline officers, as well as electronic chemical detection devices.

PGS also increases cooperation among countries as well as reaching out to private stakeholders in the chemical industry in order to increase awareness on the dual-use capability of the precursor chemicals they manufactured, distributed or retailed. PGS is a superb programme, impacting positively on saving lives.

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

We continue to offer training on risk management in general, with specific programmes focusing on drugs, wildlife, intellectual property rights, etc. The WCO INAMA Project, for example, aims at strengthening the enforcement capacity of targeted Customs administrations in Sub-Saharan Africa, while focusing on the illegal trade in wildlife, particularly endangered species identified in the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES).

Multi-agency units

Two projects whose core aims include the development of enforcement capacities at specific ports and airports through the establishment of multi-agency teams are still underway and gaining momentum: the UN Office on Drugs and Crime (UNODC)-WCO Container Control Programme (CCP); and Project AIRCOP.

Port Control Units (PCUs) established under the CCP are, at present, fully operational in 55 ports in 30 countries, and funding for the integration of another 24 WCO Members into the CCP is now available. Given the success of the CCP, a separate

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

Launched in 2010 to build drug enforcement capacities at international airports, Project AIRCOP has been responsible for the setting up of Joint Airport Interdiction Task Forces (JAITFs) in 16 countries, namely Barbados, Benin, Cameroon, Cape Verde, Côte d'Ivoire, the Dominican Republic, Gambia, Ghana, Guinea Bissau, Jamaica, Mali, Niger, Nigeria, Panama, Senegal, and Togo. In addition, four other countries, two in Africa (Ethiopia and Mozambique) and two in South America (El Salvador and Peru), have recently been evaluated with a view to the setting up of JAITFs. In total, 19 JAITFs are currently operational.

Inter-agency cooperation is at the heart of these initiatives. Among the agencies that Customs must cooperate with is the Police. Key components of such cooperation have been discussed widely at different meetings over the last few months. This has led to agreement that broad-ranging Customs-Police cooperation is a precondition for better coordinated border management (CBM) and that as the two agencies often share overlapping mandates, there is no alternative but to cooperate in these areas.

But cooperation between agencies at the national and international level is not always straightforward. In some fragile and conflict-affected regions especially, the situation at the border is complex with no easy answers. On this subject, I invite you to read the paper written by two researchers working on Customs-related issues, Thomas Cantens, from the WCO, and Gaël Raballand, from the World Bank, entitled 'A very long border, difficult to cope with: the North of Mali and its borders' (*Une frontière très très longue, un peu difficile à vivre : le nord du Mali et ses frontières*) – see www.frstrategie.org/publications/recherches-documents/web/documents/2016/201603.pdf.

Information management

Several WCO applications have been developed to enhance Customs' data mining and

risk analysis capacities. One of them is the nCEN which 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 regional and/or international levels. I will not go too much into details as a specific article on the application's new features is available for readers in this edition of the magazine, but I would encourage all WCO Members to look into implementing nCEN in their administrations.

The WCO Cargo Targeting System (WCO CTS) is another risk management tool. It enables user countries to capture advance electronic cargo manifest information, and to perform risk assessment, profiling and targeting. To date, the WCO CTS has been deployed in six countries, namely the Bahamas, Georgia, Jamaica, the Maldives, Panama, and Sri Lanka. Further deployments are planned in the coming months in Chile, Kenya, the Philippines, and Ukraine. In addition, development of the WCO CTS' air cargo capability is nearing completion and pilots are planned for later this year.

Information sharing

Back in December 2015 we opened our 'Information and Intelligence Centre (I2C)' which acts as an operational contact point for matters related to the WCO's different enforcement programmes. The I2C also produces intelligence bulletins and facilitates the sharing of information in general. In addition, the I2C team manages the IRIS platform, an information tool that collects all Customs-related news together. To date, the IRIS platform now has over 8,000 users.

Communicating information is one thing, but we also need to obtain more sophisticated knowledge on current smuggling and cross-border criminal activities to better target evolving and emerging risks. The quantification and mapping of illicit markets is critical, as this will enable a fuller understanding of the connections between different forms of trafficking. Here I would like to highlight the importance of the WCO Customs Enforcement Network (CEN), the tool we developed to record Customs seizures worldwide, allowing the latest trends and patterns linked to illicit trade to be tracked and analysed.



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I would urge WCO Members to actively participate in the CEN. All Customs services should do their utmost to ensure that every seizure related to illicit trade, be it drug trafficking, tobacco smuggling or the illegal trade in counterfeit goods, fake medicines, precursor chemicals, stolen artifacts, environmentally-sensitive goods and endangered wildlife, among others, is inputted into the CEN and that the data reported is of a high quality.

The 'consequence phase'

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

To provide guidance in this area, back in 2012 the WCO produced a Compendium of Customs Operational Practices for Enforcement and Seizures (COPES) and later secured funding for training with respect to the Compendium's critical content. A Project Manager was subsequently recruited in March 2015 for the implementation of these training activities. An article dedicated to the project is contained in this edition.

Today, the WCO Secretariat has difficulties in keeping up with training requests, which shows how relevant and successful the project is. The COPES has even been recognized by other organizations that deal with Customs authorities, requesting the deployment of training in areas of activity in which they are active. Of course, we will need more donor funding to meet these requests, thereby enabling us to continue broadening out a complete education process in terms of chain of custody.

Cultural objects

Cultural goods are the subject of a specific draft recommendation, to be submitted to this year's WCO Council Sessions in July. This initiative came about as a result of a series of high-level meetings with the Heads of other international organizations having a role in the protection of cultural heritage, as well as expert level activities and coordination efforts. I have no doubt that WCO Members will approve, and more importantly, apply it.

Among other things, and besides calling for more cooperation with relevant stakeholders such as experts in the field and cultural institutions, the draft recommendation asks countries to conduct an analysis aimed at identifying and closing the gaps in current legislation and techniques as a means of addressing this scourge. It also encourages Customs authorities to introduce new 'export certificates,' or to

revise existing certificates, in line with the UN Educational, Scientific and Cultural Organization (UNESCO)-WCO Model Export Certificate.

In this edition, Switzerland shares its experience in the fight against the illicit trade in cultural goods and more especially on the legislative changes it adopted recently, and the challenges posed by free ports and Customs warehouses. Other topics that I mentioned earlier are also addressed in the pages of this issue: Canada shares its experience in Customs-Police cooperation; and Australia provides information on its counter-terrorist strategy. Fisheries crime, cybercrime, the trafficking of weapons, illicit pesticides and the use of technology are also interesting reads in this edition of WCO News.

Should you wish to know more or explore ways in which you can collaborate in combatting illicit trade, I invite you to consult the 'more information' section at the end of articles. The contributing experts would, I am quite sure, be more than happy to engage with you. After all, the WCO is a unique forum for the global Customs community to share experiences, and a valuable platform for WCO Members to access experts that can support their needs, including the provision of various forms of operational assistance around the scourge of illicit trade.

We must continue to actively strengthen our cooperation, coordination and communication activities if we are to successfully combat illicit trade and our increasingly interconnected global challenges. It is imperative that we collectively assist one another and stand together, if we want to succeed in our efforts to help communities that we serve to fully seize the benefits of open trade and achieve greater sustainable development and enhanced security.

The WCO remains fully committed to working with its Members and its partners around the world in accomplishing its goal of stopping illicit trade and other cross-border crimes that impact negatively on society, including countries' international trade, economic growth and social development.

More information

www.wcoomd.org



Testing Customs enforcement practices: the ambitious agenda of the COPES Project

By the WCO Communications Service

The ambitious goal envisaged by the creators of the WCO COPES Project was to initiate a dialogue reflecting on the working methods used to combat fraud, from the identification of an offence to the storage of seized assets, including reporting, collecting and preserving evidence.

IN ADDITION TO the fact that not all Customs administrations enjoy the same prerogatives and the same ability with respect to enforcement, every country deals with infringements of the law using its own specific procedures. In other words, the procedures and practices for investigating, identifying and prosecuting Customs offences – whether criminal or civil – are laid down exclusively in national legislation.

The aim of the WCO is not to advocate a particular means of enforcing legislation or managing seizures, but to present a range of methods and practices currently used by various WCO Members (applicable to various legal systems), and to encourage administrations to review the efficacy of their procedures and practices in terms of operational ease and the authority vested in them by law.

The initial step was to compile a ‘Compendium of Customs Operational Practices for Enforcement and Seizures,’ or COPES. This was first published in

May 2012 in the WCO’s two working languages (English and French), and was subsequently updated in 2013 and translated into Arabic, Russian, Serbian and Spanish.

“Seizures and other enforcement measures are everyday occurrences for all Customs administrations that require appropriate risk management and we regularly discuss these issues at various WCO meetings. So, it seemed appropriate that it would be helpful to work, under the auspices of the WCO, on a document which would combine relevant practical know-how and examples, and thus help to improve our methods and strengthen our border agency role,” said David Dolan, one of the early driving forces behind the development of the COPES Project.

Dolan currently heads the Division for International Organizations and Agreements at the US Customs and Border Protection’s (CBP’s) Office of International Affairs in Washington D.C., and was formerly CBP’s Customs Attaché at the

“The training module is for all administrations, regardless of their individual competencies. The goal is to open the vision of officers by recreating their environment within the context of a repressive supply chain, and that acquiring such a vision would also enable them to better value their work.”

U.S. Mission to the European Union in Brussels, Belgium, responsible for, among others, engaging with the WCO and its Members on global Customs issues.

An ambitious project

Whatever enforcement powers an administration may have, field officers are in the front line when it comes to seizures of goods, and their role is thus crucial in determining whether investigations and prosecutions are successful. In fact, it is vital to make them aware of the linkage between a seizure, the collection of evidence, the investigation, and the prosecution.

When it comes to, for example, revenue fraud or a seizure of cash linked to drug trafficking, the official in charge of documenting the findings must collect pertinent evidence, in accordance with the prescribed format, and know how to document the evidence to assist future investigations and prosecutions, and ultimately, convictions. Similarly, information included in the findings must be exploited in such a way as to feed future cases.

The Compendium considers, in turn, issues related to the role of legislation, procedural aspects, petitions and recourse, evidentiary considerations, coordinated border management (CBM), integrity, security and safety of Customs personnel, as well as accountability and performance management. It also provides examples of forms, checklists and other worksheets, along with seizure regime flow charts designed to help administrations evaluate their seizure procedures and identify areas where there may be room for revision and/or improvement.

“There was also a desire to apply a systematic approach to this work by developing global standards that Members and other stakeholders could align with, so that a stronger case for capacity building improvements could be made, because the WCO is very well positioned to promote such practices. Along these lines,

improvements could be relatively simple to implement, like new accountability practices (access log books, chain of custody forms, etc.) and developing new procedures to safeguard seized assets, all the way to the other end of the spectrum, where Members might actively enhance their legal authorities and/or potentially receive new equipment from committed donors to better employ their seizures and enforcement practices,” said Dolan.

Training seminars

In 2014, the WCO was able to secure funding for the continuation of the project and, in March 2015, it appointed a project manager to develop new educational support material, and oversee its promotion and distribution to WCO Members.

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

Seminars have already been held for Customs officials in almost all of the WCO’s six regions. They consisted of a general presentation on the COPES project, and the relevance of the topics covered given the challenges for administrations in regard to cross-border criminality. The seminars combine theory and practice – for example, during the seminar organized in Hong Kong, China, a tour of storage facilities and presentations on working methods provided, among other things, a practical illustration of those parts of the course which covered best practice with respect to the sealing of seized goods and the methods used to ensure their traceability.

“The aim, at regional level, was not only to train frontline Customs officials, even if they are the principle target audience, but rather to publicize the availability

of training and its benefits to high-level management dealing with training and enforcement, in order to convince them of the benefits of deploying the training programme by emphasizing the advantages associated with it in the mid- to long-term”, said Gilles Thomas, the WCO COPES Project Coordinator.

This interactive training course has a number of advantages. “It not only provides participants with practical tools for immediate use, but also an appropriate platform for discussion, in order to identify methods commensurate with specific local conditions,” continued Thomas.

His view is that “the training module is for all administrations, regardless of their individual competencies,” adding that “the goal is to open the vision of officers by recreating their environment within the context of a repressive supply chain, and that acquiring such a vision would also enable them to better value their work.”

Two national workshops have been held to date: one in Peru, the other in Senegal. In both cases, the personnel receiving the training were field officers working as part of multidisciplinary teams:

- In Peru, the opening ceremony of the seminar that took place in July 2015 was attended by over 100 participants. Day one enabled WCO experts to familiarize themselves with the methods used by the enforcement agencies working at the port of Callao, and to tailor the training they would be giving the next day accordingly;
- In Senegal, training was given in February 2016 in Dakar to officials of the Joint Airport Interdiction Task Force (JAITF), formed as part of the WCO’s Project AIRCOP which aims to strengthen anti-drug-trafficking capacity in 20 or so airports around the world. Here too, trainers first observed the working methods used, before moving on to a more theoretical stage.

"They tell us about their procedures which we compare with the standards and knowledge adopted by COPES experts, and we engage in a dialogue with them, examining in detail ways in which practices can be improved. The training is very interactive. The aim is to help them to develop their own methods," Thomas explained.

He added that, "Most trained Customs officers are very motivated. They are good at detecting fraud, but not necessarily at documenting their findings, as they don't know what constitutes evidence or how to collect it."

Due process

For a long time, it was as if, in Customs matters, the end justified the means. This meant a sizeable increase in the powers

of the administration, both to detect and identify Customs offences, and to prosecute and punish them. Now, Customs legislation has to evolve in line with the general trend towards mandatory observance of human rights and fundamental freedoms. Customs legislation can no longer be separated from other rights.

As well as promoting the use of modern and innovative methods likely to help reduce the operating costs of enforcement services and the cost of detentions and seizures, the WCO is seeking, through the COPES Project, to emphasize the need for systems to be in place that ensure a degree of 'due process' for those parties that are involved, including a high degree of transparency and integrity, so that the parties can choose the right option for resolving the issue.

The WCO is also advocating the preparation of a 'code of conduct' for seizures and asset forfeitures, a model of which is appended to the WCO Model Code of Ethics and Conduct.

The road ahead

COPES training activities are set to intensify in the months ahead. Enforcement teams taking part in the United Nations Office on Drugs and Crime (UNODC)-WCO Container Control Programme and Project AIRCOP are likely to benefit as a result. The COPES Compendium itself will be updated, and the educational support material used in training will be expanded and improved.

More information

enforcement@wcoomd.org

Malaysia destroys huge ivory trove

By Agence France-Presse (AFP)

ON 14 APRIL 2016, Malaysia destroyed 9.5 tons of elephant ivory it had seized over the years, which authorities hope will help deter smugglers who have long used the country as a transhipment point.

The huge pile of African elephant tusks, estimated to be worth 20 million US dollars, was first fed into an industrial crusher to be pulverized, and then incinerated in a giant furnace at the Kualiti Alam Waste Management Centre in Port Dickson in southern Malaysia.

Malaysia has previously announced in its Parliament that 4,624 ivory tusks were confiscated between 2011 and 2014. "This is our first-ever ivory destruction. We want to send a strong message to the world that Malaysia does not compromise in protecting endangered species," Natural Resources and Environment Minister Wan Junaidi Tuanku Jaafar told AFP.

The international ivory trade, with rare exceptions, has been outlawed since 1989 after the population of African elephants declined from millions in the mid-20th century to just 600,000 by the end of the 1980s. But poachers and smugglers have continued to exploit demand, mainly from Asia and particularly China, where ivory is highly prized for medicinal and decorative uses.

Malaysia, a signatory to the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), has seized a number of shipments over the years, mostly by sea. In March this year, officials said that they had also confiscated 159 kg of ivory smuggled by passengers aboard commercial flights.

The Minister said that the tusks destroyed on 14 April originated from 11 African countries ranging from Ghana to Tanzania. "They were publicly destroyed to deter smugglers," he said, while adding that it was also partly in response to questions raised by conservationists over the fate of seized ivory. "I do not want any of the seized ivory lost. If the ivory is no longer needed to be kept for evidence, we will destroy it," added the Minister.

The event was witnessed by foreign diplomats and conservation groups. "We look forward to these good intentions being bolstered by concrete actions to tackle the factors that have made Malaysia a key transit point in the global ivory trade," said Kanitha Krishnasamy, the Programme Manager for TRAFFIC in Southeast Asia – an international wildlife trade monitoring network.

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Risk management: an upgraded version of the nCEN now available

By the WCO nCEN team



and communications technology (ICT) into their daily work, one of which is the National Customs Enforcement Network (nCEN) application.

It has been almost three years since the first version of the nCEN was launched by the WCO, and the application is now used in 20 countries around the world. Drawing on these years of experience, the WCO has developed, in cooperation with all nCEN user countries, a new version of the nCEN application which better addresses the needs of the Customs community.

With the year 2016 dedicated to the promotion of 'Digital Customs,' the launch of this upgraded version of the nCEN could not be timelier.

What is the nCEN?

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

The nCEN consists of three independent databases. The principal database of national seizures and offences comprises data required for analysis, as well as means of conveyance, routes, and the possibility to view photos depicting exceptional concealment methods. Two supplementary

databases contain information on suspect persons, methods of conveyance and business entities of interest to Customs, thereby facilitating a structured investigation process.

What's new?

In response to requests from countries already using the application as one of their main enforcement tools, the new version of the nCEN was developed. In addition to improving existing functionality in line with daily operational needs, the application developers focused on:

- aligning the pre-populated drop-down fields for information related to detection methods and risk indicators used to detect a crime or an infringement, with the wording/designation used in the WCO Customs Risk Management Compendium;
- integrating an electronic data input component, allowing data to be transferred from other national databases;
- upgrading the in-built information communication interface, enabling information-sharing on investigations and/or suspect persons (not just seizures);
- adding significant enhancements to the search capability of the system, allowing administrations to extract greater value from the content of their data, resulting in increased user productivity and better decision-making.

How can nCEN benefit administrations?

One of the primary uses of the application is to improve the process of data collection and data management. In addition, the nCEN also assists Customs administrations with the digitalization of their daily operations by providing workflow management features, and structured communication relating to the investigation process,

or the post seizure follow-up actions that need to be taken.

The system allows, for example, cases and tasks to be assigned to officers in order that they may follow up actions taken and keep a record of them. Using the nCEN to support daily Customs enforcement work allows the history of undertaken actions to be tracked, thus providing a global picture of the efficiency of existing workflow processes.

Developed with the aim of supporting risk management, the nCEN offers the possibility to analyse data quickly online through the use of its advanced search feature, or to download bulk data for in-depth offline analysis. All data input into the nCEN is searchable and analysable, with the possibility of creating 'watch lists' of arriving passengers, companies appearing in the country, and/or vessels or containers arriving at borders.

The advanced search functions make interlinking between the persons or companies and the committed fraud or outcomes of investigations possible, an added value from an analytical perspective for profiling and risk management. Countries using the nCEN can share information on their seizures and suspect persons, companies, methods of conveyance, etc. among each other, with the possibility of tracking the results of their information exchanges.

Various digital tools are available for information exchange, however the additional advantage of the nCEN's in-built information communication (Icomm) interface is that reporting only has to be done once. Icomm allows administrations to exchange data in a standardized format with other nCEN countries (provided a legal basis exists), or to transfer non-nominal components of their data directly to the global WCO CEN database with a click of a button.

Cooperation at the regional level enforcement Information exchange ion

Work is currently underway to further establish a link between the nCEN and the Customs Enforcement Communication platform (CENcomm), allowing nCEN users to additionally transfer their data collected, under the auspices of an enforcement operation, directly to their nCEN seizure database.

This information sharing component is key to boosting cooperation at the regional level. The WCO adopted a regional approach in the deployment of the application, which is also reflected in the activities organized around nCEN matters. Each country that implements the nCEN is asked to nominate a local nCEN Project Leader for all communication related to the nCEN. The first regional project leaders' workshop was organized in the WCO East and Southern Africa region in 2015 to discuss technical matters, and the conclusions from that meeting were instrumental in shaping the new version of the nCEN application.

Want to find out more?

The nCEN application is provided to WCO Members free of charge, and a range of customized solutions is available, catering to each administration's circumstances and needs. For example, fast track implementation in those administrations that already possess the hardware needed to support the application. To ensure optimal use at the national level, the application may be translated by the implementing administration into its national language, becoming an integrated part of the country's ICT base.

Please contact the WCO for additional details on the implementation process, or for any other queries concerning the nCEN.

More information

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Switzerland addresses the traffic in cultural goods

By Professor Jean-Robert Gisler,

FEDERAL OFFICE OF POLICE, SWITZERLAND

The Swiss art market, being one of the largest in the world, inevitably attracts objects of dubious provenance. Some of these stolen or plundered objects not sold directly on the Swiss market are held in Switzerland pending their insertion in the legal distribution system, whether in Switzerland or elsewhere.

ONE OF THE reasons why Switzerland is a destination and transit country for cultural goods is that for many years it has offered storage and trading facilities which helped to sustain not only the substantial local market, but also, above all, the international market.

During the 1980s and the 1990s, Switzerland was viewed by the world as a hub for international trafficking in cultural goods. However, when the spotlight was shone on several major cases involving international traffickers, this helped to raise the awareness of the Swiss authorities, bringing about the adoption of a new legal framework aimed at regulating, in particular, the 'exceptional' Customs areas known as free ports and open Customs warehouses.

1970 UNESCO Convention

For a long time, it was the extreme laxity of its legislation that made Switzerland attractive. After a long gestation period the situation changed, both legally and concretely, on 1 June 2005, with the entry into force of the 'Cultural Property Transfer Act' (CPTA).

The CPTA constitutes the implementation, at Swiss national level, of the Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of

Ownership of Cultural Property, adopted by the United Nations Educational, Social and Cultural Organization (UNESCO) in 1970.

The CPTA regulates the importation of cultural property into Switzerland, its transit and exportation, as well as the return of cultural property located in Switzerland. It also establishes measures to combat the illicit transfer of cultural property.

Through the CPTA, the Swiss Confederation hopes to make a contribution to the maintenance and protection of mankind's cultural heritage, and prevent the theft, looting, and illicit import and export of cultural property from museums and similar institutions.

The Act also provides for a series of measures aimed at:

- promoting intercultural dialogue and sustainable exchange;
- protecting Swiss cultural heritage (inventory and provisions regulating the export of cultural property belonging to the Confederation or the Cantons);
- contributing to the protection of the cultural heritage of other States (import

of cultural property into Switzerland and bilateral agreements);

- promoting international exchanges between museums (restitution guarantee for museums);
- ensuring due diligence is carried out on the art trade and the auction business.

The introduction of the CPTA brought about a significant change in the practices of suppliers, sellers and buyers, whose relationships and positions have evolved. Although they were extremely reticent during the CPTA consultation phase, the actors in the art world have adjusted well. Having feared for the very existence of Switzerland's art market during the discussions which preceded the adoption of the Act, they now recognize that business has not declined, and that the image of their business has been enhanced.

The obligation to take control of transactions, and the introduction of safeguards designed to curtail illicit operations enabled the art world, as a whole, to attain greater respectability. Nevertheless, for this new legislation to be even more effective, it needed to be supplemented by developments in the Customs field.

Customs warehouses

There are two types of Customs warehouses in Switzerland: duty-free warehouses; and open Customs warehouses (OCWs). Whereas the former are, in principle, available to anyone for the storage of goods under the surveillance of the Customs authorities, the latter are for private use, and do not incorporate a Customs office.

These two types of warehouses can be used, in particular, to store goods under suspension of Customs duties and value-added tax (VAT) pending their final importation into the country of destination. Over the



One of the exceptional pieces of ancient Etruscan art, discovered at Geneva Free Ports, handed back to Italy in January 2016

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years, this historical function of Customs warehouses has evolved to encompass the storage of valuables, including cultural goods in particular. Thus, works of art are stored in these warehouses under the best possible conditions, while they wait to change hands.

The interest in contemporary art and the need for secure storage facilities go some way towards explaining this development, but there are other factors: the diversification of private investors' portfolios, especially in the aftermath of the financial crisis; tax optimization strategies in the area of asset and wealth management; the development of 'art banking' (an art advisory service developed by the banks); and the development of investment funds and hedge funds that invest in art.

Thus, in recent years, works of art have become financial assets like any other, and transactions can be concluded independently of the physical location of the work of art. This situation has considerably increased the demand for secure storage, preferably outside the tax laws of a given country, enabling works of art to change hands as financial transactions may dictate, without physically changing location.

The OCWs, whose primary function is the temporary storage of large consignments of goods in transit – for example, garments while being labelled – are sometimes used for high-value goods. However, although their number has increased rapidly in recent years, they have yet to outrank the now ultra-secure free ports in this respect; especially the one in Geneva which recently opened a new building on its 'territory,' with a floor area of 10,400 m², devoted entirely to the warehousing of works of art.

As one can imagine, these warehouses have also been used to store illicit goods and to circumvent, notably, the requirements of the CPTA. Given such activities, the Swiss legislature had to draw up a new legal framework to regulate, in particular, these 'exceptional' Customs areas, namely free ports and OCWs.

New Customs Act

The new Customs legislation, i.e., the Customs Act which was adopted by the Swiss Parliament in 2005 and entered into force in 2007, updated Swiss law to reflect modern Customs requirements, especially in the area of combatting illicit trafficking. It replaced legislation which dated back to 1925, and which had not been revised frequently.

The provisions concerning OCWs (CA, Articles 50 to 57) and free ports (CA, Articles 62 to 67) fall into two different Chapters, but some of them are similar. The major changes introduced by this new legislation, insofar as free ports and OCWs are concerned, include the following:

- The introduction of Customs warehousing as a new Customs regime, encompassing OCWs which are distinct from free ports. The Customs warehouse is defined as a place in the Customs territory which is authorized by the Customs administration and placed under Customs supervision, and in which goods can be stored under conditions laid down by Customs. For OCWs, this procedure involves, among other things, the removal of import duties and the non-application of commercial policy measures, the identification of the goods, and random checks on compliance with the conditions and charges stipulated in the authorization;
- A new definition of free ports, now known as 'duty-free warehouses.' Free ports are no longer defined as being foreign Customs territories, and as a result they no longer have 'extra-territorial' status which precludes any inspections on their premises. The

legislature has taken care to define them precisely: duty-free warehouses are parts of the Customs territory, or premises located on that territory, which are under Customs supervision, are separate from the rest of the Customs territory, and in which goods which are not in free circulation can be stored. Goods placed under an export procedure can be stored there if, after leaving the warehouse, they are actually exported. The stored goods are not subject to import duties or commercial policy measures;

- An obligation to keep an inventory of so-called sensitive goods (including, in particular, art objects and cultural goods) in free ports, and all goods in OCWs.

Warehouse operator and depositor

Both the warehouse operator (who runs the warehouse) and the depositor (the person who stores goods in the warehouse and who is bound by the declaration used to place them under the warehousing procedure, or one to whom that person's rights and obligations have been transferred) are recognized under the free port and OCW provisions, with an identical definition and similar obligations.

Anyone who operates a Customs warehouse requires authorization from Swiss Customs. Authorization is granted on condition that the requesting party is domiciled in Switzerland and undertakes to operate the warehouse in compliance

with requirements, and that Customs supervision and control will not entail disproportionately high administrative costs. There may be charges associated with the authorization, and it may exclude the storage of certain high-risk goods, or specify that high-risk goods must be stored in special premises.

Warehouse operators and depositors have fewer obligations to Customs in a free port than in an OCW: no financial security is payable; and the inventory is confined to sensitive goods only. The operator of a free port has no responsibility in respect of the goods stored as the responsibility lies with each depositor.

Inventory requirement for cultural goods

There is no doubt that the maintenance of an inventory is key to the proper functioning of the duty-free warehouse and OCW regime. Warehouse operators must draw up lists indicating the value of the object and where it has come from, as well as the identity of the person entitled to dispose of it; also, a certificate of origin must be appended. Customs may request access and conduct controls at any time.

In duty-free warehouses, the inventory requirement is confined to sensitive goods only. The warehouse operator must maintain an inventory of all sensitive goods held in the warehouse, in the form prescribed by Customs, and cultural goods are rightly regarded as sensitive goods (in some cases the depositor may be required

to fulfil this obligation). The warehouse operator is also responsible for ensuring that during their stay, goods are not removed without Customs supervision.

The warehouse operator is also required to ensure that the obligations arising out of the warehousing of the goods are fulfilled. The status of the goods changes (i) at the moment when they leave the warehouse, because at that time they are placed under an authorized Customs procedure for entry into the Customs territory or for import, or (ii) when they are declared under the transit procedure and exported.

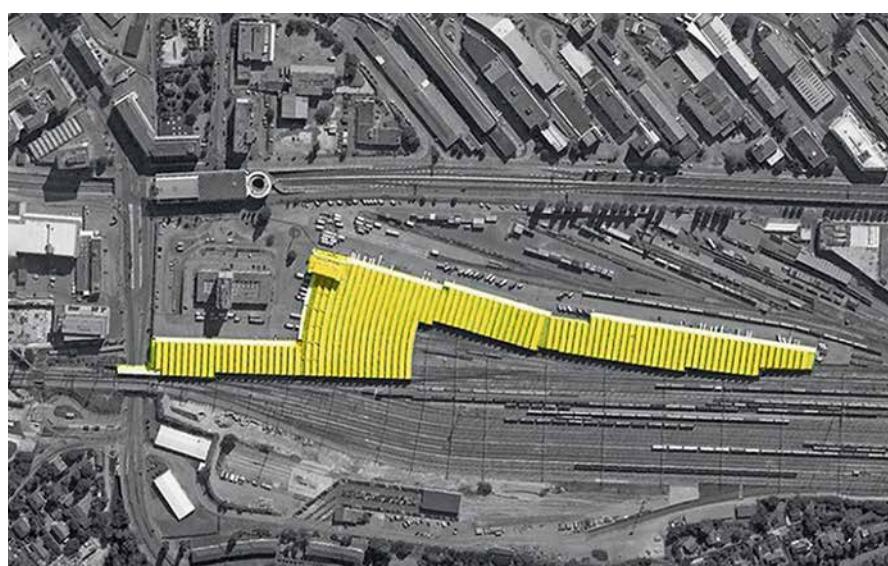
Implementation

The Federal Customs Administration (FCA) is responsible not only for granting authorizations to warehouse operators and ensuring that the operating conditions are complied with, but also for ensuring compliance with the requirements laid down by other, non-Customs legislation, including the CPTA which assigns the task of controlling the transfer of cultural property at the border to Customs.

Thus, Customs is required to control the transfer of cultural property at the border, including, in particular, import, export or transit declarations (CPTA Article 19). It may request support or expert advice from the Federal Office of Culture (FOC), which is the body responsible for the implementation of the CPTA, or indeed from the Federal Office of Police in respect of these declarations, for example in order to determine the provenance of a suspect cultural object (theft, looting, false declaration, incorrect or fraudulent export permit, etc.).

Customs is not, however, in a position to check all declarations relating to cultural property. By way of illustration, it was reported in a publication from 2012 that the 'Genève-Routes' Customs office, which is responsible for the free port at La Praille, deals with 250 declarations a month, on average, for the warehousing of cultural goods. Customs' interventions are therefore based on risk analysis.

The FOC informs Customs of the risks identified at the international level. It does so based on announcements made by organizations engaged in combatting the illicit trafficking of cultural property at the international level, i.e., the International



Geneva Free Ports at la Praille

ARCHEO – Connect to preserve

ARCHEO is a communication tool developed to facilitate the exchange of information amongst enforcement authorities, national agencies and international organizations engaged in the protection of cultural heritage. The platform is accessible only to a closed user group, and information transmitted via the tool is encrypted and secured.

ARCHEO aims to:

- Enable the exchange of best practices
- Provide training materials, identification guides, manuals and other relevant background information
- Exchange information on seizures
- Establish discussion forums
- Link enforcement officials with experts in order to facilitate the determination of the nature of the artefacts when confronted with a suspicious transaction

More information

archeo@wcoomd.org



Council of Museums (ICOM), UNESCO, and INTERPOL.

Inversely, Customs offices notify the FOC of cases they discover in the field; it is then the FOC's job to determine whether the cases notified by Customs are suspicious and warrant criminal proceedings, which are a matter for the Public Prosecutor's Office of the Canton concerned. Where there are suspicions about the nature of an item of cultural property, it is analysed by an expert to determine where it has come from, thereby enabling it to be returned.

It is also worth noting that the penalties for CPTA infringements are severe: if the offence is committed through negligence, the penalty is a fine of up to 20,000 Swiss Francs (around 22,000 US dollars). If the offender has acted in a professional capacity, the penalty is a prison sentence of up to two years, or a fine of up to 200,000 Swiss Francs.

The Customs authorities have been conducting sporadic and targeted controls since 2011, warehouse operators having been granted time to draw up their inventories. These initial controls have revealed the presence of objects which have been stored for many years, and which in some cases are even found to be unclaimed assets. Certain objects, particularly from Egypt, Libya, Syria and Turkey, are

the subject of 'requests for return' by the countries of origin concerned.

The Federal Audit Office has looked into the question of how to increase the effectiveness of the controls conducted by Customs. In a report published on 28 January 2014 (www.efk.admin.ch), it made eight recommendations:

- The first recommendation is directed at the Swiss Federal Council, as it involves devising a strategy for the development of Customs warehouses;
- The other recommendations are for the FCA, and are aimed at enhancing the effectiveness of Customs activities in relation to Customs warehouses, with regard to the operating permits and the controls to be conducted.

Another challenge

Switzerland has adapted its Customs provisions and addressed the implementation issues. It also responded promptly in applying the UN embargos on the importation of cultural property from conflict zones (Iraq in 2003, Syria in 2014). Can it now put its dubious past behind it?

This is an important point to reflect on. The new provisions of the Ordinance implementing the Customs Act were introduced on 18 November 2015, i.e., 25 years after this issue was first raised in academic

circles, and then picked up by cultural associations and groups. So, it has taken time for Switzerland to rid itself of its bad reputation.

Legislative progress was possible only following a change in attitude, to which several actors contributed. The art market, which is an important part of the Swiss economy, needed to act under new rules and abandon the 'blind alley' of protecting and concealing the theft and pillage of archaeological cultural property, in particular.

However, there are other projects awaiting attention, including the ratification of the 1995 UNIDROIT Convention on Stolen or Illegally Exported Cultural Objects. This instrument supplements the 1970 UNESCO Convention, which has a limited sphere of action because it deals only with the restitution of cultural property stolen from museums and similar institutions.

The UNIDROIT Convention, a private-law legislative document in whose development Swiss specialists played a major part, has not yet found favour with the Swiss Parliament. This is doubtless the next challenge to be addressed by Switzerland, at the national level, in the fight against the trafficking in cultural goods.

More information

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Officer conducting research at the ECIC

Hong Kong Customs: equipped to tackle cybercrime

By Guy Fong,

GROUP HEAD OF INTELLECTUAL PROPERTY
INVESTIGATION (OPERATIONS), HONG KONG
CUSTOMS

THE RAPID DEVELOPMENT of the Internet in the past decade has drastically and positively changed every aspect of our lives. People, in almost all cities across the world, are today virtually connected with each 24/7. But thanks to its speed, expediency and anonymity, internet-based technology has also become one of the key facilitators for a vast range of criminal activities, many falling within the remit of Customs enforcement actions, including the trade in counterfeit products, goods subject to prohibitions and restrictions, and the smuggling of excisable goods, such as cigarettes and alcohol.

Many countries have set up specialized units to combat internet-linked crime known as e-crime or cybercrime. These teams trawl the Web for information which might be of use in preventing, detecting, investigating, and prosecuting a Customs-related offence. This article looks at the way Hong Kong Customs has equipped itself to tackle cybercrime, and more

specifically infringements of intellectual property rights (IPR) on the internet.

Professional teams

In 2000, Hong Kong Customs faced an upsurge in cybercrime cases. Huge amounts of digital data were found stored in computers seized at crime scenes, and this data needed to be recovered and analysed.

Hong Kong Customs responded to this situation by establishing three specialized establishments: the Anti-Piracy Investigation Teams (AIPTs); the Computer Analysis and Response Team (CART); and the Computer Forensic Laboratory (CFL). These establishments prominently enhanced Customs' enforcement capability, as well as the credibility of digital evidence presented to the courts.

In 2013, the set-up of an Electronic Crime Investigation Centre (ECIC) further strengthened Hong Kong Customs' capacity to detect infringements on the internet, especially when it comes to IPR, by pooling its knowledge on the trends that had come to the fore in the use of

the technology, by transferring skills and knowledge, and by developing automatic monitoring systems.

Officers working at the ECIC were recruited among thousands of Customs staff according to strict selection criteria. Most of them possess a university degree in information technology (IT) or computer science, and all showed a keen interest in undertaking digital forensic or cyber investigation work.

When there is a need to recruit new members for the ECIC teams, Hong Kong Customs' human resource department will examine the profile of serving officers and shortlist suitable ones for consideration by the section heads concerned. Recruited members are given professional training by academic institutions, vendors of forensic technologies and, on occasion, other enforcement counterparts be they local or from overseas.

AIPTs are tasked to detect and crack down on infringing activities in cyber space. They are equipped with the latest investigative tools to proactively search the

internet, as well as to hide their identity when carrying out covert communications online.

Upon the request of frontline officers, members of CART will be summoned to the scene of a crime to render technical assistance in preserving and collecting digital evidence. All CART members have to undergo professional training on computer forensics in local and overseas academic institutes before taking up their posts.

CFL provides professional analysis and forensic examinations on digital evidence acquired by CART and frontline investigators. It is equipped with the latest IT forensic examination software and hardware facilities, and all the forensic examiners at CFL are qualified to testify as expert witnesses in courts of law.

The ECIC focuses on conducting research on how criminals are making use of the latest technology to commit cybercrimes, and shares the research results with frontline officers. In response to internet piracy crimes in particular, the ECIC formulates new methodologies for cyber investigations and digital evidence management. In addition, the ECIC also provides training to the frontline officers on new guidelines and procedures developed to tackle latest crime modus operandi, in order to upkeep their knowledge and skills in cybercrime investigations.

Making use of technology

Manual monitoring of the internet is not effective and efficient. Hong Kong Customs adopted the approach of using technology to fight technology. The ECIC cooperated with the University of Hong Kong to develop a series of automatic monitoring systems dedicated to tackling cyber IPR crimes on different platforms.

Until 2015, three monitoring systems running round the clock had been developed: (1) to track file sharing activities through the Bit Torrent protocol; (2) to monitor activities at internet auction sites selling IPR infringing goods; and (3) to monitor infringing activities through cyberlockers (online data hosting services). Upon detecting suspicious activities, these monitoring systems trigger alerts and notify officers that follow-up actions are necessary.

In late 2014, Customs observed that online counterfeiting activities had migrated from auction sites to social networking platforms. So, in early 2015, the ECIC developed another monitoring system, known as SocNet, which automatically monitors online counterfeiting activities on major social networking platforms.

SocNet generates alerts to Customs officers for follow-up actions when certain criteria are matched on the one hand, and automatically preserves the posting as evidence on the other. The implementation of SocNet enables about 4,000 social platform accounts to be screened every day – a 20-time increase in comparison with the past. The system also enabled Customs to extend its scope of enforcement without increasing its manpower.

Capacity building

As explained earlier, the ECIC provides training on a wide range of aspects ranging from cyber investigation techniques, to handling and preservation of digital evidence, and to hands-on exercise of tackling different technology crime scenarios. It also offers tailor-made courses for other government departments, legal professionals, and Customs' overseas counterparts.

In August 2013, Hong Kong Customs organized a three-day WCO Workshop on Computer Forensics for countries in the Asia/Pacific region. Thirty-four participants from 25 Customs administrations attended the event which aimed to enhance their capabilities in combatting technology crimes. The ECIC also organized about 60 various training sessions for different parties or groups in 2014 and 2015.

Hong Kong Customs has also engaged with leading overseas law enforcement agencies to share expertise and knowledge on fighting cybercrime. In March 2016, the ECIC and the Cyber Crimes Center (C3) of Homeland Security Investigations (HSI) of the United States organized a five-day workshop on cybercrime investigation in Hong Kong, to keep our investigators abreast of the latest tools and techniques in cyber investigation.

More information

www.customs.gov.hk

customsenquiry@customs.gov.hk

Manual monitoring of the internet is not effective and efficient. Hong Kong Customs adopted the approach of using technology to fight technology. The ECIC cooperated with the University of Hong Kong to develop a series of automatic monitoring systems dedicated to tackling cyber IPR crimes on different platforms.



Highlights on the trade in non-authorized and counterfeit pesticides

By Ing. M.H. van Diesen,
SENIOR INSPECTOR, FOOD AND CONSUMER
PRODUCT SAFETY AUTHORITY, THE NETHERLANDS.

THE GLOBAL TRADE in illegal pesticides is growing, evidenced by the increase in the number of seizures and incidents around the world related to such products. The increase is not only due to better awareness by controlling authorities of the phenomenon, but also to the fact that nowadays the illicit actors involved in the production and distribution of these goods operate on a global scale.

Following a 12-day operation organized by the European Police Office (EUROPOL) in November 2015, 100 cases of infringements were detected during 350 inspections at major ports and airports in seven European Union (EU) countries. At the Port of Rotterdam alone, Dutch Food and Consumer Product Safety Authority (NVWA) officials and Customs officers inspected eight shipments, six of which were found to be suspicious.

Pesticides are one of the most regulated products on the market. In most countries, pesticides must be registered by a national government agency in charge of determining whether the pesticide meets the safety standards in force before it can be sold. The approval procedure is long and costly, typically taking 10 years from the moment of discovery to the first sale, and could cost as much as 280 million euro.

There is a reason why laws regulating pesticides are strict. Pesticides are designed to harm or kill pests, such as insects, fungi and weeds. In addition, as these pesticides are released over land, water and food crops, people and wildlife may be exposed to them.

Furthermore residues enter the food chain and can accumulate, and sometimes the chemical substances may pose a threat to beneficial insects, such as bees. They can also do harm to the direct user and even to crops themselves if not used strictly in

terms of their label, such as the wearing of appropriate protective clothing.

New generations of pesticides are highly specific, targeting just one pest in a crop, while others, mostly older generation pesticides, have a broad spectrum. The older generation pesticides are banned from use in many countries. They can't meet the requirements for approval.

Illegal pesticides refer to both counterfeit products and pesticides that are not registered in the country of destination. These 'non-authorized' pesticides pose a greater risk as they may have a much higher level of toxicity than legal products. For example, they may not have been evaluated by a government agency to ensure that their use will not harm people or the environment, and they are often sold without proper usage directions or warnings on the labels.

There is a risk that instead of importing formulated products (pesticides in the form of a ready-to-use formulated product) illicit traders would turn to ‘technical substances,’ and produce the ready-to-use product in the country of destination. At present, in some countries the importation of technical substances is not as strongly regulated as ready-to-use pesticides.

As for counterfeit pesticides, they are usually packaged to look like legal products, but their contents may not match their labels. For example, they may have less of the active ingredient than the legal product, or they may contain cheaper, possibly more toxic, active ingredients. Thus, counterfeit pesticides may either be useless (not achieving their expected intention) or highly dangerous (containing excessive poison), while still being toxic.

In many countries, agriculture is the cornerstone of the economy. Therefore, the stakes are high – contaminated products may be banned from markets, including export markets, crops may be damaged, and farmers brought to ruin. In Northern India in 2015, farmers launched a strike to demand a judicial probe into the sale of counterfeit pesticides that damaged their crops or rendered them worthless.

State of play

There are several reasons that explain why the trade in illicit and counterfeit pesticides has increased over recent years. The demand for cheap pesticides is high; broad spectrum pesticides are increasingly being banned in many markets across the world, profits are high, and the probability of detection is low.

Enforcement in this area is indeed complex. Besides criminal networks whose operations entail the use of complicated and deliberately long supply chains (products crossing many borders of different countries) and fake documents, there are also smaller operators – sometimes just a few individuals – seeking a quick win. In addition, direct sales of pesticides to farmers are a common occurrence.

As awareness of the trade in illicit and counterfeit pesticides is growing around the world, the key to success in combatting this crime is to combine knowledge from competent authorities and industry, as well as from countries throughout the world.

Customs, most especially, has a pivotal role to play in detecting illicit and counterfeit shipments of pesticides. In cooperation with regulatory bodies and/or police forces and public prosecutors, cases can be successfully brought to court, creating a deterrent effect on criminals, and preventing illicit pesticides from entering the market and the food chain.

In countries that are successfully dealing with this phenomenon, cooperation between government agencies within and across countries has been the key to their success. In the Netherlands, the NVWA enforces regulations related to pesticides.

The NVWA works together with Customs, the Police and the Public Prosecution Service (OM) to prevent non-authorized pesticides from reaching the market. All the parties involved use Customs communication channels to exchange information. Control activities focus on the Port of Rotterdam and Schiphol Airport, the country's key hubs. Once these illegal goods make it onto the market they are much harder to control.

The NVWA is responsible for defining risk profiles and feeding indicators into the Customs automated risk management system. Indicators refer to the presence of an active substance, to the use of a description for the goods known to be used for illegal pesticides, and to the names of importing companies. These indicators are regularly

updated, following a positive inspection by the NVWA and Customs for example.

Customs has a central role in coordinating combined inspections of pesticide shipments. Shipments that are selected by the risk management system are inspected by both agencies, with Customs controlling whether the consignment is properly stowed, as well as ensuring that there is no infringement of intellectual property rights (IPR).

By coordinating inspections and ensuring that only one physical check is carried out, Customs enables time loss in the logistics chain to be minimized. The NVWA communicates the outcome of its inspection to Customs, in order to ensure that a shipment is not released. The bonus of the one check principle is that all involved partners benefit from each other's knowledge and expertise. If required, the NVWA can provide training to Customs officials.

What to expect

Cases of deliberate illegality include mislabelling (wrong name, spelling mistake, unapproved label format, etc.), misbranding (leading to patent or trademark infringements), undesirable composition, use of wrong active ingredients or co-formulants, the presence of impurities that are cause for concern, unsuitable bottles or containers, and obsolete pesticides.

Importations of pesticides must be controlled by inspecting the supporting documentation, by visually checking the packaging and labelling, and, in cases of suspected contraband, by sampling and performing a laboratory analysis.

The use of false declarations and falsified documents is common practice among smugglers of illicit pesticides. Most illegal products would not be declared as ‘dangerous goods,’ the shipping documents would be unclear, and fake/fraudulent

names and misleading/deceptive labels would be used.

In addition, the shipping documents may refer to a different pesticide than the one actually being transported, and contain a different active substance, especially when the real active substance is still under patent.

Analysing the packaging is of utmost importance. The transport of dangerous goods is regulated to ensure the safety of workers and operators, of the vehicle used to transport them, and of other goods being transported. Therefore, the packaging has to meet certain standards defined by the United Nations (UN).

International agreements for the carriage of dangerous goods require packaging to be of a design-type certified by a national competent authority. This involves testing the packaging against the appropriate UN specification to ensure its suitability. Such packaging is often referred to as ‘type-approved,’ ‘UN approved’ or ‘UN certified’ and marked in a particular way, prefixed by the UN logo and followed by codes.

The UN marking system indicates several characteristics of the packaging, as well as information on the test levels the packaging has successfully passed. Because these test levels are related to the hazard level and physical/chemical characteristics of the substance, the markings also indicate some of the properties of the materials that may be packed in each container. It also indicates the country where the container was manufactured, as well as the manufacturing plant.

As most pesticides are classified as dangerous goods, closely examining the packaging will be crucial during an inspection. It has been found that UN markings on the canisters are sometimes incomplete or even absent. On picture 1 for example, the country code is missing, as well as the producer’s initials, always represented by the last digit at the end of the code. This gives a lead as to whether the shipment is legitimate or not.

It is common to find packaging material that is not adequate for the retention of pesticides, and could be an accident hazard. Shipments containing pesticides



Picture 1



Picture 3



Picture 2

should be stored and stowed in specific designated positions on a vessel, but due to deliberate false declarations, these conditions are often not met. Dangerous cargo with sometimes very low flashpoints of <20° Celsius could be on board a vessel without the necessary warning signs.

Design and trademarks on the packaging of big brands are often copied in an intentionally unobtrusive manner. Picture 2 shows the bottom of a five litre canister – there is no UN code, and there is a visible infringement of the Syngenta’s Spac® trademark.

In some cases, the trademarks are indicated on separate parts of the packaging, as shown in picture 3. In this case, the intellectual property (IP) right only applies to the bottle’s cap, which is for measuring purposes. Only the caps could, therefore, be detained – it is worth noting here that trademarks should be used on all packaging in order to better protect goods. Nevertheless, as the bottle contained a non-approved pesticide, there was a violation of the law regulating pesticides.

As mentioned earlier, checking cargo and detecting infringements requires the intervention of laboratories that are able to undertake rapid chemical analyses. Thus, an efficient system of Customs laboratories

that are fully equipped and able to analyse pesticides in line with internationally accepted methodologies must be in place, together with mobile laboratories to carry out express pesticide testing.

International cooperation

The necessity for countries to cooperate is evident. If a shipment has been detained at one port of entry, smugglers will divert their products from it, and try to enter them through another port.

This logic is commonly referred to as the ‘waterbed’ effect. For the same reason, any decision to return illegal pesticides to an exporter should be avoided if possible, because the high profit margins realized when selling such goods results in these shipments usually being re-sent to other countries.

To enhance cooperation, international enforcement operations are helpful, such as the one organized by EUROPOL. Another interesting initiative is the Network of Officials for Pesticide Compliance and Enforcement (NOPCE), created and managed by the Organisation for Economic Co-operation and Development (OECD). Members of the NOPCE – pesticide regulators from OECD and non-OECD countries – use a system to inform other officials on the arrival of non-authorized and possible illegal pesticides.

Besides enhancing the exchange of information, another challenge for government agencies and the industry in the future is the capacity to react to illicit traders’ new importing methods. There is a risk, more specifically, that instead of importing formulated products (pesticides in the form of a ready-to-use formulated product) they would turn to ‘technical substances,’ and produce the ready-to-use product in the country of destination. At present, in some countries the importation of technical substances is not as strongly regulated as ready-to-use pesticides.

More information

m.h.vandiesen@nvwa.nl

<https://english.nvwa.nl>

www.europol.europa.eu

www.oecd.org/chemicalsafety/pesticide-compliance/nopce-authorities.htm



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Illegal fishing, another form of wild

By Markus Burgener,
SENIOR PROGRAMME OFFICER, TRAFFIC

Identifying the trade in fisheries products that have been illegally caught is challenging. This article provides an overview of the solutions being developed by governments, inter-governmental organizations, non-governmental organizations (NGOs), the private sector and civil society to address illegal fishing and associated trade.

FISH AND FISH products are among the most traded food commodities worldwide, and the trade has expanded considerably in recent decades as the fisheries sector operates in an increasingly globalized environment. The way fishery products are prepared, marketed and delivered to consumers has changed significantly, and commodities may well cross national boundaries several times before final consumption.

In 2012, about 200 countries reported exports of fish and fishery products, representing about 10% of total agricultural exports, with fishery exports being valued at 129.2 billion US dollars. Developing countries account for the bulk of world



This photo was taken in Senegal by Kukka Ranta, an investigative journalist, photographer and author who worked extensively on the consequences of overfishing in West Africa.
For more information, visit <https://kukkaranta.com/portfolio/robbed-sea>

For convenience, the term ‘illegal’ when used in this article encompasses all fishing that breaks fisheries laws, or occurs outside the reach of fisheries laws and regulations. In addition, the term used by professionals, namely ‘illegal, unreported and unregulated (IUU)’ fishing is also used in this article.

Illegal fishing specifically refers to fishing which is conducted by national or foreign vessels in waters under the jurisdiction of a State, without the permission of that State, or in contravention of the laws and regulations of that State. Examples of illegal fishing include fishing without a licence, fishing in a closed area or marine protected area (MPA), fishing with prohibited gear, fishing that exceeds a quota, or the fishing of prohibited species.

Unreported fishing refers to fishers only reporting a portion of a catch in order to fall within quotas, failing to report the harvest of non-targeted species, or simply avoiding reporting all together.

Unregulated fishing is a broader term which includes fishing conducted by vessels without a nationality, or in the area of a regional fisheries management organization in a manner inconsistent with, or in contravention of, the conservation and management measures of that organization, and is flagged to a State not party to that organization, or not cooperating with that organization as established by that organization.

Products derived from illegal fishing operations often find their way into local or international trade, thus undermining the economies of local fisheries and the supply of fish to local markets. Rough estimates indicate that IUU fishing is responsible for 11 to 26 million tonnes of fish being taken each year, with an estimated value of 10 to 23 billion US dollars.

Aside from the financial losses from illegal fishing and associated trade, illegal

fishing is frequently associated with a lack of consideration for working conditions, safety at sea, and labour laws in general. It is also, in some cases, linked to drug smuggling, human trafficking, money laundering, and tax evasion. IUU fishing thrives on weak governance, poor traceability, and a lack of deterrents.

Traditionally, fisheries offences have not been regarded as very serious in many countries, resulting in the legislative, institutional, administrative, policy and budgetary arrangements of most States not keeping pace with the growing seriousness with which the international community now views illegal fishing and the trade in associated fish and fish products. As a result, well organized and financed large-scale transnational networks are operating with relative impunity across the entire value chain of the fisheries sector, engaging in an array of criminal activities ranging from document fraud to illegal harvesting to tax evasion.

Taking advantage of the limited capacity of many States to effectively control fisheries activities and associated product and financial flows, the porous nature of the prevailing international legal framework, the associated low risk of prosecution and low penalties, these transnational networks systematically divert revenue from primarily developing coastal States, and are frequently linked to organized crime networks. They are engaged in what can be called ‘fisheries crime,’ i.e. administrative and criminal offences of a serious nature carried out within, or in close association with, the fisheries sector.

Identifying the trade in fisheries products that have been illegally caught is challenging. Supply chains are often highly complex, and regulatory processes generally involve paperwork rather than electronic permitting and validation systems, leaving the system open to abuse. Furthermore, the international seafood trade involves high volumes of cargo and, as with all

life crime

fishery exports, and for many of them these exports are essential to their economies, with international and domestic fisheries trade playing a major role in job creation, food supply and income generation, while contributing to economic growth and development.

The Food and Agriculture Organization of the United Nations (FAO) notes, in their report on the State of the World Fisheries and Aquaculture 2014, that one of the key issues affecting international trade in fish products is the need to ensure that internationally traded fishery products from capture fisheries (i.e. not aquaculture operations) have been produced legally.

© Kukka Ranta

In the context of illegal fishing, analysis of trade information is a potentially powerful tool to assess illegal fishing activities, and so assist efforts to combat them. TRAFFIC, a number of government agencies, and various other institutions have analysed Customs trade data as a means of gathering information that can be valuable in tackling illegal fishing.

perishable goods, there is often limited time to conduct inspections at ports of entry and exit. This is exacerbated by capacity limitations for most countries, and a lack of technologies and tools – such as scanners, X-ray machines and sniffer dogs.

There are challenges in information-sharing, communication and reporting between Customs authorities and other stakeholders within a country, and internationally. There is also a lack of awareness about illegal wildlife smuggling methods among the transportation sector including handling and screening companies, whose current focus is mostly on weapons and explosives. Moreover, those involved in illegal trade are adaptive, and will shift trade routes to take advantage of ports of entry and exit having weaker controls.

Faced with these challenges, governments, inter-governmental organizations, NGOs, the private sector and civil society are developing solutions to address illegal fishing and associated trade.

Information-sharing and collaboration
The Improvement of coordination and standardization of intelligence sharing among government agencies and other stakeholders in the supply chain at national, regional and global levels is key in tackling illegal wildlife trade. The European Union Trade in Wildlife Information eXchange (EU-TWIX) system, which has been in operation since 2005 with the ongoing support of TRAFFIC – an international NGO focusing on the trade in wild

plants and animals, aims to facilitate the exchange of information and intelligence between European Union (EU) wildlife law enforcement officials across Europe.

The system currently engages over 850 law enforcement officers, representing Customs, the police, the judiciary and national authorities responsible for enforcing the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), amongst others, from the 28 Member States of the EU and its neighbouring countries, as well as organizations such as the CITES Secretariat, the European Commission, EUROPOL, INTERPOL, the United Nations Office on Drugs and Crime (UNODC) and the WCO.

Several species of sharks and the European eel (*Anguilla anguilla*) are currently listed, amongst a total of 103 species of marine and freshwater fish. Via the EU-TWIX mailing list and database, officials share information on illegal wildlife trade trends on a daily basis (species being traded, routes used, modus operandi, etc.), thereby alerting their counterparts throughout Europe.

No nominal information is shared when using the EU-TWIX system. Exchanges via the mailing list have, for example, helped draw attention to the illegal trade in eels (routes used, mislabelling of shipments where *Anguilla anguilla* is recorded as another species of eel such as the Japanese eel, etc.) and assisted officials in identifying shark products, which have led to seizures.

Identification of fish products in International trade

Processed seafood products in international trade are often very difficult to identify at a species level, making implementation of species-specific legal requirements, such as those under the CITES, very difficult to implement. There is a need for training components on illegal wildlife trade to be incorporated into existing systems and programmes – to make it cost effective, and to ensure that officers are trained at the beginning of, and throughout, their careers.

Many agencies, institutions and organizations, including TRAFFIC, conduct species identification training, and provide

support materials such as fact sheets, posters, and identification guides.

iSharkFin, an innovative tool making use of technological advances in image recognition software, was recently developed by the FAO in collaboration with the University of Vigo in Spain. Aimed at port inspectors, Customs officials, fish traders and other users without formal taxonomic training, iSharkFin allows the identification of shark species from a picture of the fin (see www.fao.org/ipoa-sharks/tools/software/išarkfin/en).

Improved understanding of trade flows through Customs data analysis

Analysis of the trade in wildlife products has for some time been recognized as a valuable source of information, contributing to the effective monitoring and regulation of natural resource use and trade.

Given the extent to which fisheries products are traded internationally, knowledge of the trade dynamics for these products is almost a prerequisite to good management, as it has the ability to shed light on issues such as the source, destination, value, and volume of fisheries products in international trade.

Fish catch and trade chain –



* The vessel monitoring system is a satellite-based monitoring system which at regular intervals provides data to the fisheries authorities on the location, course and speed of vessels.

In the context of illegal fishing, analysis of trade information is a potentially powerful tool to assess illegal fishing activities, and so assist efforts to combat them. TRAFFIC, a number of government agencies, and various other institutions have analysed Customs trade data as a means of gathering information that can be valuable in tackling illegal fishing. Trade data analysis can assist efforts to combat IUU fishing by:

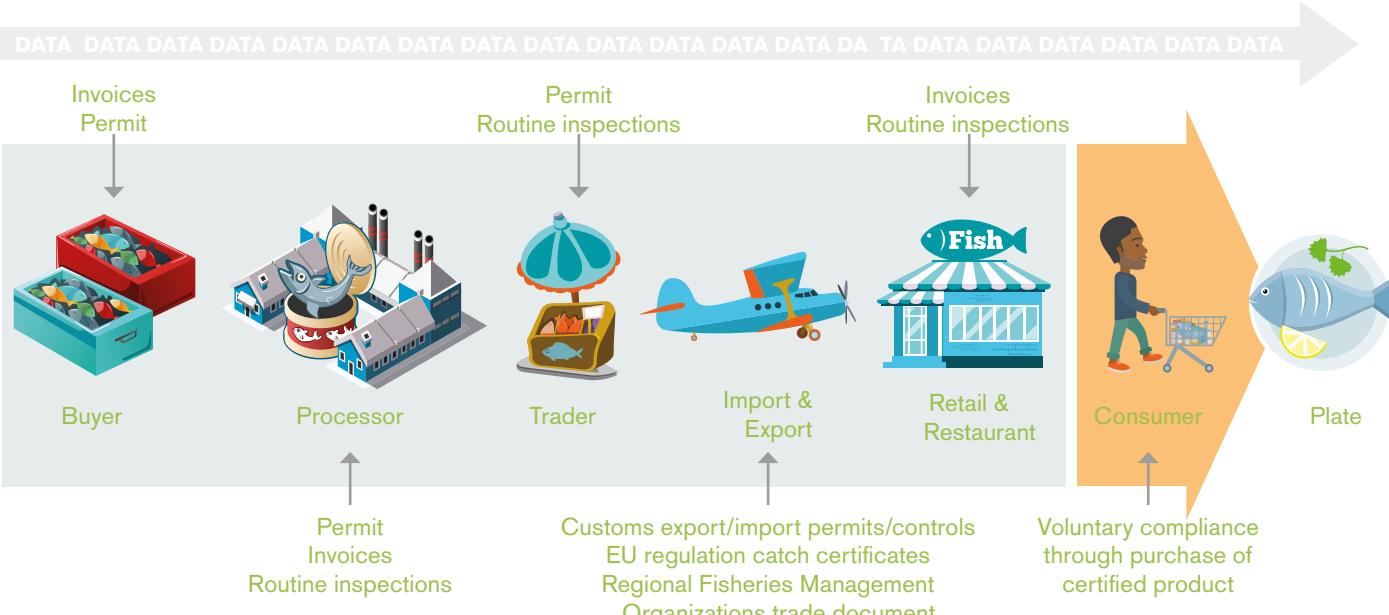
- increasing the understanding of the nature, scope and extent of IUU fishing activity, and the dynamics of the trade in products sourced from IUU fisheries;
- providing independent verification of the extent of a known IUU fishing problem;
- assessing the effectiveness of an existing trade and/or market-related measure;
- demonstrating that a problem exists that may not have been previously documented;
- determining the value of IUU products in international trade.

The sourcing, extraction and analysis of trade data can be carried out by any



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compliance controls



** The Automatic Identification System (AIS) is an automatic tracking system used on ships and by vessel traffic services for identifying and locating vessels by electronically exchanging data with other nearby ships, AIS base stations, and satellites.

Source: Stop Illegal Fishing and PescaDOLUS (2016) Record of The First International Symposium on FishCRIME. Stop Illegal Fishing: Gaborone, Botswana.

individual, NGO, business, government agency or other institution anywhere in the world. Trade data analysis is an inexpensive process, requiring only a standard computer, Internet access, and knowledge of spread-sheet applications. There are many user-friendly websites managed by national governments or international organizations such as the United Nations which provide, mostly free, online access to trade data. TRAFFIC's fisheries trade data analysis user's guide – www.fisheries-trade-data.org – provides information on sourcing, extraction and analysis of trade data, and includes links to websites where trade data can be obtained.

The 2012 amendments to the WCO Harmonized System saw some significant changes under Chapter 3 supporting the separate identification of certain species of fish and crustaceans, molluscs and other aquatic invertebrates. This has enhanced the possibilities for fisheries trade data analysis, and the next set of amendments, in 2017, will hopefully improve separate identification even further.

Private sector action

Illegal seafood trade knows no borders and the freight forwarders, logistics companies, land, air and sea carriers, including passenger airlines, are increasingly being abused by traffickers in wildlife who depend on them to smuggle illicit goods from source areas to market destinations. The private sector can, therefore, play a critical role in being the eyes and the ears of enforcement agencies, helping identify and strengthen key risk points in the supply chain. However, as mentioned earlier, there is a lack of awareness about illegal wildlife smuggling methods among the

transportation sector in particular, including handling and screening companies.

The Reducing Opportunities for Unlawful Transport of Endangered Species (ROUTEs) Partnership was established in October 2015 with a five-year mandate to collaborate and implement activities that will assist the transport sector, in an effort to reduce wildlife trafficking via land, sea and air. Funded by the United States Agency for International Development (USAID) and coordinated by TRAFFIC, ROUTES has established collaboration across government agencies, transportation and logistics industry representatives, international conservation organizations and donors to counter the use of transport supply chains for the illegal movement of wildlife by organized criminals.

ROUTEs complements other conservation and law enforcement approaches by focusing on private sector solutions along their supply chains, bringing the transport sector to the forefront of innovation in disrupting the illegal flow of wildlife. In its initial phase, ROUTES is focusing on the aviation transport supply chain, with the intention of expanding to the maritime sector in coming years (see www.traffic.org/routes).

Pilot training courses at two airports – one in Africa and another in Asia – will take place this year. TRAFFIC has previously been involved in a number of training programmes involving Customs officials, but this will be the first one that is specifically focused on the transport sector.

More information

www.traffic.org

To read

Is illegal fishing a form of organized crime? In which circumstances should it be treated as such? What approaches are necessary to tackle it? These are some of the main questions driving new research carried out by the NGO The Black Fish in partnership with the Global Initiative Against Transnational Organized Crime.



Cape Town, South Africa, saw nearly 200 delegates from 31 countries participating in the inaugural International Symposium on FishCRIME from 12-13 October 2015. The record of the meeting is available online.





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Tracking the illicit traffic in weapons

By Mike Lewis,
CONFLICT ARMAMENT RESEARCH



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AN ASSAULT RIFLE is shipped to a foreign government in the mid-1970s. Forty years later, with the original records of its sale long since disposed of or lost, it is stolen from a poorly guarded stockpile, and driven in the back of a truck across a thousand-mile-long border. It is passed on to a foreign insurgent group, discovered at a Customs post while being smuggled across another border, and is finally seized and placed in a Customs storeroom for investigation or disposal.

Such a scenario will be familiar to Customs and enforcement officials all over the world. Recent atrocities in Paris, France – perpetrated with military firearms originating partly in Eastern European state stocks – highlight the huge challenges of preventing illicit weapons from crossing borders even within Europe, let alone in regions with far more limited enforcement resources, and with much vaster and more remote territories. Given the impossibility of physically interdicting every potentially illicit item, Customs officers and investigators have long recognized the need for intelligence-led and risk-led approaches to tackling the illicit weapons trade.

Officials will be equally familiar, though, with how difficult it is to establish risk

factors based on past weapons seizures, and to identify those responsible for trafficking seized weapons, when the history of those weapons has been effectively ‘laundered’ by age and geographical movement, just as surely as the proceeds of crime are laundered by passing through multiple entities and bank accounts.

It is precisely this problem of weapons’ hidden histories that Conflict Armament Research (CAR) has set out to tackle. An independent organization established in 2011, CAR began two years ago to document and track weapons from source to use – a project set up and financed by a European Union (EU) Council Decision in 2013, with funding also from the German, Swiss and United Kingdom (UK) governments.

CAR uses two basic tools. First, CAR field investigators, working primarily in Africa and the Middle East, physically document weapons used by illicit actors in enough detail both to trace the weapons through formal channels, and to compare them with other weapons documented around the world. Second, CAR has created a unique database called iTrace, using DFuze technology that many law enforcement agencies have used to track and

compare physical data from bombs and improvised explosive devices (IEDs).

The technology developed from Scotland Yard’s UK Police National Bomb Data Centre, aimed at improving investigations of terrorist attacks by organising and sharing data on incidents. It allows investigators, for example, to connect the construction and components of a bomb found in one place with those in another, identifying potential links between bomb-makers and bombers internationally.

iTrace is applying this technology to conventional weapons for the first time, allowing users to match a seized or illicit weapon with ‘matching’ weapons documented across the world. This is done by finding weapons with similar technical characteristics, corresponding batch and serial numbers, or similar transfer histories. The technology can thus help investigators to identify the possible origins, users and diversion points of a seized weapon, even when the records of its production, original export or theft are unavailable, or have been destroyed.

iTrace thereby aims to complement formal weapons tracing through the International Tracing Instrument, INTERPOL’s iArms

Since 2014, CAR has documented over 130,000 illicit weapons, munitions and related items in 15 countries, including Iraq, Syria, Lebanon, Niger, South Sudan, Nepal, Somalia, Mali, Libya, Chad, and the Central African Republic. This dataset is continually updated, and in June 2016 it will go live at www.conflictarm.com. It will be available online to investigators, policymakers and researchers.

dataset and other tracing programmes. Meanwhile, CAR hopes that policymakers and risk managers will also use the data in aggregate to red-flag locations, intermediaries and specific end-users which present particular diversion risks for future exports – and to target interdiction efforts on such ‘choke points’.

Two examples from the greater Sahel region show the potential of this approach. Working across eight countries in North Africa, West Africa and the Middle East, CAR initially set out to track the cross-border diffusion of Libya’s weapons stocks since the 2011 overthrow of the Gadhafi regime, a project funded by the UK government. Of particular concern are portable surface-to-air missiles (MANPADS), widely available in poorly-secured Gaddafi-era arsenals, which could pose a potential threat to civilian airliners.

iTrace has matched a significant number of MANPADS seized from weapons caches and smugglers as far apart as Lebanon and Mali to batches of missiles which CAR field investigators in Libya documented at a particular depot in the Fezzan, figuring this facility as a particularly significant diversion point in need of physical security, and revealing the transnational reach of the smuggling networks around it.

But iTrace has also identified significant clusters of matching small arms which correspond to batches within the state stocks of two other countries in the region, and which have found their way to groups as far apart as Islamist fighters in Mali, and rebel groups in the Central African Republic. Work is now ongoing in these two countries to determine exactly where these batches of weapons were

held and lost, and possible local criminal intermediaries.

Meanwhile, through a combination of ‘traditional’ weapons tracing and weapons matching, iTrace has also identified close matches between newly-produced small arms found in the hands of an Islamist group in the Middle East, and those used in a spate of marauding terrorist attacks across West Africa during 2015 and 2016. These and future matches are providing the initial leads for investigations relating to trafficking networks and personal connections which may stretch thousands of kilometres between widely separated Islamist groups.

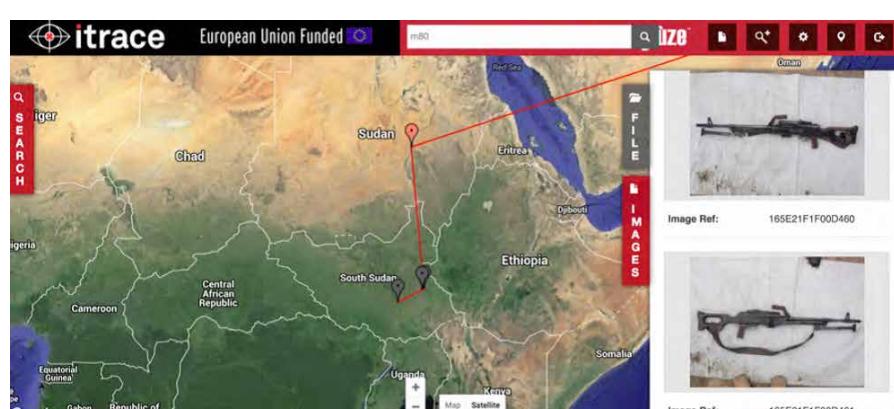
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To ensure the project’s sustainability, CAR has also helped train over 200 police, Customs, military and intelligence officials to document and trace seized illicit weapons more effectively, and to use the iTrace system. CAR aims to contribute long-term capacity to every agency with which CAR works, an approach which helps CAR investigators to learn too.

On top of its core documentation work, CAR also undertakes some bespoke in-depth investigations of particular transactions and intermediaries. The organization has shared leads with several enforcement agencies since 2014, resulting so far in at least one completed criminal investigation.

For further details, including enquiries about collaboration or data availability, kindly contact Marcus Wilson, CAR’s Managing Director, at wilson@conflictarm.com.

More information
www.conflictarm.com



Screenshot of the iTrace user interface

Automatic detection tools: from concept to reality

By Dr. Chen Zhiqiang,

PRESIDENT AND CEO, NUCTECH COMPANY LIMITED

ON INTERNATIONAL CUSTOMS Day 2016, the Secretary General of WCO, Kunio Mikuriya, reminded us all that information and communications technology (ICT) is everywhere in today's Customs workplace, and that ICT has transformed the way Customs and governments operate.

To meet the challenge of facilitating trade through more effective and streamlined control of merchandise, Customs authorities must take advantage of technologies, and more particularly of non-intrusive inspection (NII) solutions.

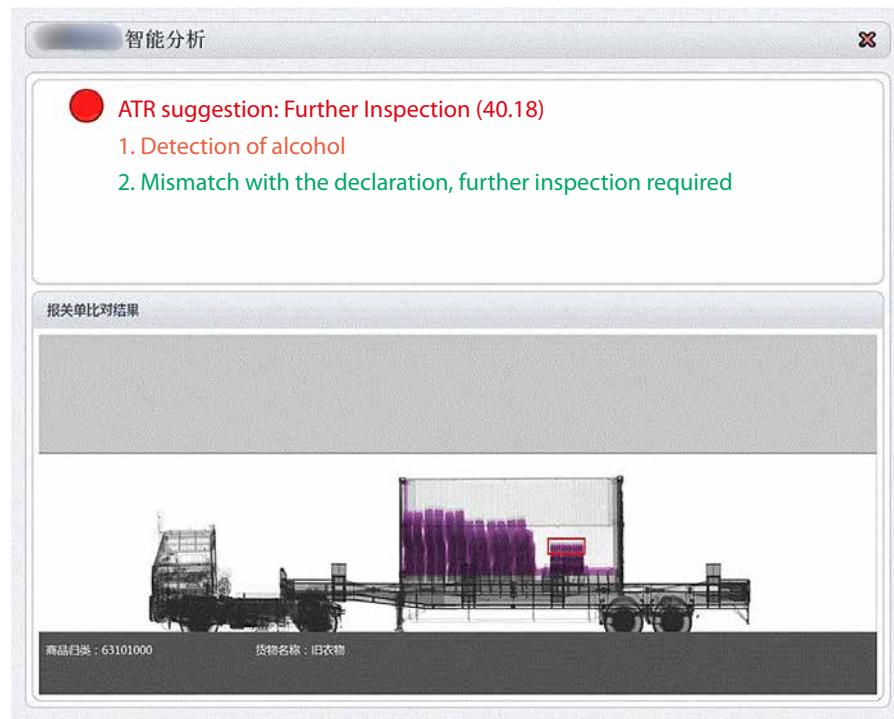
Over the last decades, Customs have stayed at the forefront of this key technology. Thousands of advanced NII systems – commonly X-ray transmission systems – have been installed at Customs security checkpoints around the world, enabling them to expedite the movement, release and clearance of internationally traded goods, while improving their fraud detection capacities.

Today, with the development of automatic detection tools, Customs' capacity to detect fraud could take a giant leap.

The Achilles' heel of security inspection

Amazing tools as they are, NII systems need to be operated by highly skilled officers. Although great strides have been made in image processing over the years, there is still a scarcity of image analysts in many countries.

Human resources constraints is a long-standing problem which affects many Customs authorities. NII literacy is truly hard to earn in the short term. To train an image analyst, even a naturally talented one, requires a great deal of time to be given. One also has to take into consideration the need for constant training to keep pace with the booming development of new NII systems.



The good news is that technologies that will improve image interpretation are here, and now. Scanning technology providers are working on algorithms that will enable machines to recognize objects. Automatic detection tools are commonly known by the acronym 'ATR,' which means automatic threat recognition, or assisted target recognition. Big Data, cloud computing, machine learning, and advanced data analytics have been seamlessly integrated together to develop such solutions.

Unleashing potential

NII equipment is usually used in a standalone manner. An X-ray image collected from a scan is, in most cases, only used once at the checkpoint level. Field officers are required to analyse the X-ray image and assess whether it reveals the presence of suspicious items. Once a decision is made, X-ray images are often archived onsite, or stored in a remote server. They are usually not used again. In today's information age, such a practice is seen by professionals as a huge loss.

Supported by a secure information technology (IT) system, Customs officials can now collect, manage and process tremendous volumes of historic scanning images,

and build up a massive reference database which can be used for training purposes, as well as for building ATR algorithms.

ATR technologies are based on machine learning, which is the development of algorithms that learn from experience. Algorithms are developed to find specific patterns in X-ray scans of all sorts. The algorithm analyses pictures based on their shape, density, texture, and even atomic numbers to formulate certain pattern recognition rules, which can be applied later to other image sets, irrespective of the NII system used to produce the images.

The nature of the goods can be automatically identified and designated with distinctive colours according to the Harmonized System (HS) code of the commodity. Based on its unique pattern, 'milk' can be easily distinguished from 'beverages' for example. By comparing the image with the data contained in the cargo manifest, a machine would be able to assist field officers in verifying whether the data and image received from the scanner match.

Specific knowledge can be used to improve the application. For example, algorithms

can be specifically fine-tuned to automatically distinguish consignments which are frequently traded. Filtering mechanisms can be put in place to free the operators from repetitive interpretation of similar scanned images of frequent goods.

The machine can learn also to detect certain items of interest such as cigarettes, bottled liquor, radioactive material, solid waste, or even artillery or weapons. The list of target items can be expanded and customized to accommodate specific needs.

By comparing the features of different parts of the image, an algorithm can also be built to pinpoint and highlight anomalies, for example a hidden compartment. Such technology also enables 'ISO non-empty containers' to be revealed, in order to detect contraband and illegal goods, forgotten or intentionally left in an ISO container, including differences in a load.

The machine learns from human interactions, and constantly expands its analytical capacities to better categorize, classify and detect goods. In other words, it sharpens its skills to become an expert in image interpretation through constant self-development.

ATR may also serve as a deterrent for the corruption of, or collusion between, officers and smugglers. Whatever the final decision regarding the release of a shipment, the system will record any hit in a database for future auditing, or even report it to the central command centre in real time.

Way forward

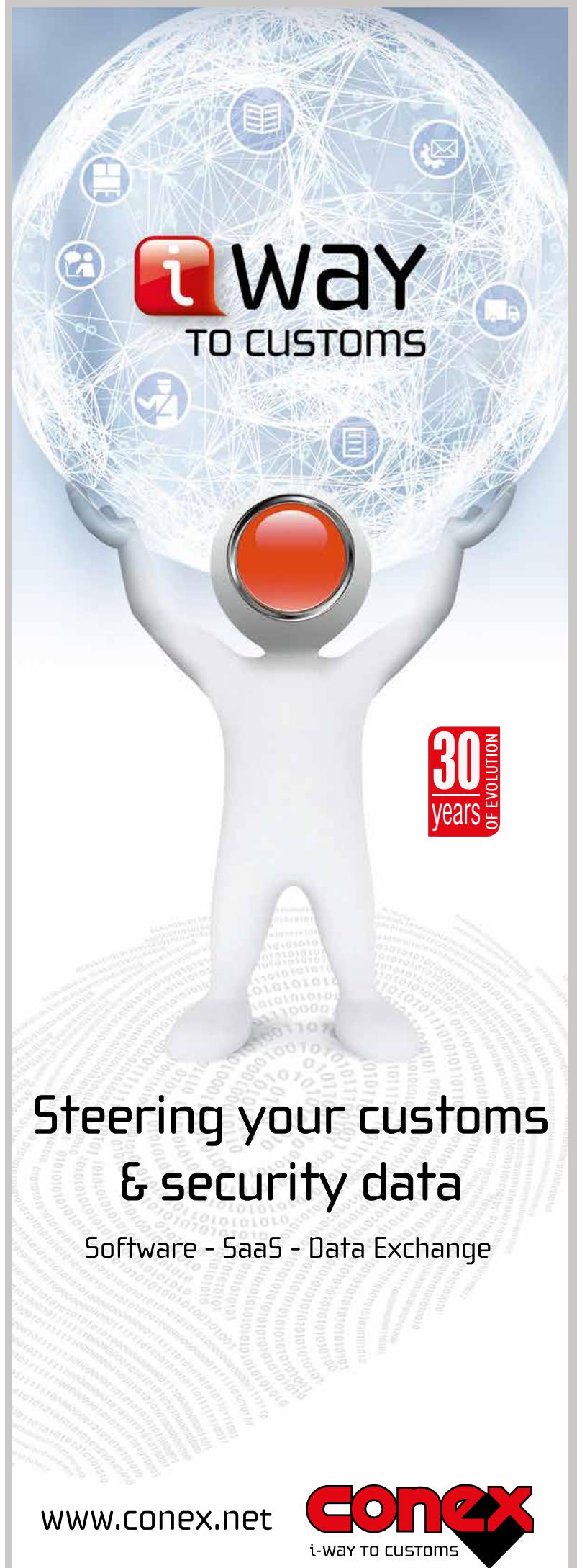
ATR application is capable of memorizing details from tons of screening pictures, cross-referencing them for a quick match, extracting features from every image, locating anomalies with established rules, and providing recommendations to assist human operators in their decision-making. Multi-tasked with all these functions, an automatic recognition algorithm can serve as the super brain that assists human operators for image interpretation in a more timely and accurate manner.

As for now, ATR has transformed from concept to reality. Committed to combatting the illegal trade in cigarettes and alcohol, Customs authorities from Asia-Pacific and Europe are now applying the full-fledged ATR algorithms. As an add-on tool for an Asia-Pacific Customs service, ATR predetermines automatically if the scanning image contains any suspicious objects, while removing the necessity to analyse repetitive images of similar frequent goods.

In another three-month blind test by an Asia-Pacific Customs administration, ATR application has proved its capacity to detect cigarettes with a detection probability of almost 88%, and alcohol with an amazingly high accuracy rate of 93%. It should be noted that ATR application can achieve an even higher detection rate through further 'machine learning' in synchronization with the completed image database.

More information

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The power of pollen: how CBP is at the forefront of using pollen as a new forensic tool

By Marcy Mason,

A WRITER WHO COVERS TRADE FOR US CUSTOMS
AND BORDER PROTECTION



A bumblebee gathers nectar while pollinating a Bleeding Heart floral blossom in Cockeysville, Maryland

In June 2015, when the partially decomposed body of an unidentified little girl, known as Baby Doe, was found in a trash bag on a beach on Deer Island in Boston Harbour, the National Center for Missing & Exploited Children in the United States (US) contacted US Customs and Border Protection's (CBP's) forensic pollen expert, Andrew Laurence, for help.

LAURENCE, ONE OF THE WORLD'S foremost forensic palynologists and one of only two such experts in the US, has helped the Center identify the geographical origins of other children in the past. He found more than 30 different types of pollen grains on the Baby Doe evidence sent to him. Most were common to the Northeast. "There was a lot of pine, oak, birch, and a little bit of spruce," he said.

But then, there were the unexpected types of pollen that he found. Baby Doe's clothing and blankets contained two types of Cedrus or cedar pollen grains. One of the species in the sample was cedar of Lebanon. "It didn't grow in New England until the early 1900s, when the Arnold



© Yokanda Choates

Arboretum of Harvard University in Boston imported a specific variety of the trees that now grow throughout the area,” said Laurence. But it was the second species of cedar that clinched it. “The only place I could find the second type of cedar was the Arnold Arboretum, so I knew that Baby Doe was from the Boston area,” he said.

In less than two weeks, Laurence delivered the results. “It was a very helpful tool,” said Trooper Daniel Herman, the detective from the Massachusetts State Police homicide division investigating the case. “We had hundreds of leads and calls coming in from all over the country. The pollen analysis indicated that the child had spent a significant part of her life in the Boston area. So it was encouraging news for us. It helped us narrow down our search and focus the effort we put into leads.”

Although pollen analysis has been used for forensic purposes for several decades, it is a new technique for US law enforcement. As the only US federal agency with a forensic palynologist on staff, CBP is leading the US law enforcement community in using this new forensic tool for investigations and intelligence.

Unknown field

Forensic palynology, not a widely known field, is defined as using pollen and spores to solve criminal or civil legal issues. Essentially, there are two types of forensic palynology. The first is when pollen is used to investigate crimes. The second is when pollen is used to determine the geographical location or ‘geolocation’ of items or people.

“Every location in the world has a unique pollen print – just like a fingerprint,” said Vaughn Bryant, a Professor of Anthropology and the Director of the Palynology Laboratory at Texas A&M

Vaughn Bryant, the first forensic palynologist in the US, going about his work at Texas A&M University in College Station, Texas

University in College Station, Texas, who is regarded as ‘the father of forensic palynology’ in the US. Similarly, every plant has its own unique pollen grain. “There are about 300,000 species of plants in the world. Each one produces a unique type of pollen,” said Bryant.

One of the reasons that pollen is so well-suited to forensic investigations is because pollen is everywhere. “Any object that is exposed to the environment is collecting pollen,” said Laurence, one of Bryant’s former students and his protégé. “We can analyse pollen to reconstruct the environment of where that object came from or the different places that it’s been. For example, we can trace the route of a truck as it travels through different ecological and vegetation zones, because as the truck travels, it’s collecting different types of pollen grains,” he said.

“We also can analyse clothing and tell where someone has been. Pollen can hang onto clothing for quite some time even after repeated washings,” said Laurence. “So even if you wash your clothes several times, the pollen will still be there from the day you bought the clothes. It becomes embedded in the fabric.”

Pollen is also indoors. “When people are going in and out of a building, they’re collecting pollen,” said Laurence. “They

bring the pollen in on their clothes and it transfers into the air inside the building. There can be up to 10,000 pollen grains per cubic metre of air, roughly the space inside a home refrigerator,” said Laurence.

Moreover, pollen is extremely resilient. It stays intact and doesn’t lose its physical structure. “Under the right preservation conditions, pollen is virtually indestructible,” said Laurence. “Pollen grains could be 20 million years old, more than 200 million years old – before the age of dinosaurs, or even go back as far as when the first plant life appeared on earth 450 million years ago.”

However, forensic pollen analysis isn’t ideal for every type of situation. “If you have a sample that has been exposed to the local environment for a couple of days, chances are it’s so heavily contaminated with local pollen that it would be difficult to determine where it actually came from,” said Laurence.

Historical roots

The earliest reported case of forensic pollen analysis successfully being used as criminal evidence occurred in Austria in 1959. Pollen found on the soles of a suspect’s muddy boots was linked to the site where a man had disappeared while vacationing along the Danube River near Vienna. During the 1960s and 1970s, there were other European criminal cases that used pollen as a forensic tool to link suspects to events or crime scenes.

In America, forensic palynology took root in 1975, when Bryant, a botanist who had studied pollen at archaeological sites, started to analyse pollen for forensic purposes. The US Department of Agriculture (USDA) tapped his expertise for a loan subsidy programme to help US honey farmers. Bryant tested honey samples, identifying the pollen content, to determine if

the honey was produced domestically – one of the requirements of participating in the programme.

Unbeknownst to Bryant, it was a huge undertaking. “I had absolutely no idea what I was getting into,” said Bryant. “I had never looked at honey before and thought it would be relatively easy. What I did not realize is that just in North America alone, not counting the rest of the world, there are probably somewhere close to 90,000 to 100,000 different plant species that could potentially be used for pollen or nectar.”

After five years of identifying pollen, Bryant became an expert. But then the price of honey on the world market soared and the USDA ended its honey subsidy programme. In 1980, Bryant was not able to find anyone in the US who wanted to hire him for his forensic palynology skill. “No one at that time was doing forensic palynology anywhere in the world except New Zealand,” said Bryant.

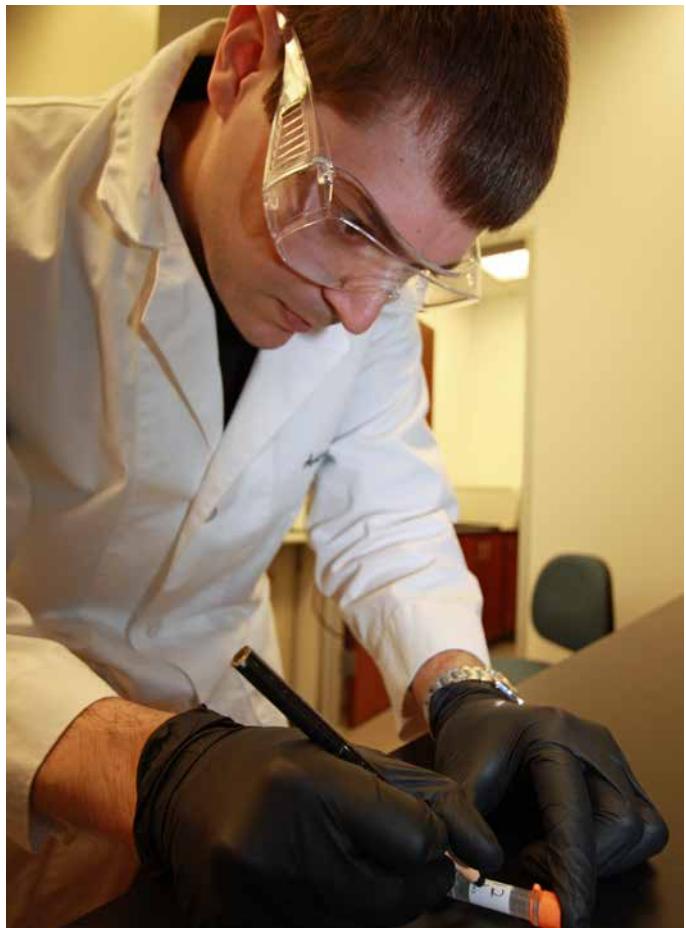
In the 1990s, interest in using forensic palynology reemerged in countries such as the United Kingdom, but the US lagged behind. It was not until after the 11 September 2001 terrorist attacks that pollen was used as a forensic tool. One of the US intelligence agencies contacted Bryant about using his forensic palynology skill for security purposes. “I was looking at samples that had been collected by the intelligence community from places where terrorists were active. There were samples of everything from rugs to cars to people to dwellings to weapons – even bombs,” said Bryant.

Then, just as his work with the intelligence agency was winding down, CBP reached out to Bryant. “We had intelligence gaps related to the movement of narcotics. We wanted to know more specifically where the drugs were coming from, how they were grown, and how the cartels were operating so that we could strengthen our interdiction efforts,” said Patricia Coleman, Acting Director of CBP’s Office of Intelligence.

Surprising connection

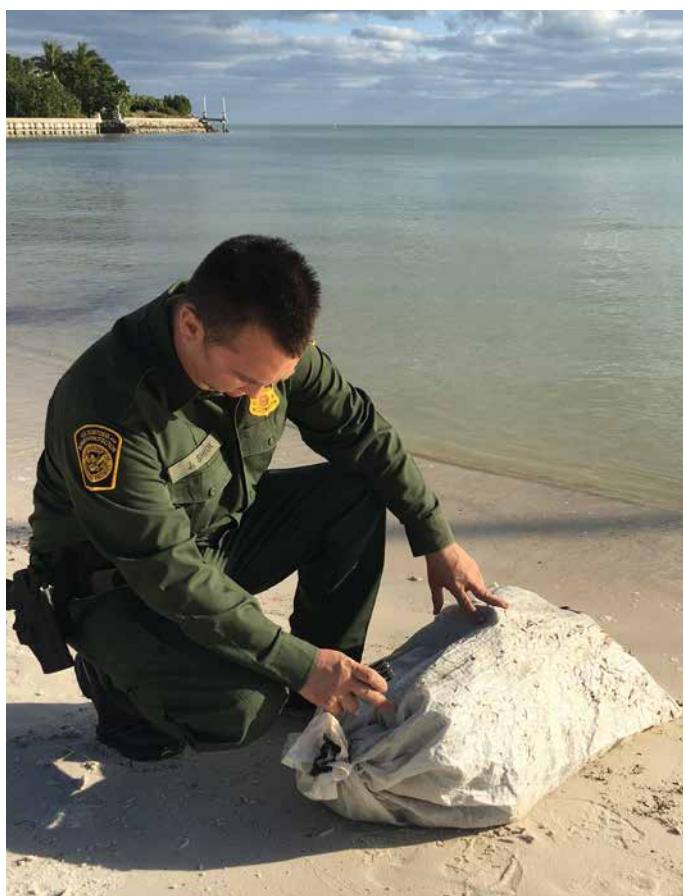
One of the first samples that Bryant tested was from an 8,000-pound (3,629 kg) marijuana seizure taken from a warehouse in San Diego, California in November 2011. The warehouse was connected to a drug tunnel that ran beneath the US-Mexico border. Two weeks later an 8,646-pound (3,922 kg) marijuana seizure was made at a ranch in Starr County, Texas.

“The two seizures were in two different states, more than a 1,000 miles (1,609 km) apart, but the forensic pollen analysis revealed that there was a shared nexus where the marijuana was cultivated or packaged,” said Steven Goldfarb, a Watch Commander in the Counter Network Division at CBP’s National Targeting Center, who is currently assigned to the Drug Enforcement Administration’s (DEA’s) Special Operations Division. “From an intelligence perspective, we concluded that the same drug trafficking organization was responsible for the growth site and the distribution of both marijuana shipments.”



CBP scientist Andrew Laurence puts his palynology skills to good use at CBP’s laboratory in Houston, Texas

© Yolanda Choates



J.R. Shook, a Border Patrol agent, examines a drug bundle washed-up at Sombrero Beach in the Florida Keys

© Adam Hoffner

CBP also made another eye-opening discovery. "The presumption was that the marijuana moving through Texas was coming from the cartels that controlled the states south of Texas. But that's not what we were seeing," said Coleman. "The pollen testing showed that the drug shipments seized in Texas were coming from Sonora, which is south of Arizona."

A few months later, Bryant did pollen testing on another batch of shipments. This time with Laurence's help. Between March and May of 2012, CBP officers and Border Patrol agents made numerous marijuana seizures on the southern border near El Paso, Texas. Further inland, state and local law enforcement agencies also made several marijuana seizures that involved heavy farm equipment used to smuggle the drugs.

"We thought there was some connection among these shipments because the drug seizures were coming through the same channels," said Goldfarb. "Through forensic pollen analysis, we discovered that all of the marijuana had a specific pollen type, a 'key marker' that stands out. It's a pollen that generally points to a very precise location. In this case, the plant was sagebrush," he said.

Although there are more than a 100 species of sagebrush in the US, in Mexico, there is only one known species, which only grows in a few isolated locations. "We were able to narrow down very precisely a particular area of Mexico where the marijuana was cultivated," said Goldfarb. "This tied into a bigger case involving a specific drug trafficking organization in Mexico that was under investigation. The pollen analysis linked this organization to the marijuana seizures in Texas," he said.

CBP shared information with the Mexican government, and in June 2012, Mexican authorities raided a farm outside of the city of Chihuahua, where they seized 400 kg of marijuana and 13 sacks of marijuana seed weighing almost 300 kg.

More than marijuana

For more than a year, CBP's Office of Intelligence used pollen to track the flow

of marijuana shipments. "Then it became bigger. We weren't looking at just marijuana anymore," said Coleman. "We were looking at other narcotics such as cocaine, heroin, and crystal methamphetamine. Basically, we were using science to tell a story, to piece it altogether, to find out who was involved, how the drugs were made, where they came from, and what routes they travelled."

By this point, it had also become apparent that CBP needed to hire a full-time forensic palynologist. "Once we started getting results, things took off," said Coleman. "We couldn't keep up with the demand. We literally had a backlog." Bryant recommended Laurence who shared his passion for forensic palynology and had proven to be gifted in the field. Laurence now works full-time at CBP's Houston laboratory.

One of the cocaine cases that Laurence worked on was a drug bust in Detroit, Michigan in November 2013. The cocaine, which was not destined for the US market, was seized from a truck before it exited the country to Canada. The truck's manifest indicated that the truck had travelled from Salinas, California. "We wanted to verify that," said Laurence. The pollen revealed that the truck did originate in Salinas, drove up the coast to San Francisco, and then turned east, travelling through Nevada, Utah, Wyoming, Nebraska, Iowa, and Illinois until it eventually arrived in Detroit, where the cocaine was seized.

"It was a curious route," said Goldfarb. "The question is – why would you take your shipment all the way to Detroit when you can go straight up to Canada through the state of Washington? It was evident that there was a drug deal going on, and this gave us an investigative lead. Just like on the Mexican side of the border, there are different cartels in Canada that control specific regions," said Goldfarb. "If we give that information to the highway patrol, they could occasionally do some enforcement and stop the movement of cocaine through the US."

Another unexpected finding from the pollen analysis involved panga fishing boats. While panga boats are legitimate fishing

vessels, drug cartels use the boats to move narcotics up the West Coast. "Initially the panga boats would leave Mexico from the Baja California peninsula and sail up to the San Diego coastal area," said Coleman. "But in 2012, we started to see a lot of panga movement further north up the Pacific Coast, and it was becoming a problem."

CBP's Office of Intelligence wanted to get a better idea of how the cartels were operating, so pollen was tested on abandoned boats. "We analysed the interior of the boats, wiping them down the sides as well as inside the engines and the engine covers," said Laurence. "The boats contained lots of pine, lots of oak, and a few spruce or fir pollen grains. In Mexico, fir trees only grow in the highest elevations of the mountains."

"What we derived from this in an intelligence sense is that they were loading the boats discreetly at the higher elevations and then driving them to the water to launch them," said Coleman. "Once again, this finding enabled us to give information to the Mexican government to do enforcement."

Washed ashore

Pollen analysis also has helped CBP trace the routes of marijuana and cocaine bundles that wash up onshore along the coasts of Florida and Texas. As early as 2011, the Border Patrol in the Miami Sector started to see a steady increase in drug bundles washing-up in the Florida Keys.

"We had over 40 wash-ups in fiscal year 2015," said J.R. Shook, a Border Patrol agent in the Miami Sector's Intelligence Unit. "From the trends we're seeing during the first quarter of 2016, we expect that number to rise." Compared to the same period last year, Border Patrol statistics for the state of Florida show nine times the number of marijuana bundle wash-ups.

When bundles are found, the Border Patrol sends samples to Laurence for testing. "The majority of the wash-ups are bundles of marijuana from the Caribbean, especially Jamaica," said Coleman. "What clued us in

"Prior to the pollen testing, we had no idea where the narcotics were originating from, so when a bundle would land on the beach, Homeland Security Investigations would just seize it and there wasn't an investigation. No smuggler was caught, no information was captured; the drugs were just destroyed."

was the samples we examined are loaded with fern spores, more than would be typical of an area where ferns grow. There are only a few areas that have that many ferns and one of them is Fern Gully, a winding, scenic stretch of road in Jamaica," said Coleman.

"Prior to the pollen testing, we had no idea where the narcotics were originating from, so when a bundle would land on the beach, Homeland Security Investigations would just seize it and there wasn't an investigation," said Shook. "No smuggler was caught, no information was captured; the drugs were just destroyed," he said. "With pollen analysis, we're now able to pinpoint where the narcotics originated and the probable routes and methods used to smuggle them into the country. That, in turn, helps us counter the threat."

Before long, the pollen testing was expanded to gather intelligence on other aspects of CBP's mission including seized weapons, currency, and even identifying travel routes and places of origin of criminals, potential terrorists, and other persons of interest.

"We're looking to apply forensic pollen analysis to matters of national security," said Coleman. "We're looking at travel routes of people who are travelling to the US. These are people who have already been identified by CBP systems that are used to determine risk associated with travel," she said. "Pollen can trace a person back to a certain location. In light of foreign fighters and concerns about individuals coming to the US, this is an avenue for us to explore, to find out if people have been in conflict zones."

Processing pollen

The pollen analysis process is arduous and labour intensive. "Pollen processing itself is a very long process. There are a lot of chemical steps as well as physically washing the samples," said Laurence. "Normally, it takes four to six hours to process a sample if everything goes well. That includes vacuuming the sample to extract the pollen."

But there are often complications. For example, if a cocaine sample is not completely pure, the impurities need to be dissolved. "It takes time to figure out what those impurities are and what can dissolve them," said Laurence. Other times there could be a lot of sediment in the sample that traps the pollen. "This adds a lot of extra steps and a lot more time," he said.

After a sample is processed, then Laurence identifies the pollen with a microscope. "I sit down and count the pollen grains. How long that takes depends on how many grains are in the sample, what the sample is, where it came from, and what types of pollen grains are there," he said. "While I'm counting, I'm identifying and if there are lots of different pollen grains, it could take a long time to determine what everything is as well as matching it against known pollen types. If I'm looking at pollen from regions where there isn't a lot of information, it could take even longer."

One of Laurence's biggest challenges is knowing what grows in various places around the world. In some countries, like the US, extensive pollen mapping studies have been done. In other places, such as the Middle East, South America, and Mexico, information is scant. "It's either because



© CBP Office of Intelligence

Pollen analysis revealed that a truck carrying a cocaine shipment travelled across the US from California to Canada instead of taking the most direct route up the West Coast, giving CBP an investigative lead and filling an intelligence gap.

of political reasons or some places are just very difficult to get to like the Amazon," he said. Laurence and Bryant also rely on reference collections, databases, books, and other forensic palynologists, however, there are few.

"There are only a handful of forensic palynologists in the world, maybe five," said Jen O'Keefe, the past President of AASP – The Palynological Society, an international association based in Houston, Texas. "It's very hard to identify people with the right skill set to do this. You have to be extremely exacting and careful in the laboratory. You also need an incredible memory for shapes and sizes, and for where you last saw something. Plus you need to have the patience and stamina for long hours at the microscope."

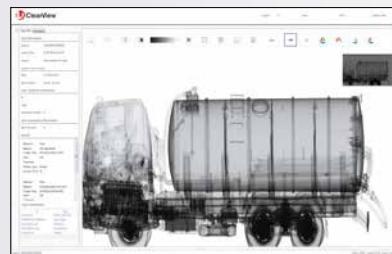
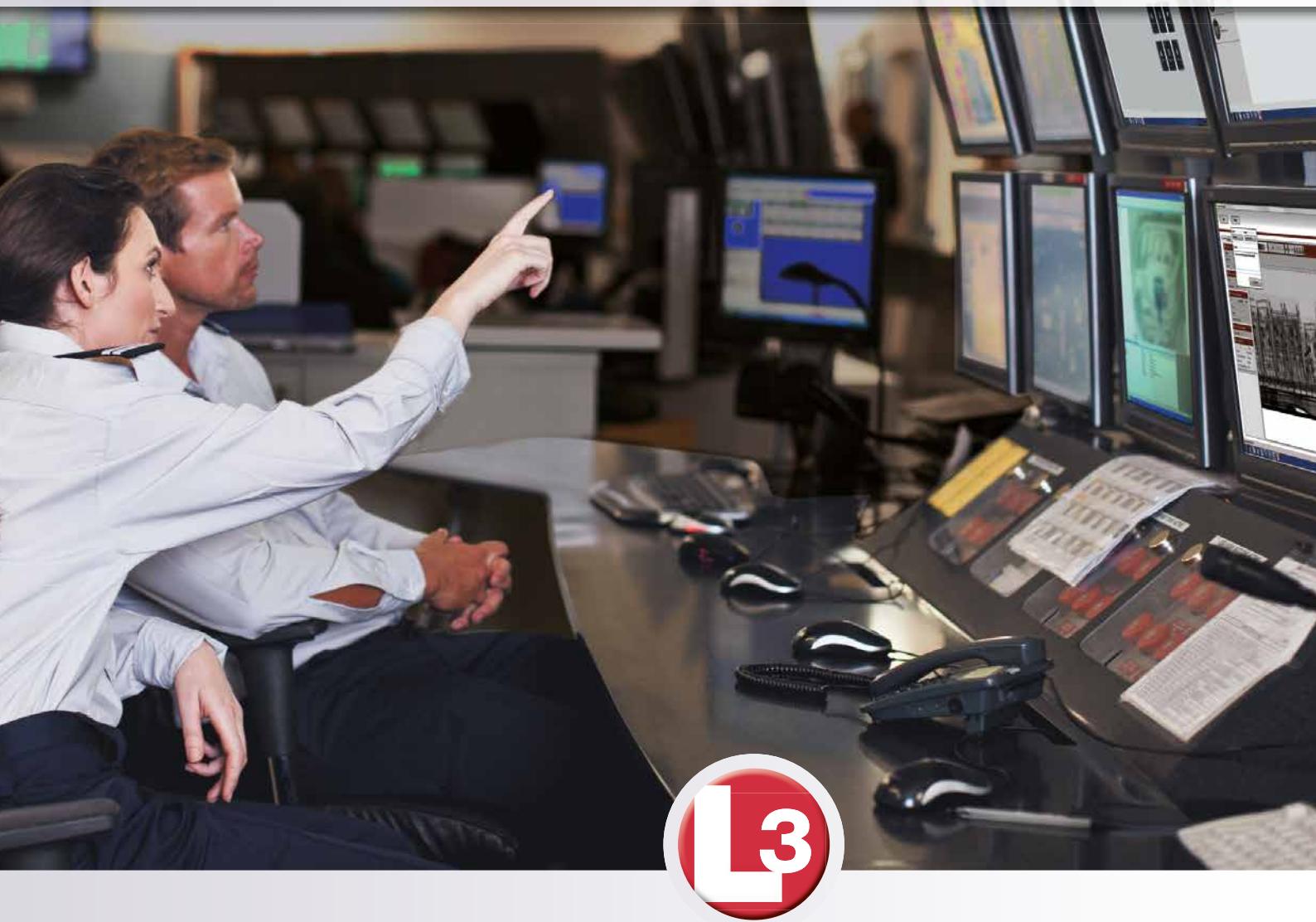
Forensic value

"It's amazing that pollen, a small microscopic particle, could have such a great impact on criminal investigations," said Coleman. "Sometimes the findings that come out of pollen analysis are things we would never even venture to think about. It's like a new discovery, a new piece of information that supports existing intelligence or counters what we know," she said. "It gives us irrefutable, scientific evidence that allows us to rethink how we look at the processes, the procedures, and the tactics of the criminal enterprise, but perhaps what's most exciting are the endless possibilities of pollen as a forensic tool."

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Thoughts on 'Big Data' and our real world

By Christine Macqueen,

DIRECTOR OF CORPORATE AFFAIRS, SICPA

There has been much hype, and for good reason, around the Big Data revolution. Dramatic advances in technology have made it possible to develop services with large volumes of data that could never have been done with smaller data sets – allowing authorities to spot new patterns, and identify threats in near real-time. The ability to process data at speed has allowed extraordinary advances such as those which enable planes to fly safely by autopilot, and cars to navigate their own path more efficiently and safer than when driven by human beings. Why then has this power not yet been harnessed to tackle more effectively the ever increasing incidence of illicit trade and the proliferation of counterfeit goods? Some food for thought.

The world has got more complicated

Globalization has had many positive consequences and driven economic growth, but it has also complicated the task of enforcement agencies. Production locations and trading routes have changed as manufacturers outsource more and more to low labour cost countries. Supply chains have evolved to reflect this and become more convoluted. Advanced production technologies are increasingly available to criminal organizations, and their products may even rival the quality of genuine goods. Over recent years illicit trade and counterfeiting have evolved

from 'boot-legging' into one of the most powerful activities on the planet, with the economic impact of counterfeit products alone growing from 178 billion US dollars in 2007 to an estimated 1.77 trillion in 2015 according to the International Chamber of Commerce (ICC).

Our tools have not kept up

Most governments and institutions have not evolved in line with the technological advances of the past decades, and many still operate with legacy systems and legislation that were put in place before the expansion of globalization. Big Data dividends are all too often not harvested because of the inadequacy of the data sets available, and the insufficiency of analytical tools and resources to exploit them. Budgets are tight but we need to do more and better with them. In the new virtual world, linear approaches do not suffice and traditional ways of collecting and exploiting data are not enough – it is often the unexpected patterns that our lateral thinkers and data science experts identify or predict that make the difference, not only the answers to the questions we formulate in the field, no matter how much this experience matters.

Ensuring high quality data is essential

Data sets can come from multiple sources. The private sector can do a great deal and governments create their own: be it in the sphere of tax and duties, or for other controls on product origin, or the

distribution chain. Collecting data is not enough – putting in place the framework to ensure high quality data is essential: a cliché but true – 'rubbish-in, rubbish out.' Assuring data quality requires real rigour and expertise, and the constant application of critical thinking. Oh too easy for those who do not want to be properly regulated to bamboozle hard-pressed officials by offering up data sets that will not do the job – that are incomplete, or will not fit in with an international framework so essential in a cross-border world.

Private sector data sets are also very patchy

This might seem surprising given the potential scope of traceability data and the fact that producing it has become economically viable over the past years, making it possible, for example, for fast moving consumer goods (FMCG) companies to offer secure traceability even on the cheapest of products. But not even 1% of products available on the market today are protected with any traceability, let alone a secure traceability solution. This makes it difficult for law enforcement officers to be able to differentiate legitimate from illegitimate products, and for consumers to protect themselves from consuming potentially fatal products. Indeed many brands still handle counterfeiting as an intellectual property (IP) problem, delegating the issue to their legal departments and taking, at best, sporadic action.

It is the collective responsibility of producers, distributors, consumers and law enforcers to reinforce data integrity, data collection, and data verification and exploitation. Only a combined effort by all stakeholders – institutions, consumers, governments, and the private sector alike – has a chance to disrupt illicit networks and reverse the growing trend of the past decades.

Worse even, the mentality remains within some brand owners that promoting security on their products could be perceived by the customer as an admission that their products are not safe, which could potentially negatively affect their market share and reputation. And consumers likewise often fail to understand or ignore the risks they are exposed to on a day-to-day basis, and do not exercise their purchasing power to put pressure on producers to put in place more adequate systems. It is worth recalling that over one million people are thought to die each year from the consumption of fake medicines, and many more from contaminated food. This lacuna continues to fuel criminal and terrorist organizations, providing them with immense financial resources.

Collective responsibility

We know what the answer is: it is the collective responsibility of producers, distributors, consumers and law enforcers to

reinforce data integrity, data collection, and data verification and exploitation. Only a combined effort by all stakeholders – institutions, consumers, governments, and the private sector alike – has a chance to disrupt illicit networks and reverse the growing trend of the past decades. The work of the WCO is crucial, providing its Members, and through its partners, the advice, expertise, standards and programmes which make it possible to work together. Equally, an integral part of the solution resides in the WCO's pro-active and practical collaboration with other international institutions who work against illicit trade – it deserves our wholehearted support. Criminal enterprises grow their business and make alliances in dynamic and flexible ways – why would we accept to be any less good?

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Quantifying the illicit trade in tobacco: a matter of scale

By Robert Ireland,

WCO HEAD OF RESEARCH AND COMMUNICATIONS

SCIENTISTS DETERMINED LONG ago that there is a direct causal link between smoking and ill-health for both smokers and passive smokers. Despite overwhelming evidence, some stakeholders continued to peddle doubt regarding the health implications until this false contention was no longer tenable.

Research has also shown that tobacco control regulations, such as higher taxes, bans on smoking in public places, advertising bans, purchaser age restrictions, and plain packaging reduce tobacco consumption rates, and thus positively impact human health. Although the evidence for this is conclusive, some stakeholders continue to sow doubt, especially related to the impact of newer regulations, such as plain packaging, on reducing smoking levels.

Opponents of tobacco control also emphasize the non-public health implications, particularly the supposed impact on illicit trade. There is an incentive for certain stakeholders to exaggerate the volume of illicit trade in tobacco, in order to garner resources or to lobby against public policies that result in decreased profits. Also, misleading or false pronouncements are aided by data limitations: illicit trade is difficult to measure because smugglers are not ‘eager’ to supply data.

Peer-reviewed research, however, generally concludes that although, all things being equal, tobacco control policies such as higher taxes can in some circumstances partially contribute to modest short-term increases in illicit trade, it is not a major factor, and that illicit trade can be better curtailed by policies that strengthen law enforcement and reduce government corruption.

Many examples show that a robust Customs game plan which targets the illicit trade in tobacco, coupled with anti-corruption strategies where necessary, can result in lower illicit trade commensurate with the impact of the implementation of

higher tobacco taxes and other tobacco control regulations.

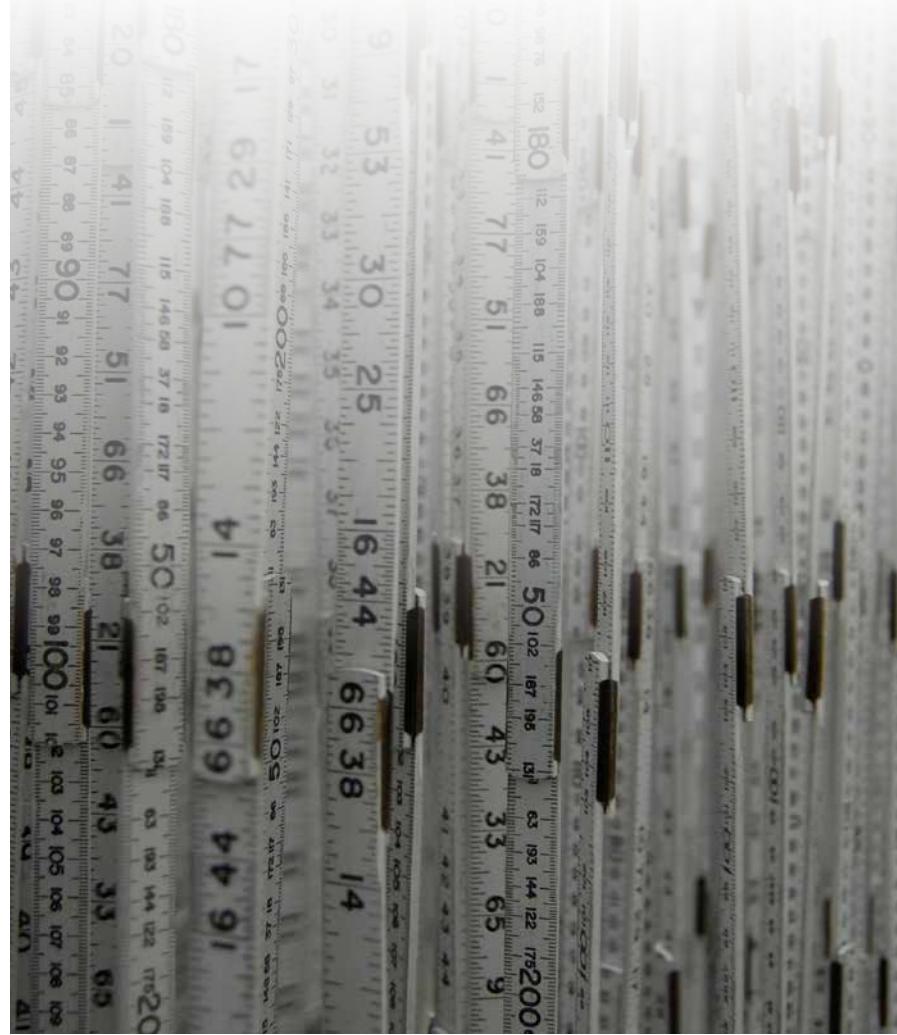
Moreover, even if there are increases in illicit trade, the societal impacts would seem to be inconsequential when compared to the significant benefits of improved public health and greater tax revenue collections. As economist and tax expert Alex Cobham wrote, “there is no doubt that illicit trade in tobacco exists; and nobody argues it’s a good thing. But it’s clearly not the big issue about tobacco consumption – that would be, er, tobacco consumption.”

Illicit trade nomenclature

In their 2011 peer-reviewed paper ‘From cigarette smuggling to illicit tobacco trade,’

tobacco control experts Luk Joossens and Martin Raw defined tax avoidance as the “purchasing in lower tax jurisdictions of tobacco products by individual tobacco users residing in high tax jurisdictions for their own consumption, within Customs constraints.” Thus, tax avoidance is not per se an illegal activity.

Tax evasion, however, is an illegal activity. As defined by Joossens and Raw, it “includes the purchase of smuggled and illicitly manufactured tobacco products.” The sale of ‘cheap whites’ (also known as ‘illicit whites’) is a type of tax evasion – the European Commission has described illicit whites as “brands manufactured legitimately in one market, either taxed for local



ter of public interest and self-interest

consumption or untaxed for export, and sold knowingly to traders who transport them to another country where the products are sold illegally without domestic duty paid.”

Smuggling entails cross-border movement of goods that violate Customs laws. Counterfeiting, as defined by Joossens and Raw, is the “production of manufactured products which bear a trademark without the consent of the owner of the trademark.”

The broadest term is illicit trade, which the World Health Organization’s Framework Convention on Tobacco Control defines in Article 1 as “any practice or conduct prohibited by law and which relates to production, shipment, receipt, possession, distribution, sale or purchase, including any practice or conduct intended to facilitate such activity.”

Tobacco control and illicit trade

Blaming taxation and other government regulations for illicit trade in tobacco has a long history. For instance, 140 years ago in 1876, as reported in Rob Cunningham’s

1996 book ‘Smoke and Mirrors – The Canadian Tobacco War,’ the Tobacco Association of Canada published a guide entitled ‘Serious Loss of Revenue to the Country,’ which “complained that higher taxes had led to a large illicit tobacco trade.”

A more recent example is a tweet by British American Tobacco (BAT) on 24 November 2015, which stated “Excise increases equal #illegaltobacco growth.” The tweet linked to a BAT media release criticizing the Australian Government’s increase in tobacco excise taxes. In reality,

Chart

Research Method	Sampling of Dr. Ross's Comments
Survey of tobacco users	<ul style="list-style-type: none"> “Direct method of estimating the scope of tax avoidance/evasion and availability of low-tax products.” “Underestimates tax evasion; problems of validity; potential bias due to social stigma and underreporting.”
Exam of cigarette packs obtained from smokers	<ul style="list-style-type: none"> “Direct and objective method of estimating the scope of tax avoidance/evasion.” “Tax evasion cannot be detected without self-reported info from smokers and/or lab inspection; possible selection bias.”
Exam of discarded cigarette packs	<ul style="list-style-type: none"> “Direct and objective method of estimating the scope of tax evasion; can be less expensive than surveys.” “Cannot distinguish tax avoidance from tax evasion; estimates relevant only for narrow geographical areas; difficult to account for tourists/commuters.”
Exam of cigarette packs obtained from retail	<ul style="list-style-type: none"> “Direct and objective method of estimating the availability of illicit products via legal channels.” “Cannot estimate the scope of tax evasion; cannot detect tax avoidance; lab inspection needed to detect counterfeits.”
Compare sales with consumption (gap analysis)	<ul style="list-style-type: none"> “Transparent, replicable, and relatively low cost method that uses secondary data; estimates can be generated relatively quickly.” “Lack of reliable survey data; consumer underreporting, tourist purchases and RYO [roll-your-own] cigarettes can bias the results; better at estimating the change rather than the scope.”
Econometric modelling	<ul style="list-style-type: none"> “Can detect various types of tax avoidance/evasion; can model impact of policies.” “Sensitive to data quality; technically demanding.”
Comparison of tax paid sales with estimated consumption	<ul style="list-style-type: none"> “Simple and intuitive method.” “Cannot distinguish tax avoidance from tax evasion; better at estimating the change rather than the scope.”
Comparison of actual and projected tobacco tax revenue	<ul style="list-style-type: none"> “Simple and intuitive method; can detect changes in tax avoidance/evasion.” “Cannot estimate the scope of tax avoidance/evasion; cannot distinguish tax avoidance from tax evasion; cannot detect one time deviation from a trend.”
Key informant interviews	<ul style="list-style-type: none"> “Little technical skills required; low costs; relatively quick assessment of the situation.” “Subjectivity of the estimates; may generate bias results.”
Monitoring tobacco trade	<ul style="list-style-type: none"> “Can detect smuggling hubs.” “Cannot estimate the scope of tax avoidance/evasion for individual countries; captures only large-scale tax evasion.”
Analysing seizures of illegally transported tobacco	<ul style="list-style-type: none"> “Globally, the World Customs Organization (WCO) provides annual data on tobacco seizures from its Customs Enforcement Network.” “Can generate the minimum scope of tax evasion. Can inform on the composition of the illicit market.” “Information may not be complete or easily available, and it could be difficult to establish its accuracy.” “[The focus on] “large seizures may not be representative of the illicit market as a whole.” “Underestimate the scope of tax evasion; sensitive to enforcement effort.”

Source: Ross (2015)

peer-reviewed research and Australian government data indicate that the illicit trade in tobacco has not increased in tandem with higher tobacco taxes and 'plain packaging' in Australia, while smoking rates have declined and revenue collection has increased.

Unwarranted fears of illicit trade have occasionally influenced governments to reduce tobacco taxes, which in turn increases tobacco consumption and tobacco-related diseases, while reducing revenue collection. Actions by the governments of Canada and Sweden in 1994 and 1998 respectively are prime examples of this.

In both countries, tobacco tax increases led to lower smoking rates and higher revenue collection. However, fears about increased illicit trade and political pressure led the governments to reduce the tobacco tax rates, resulting in an increase in smoking rates and a decline in revenue collection.

Interestingly, evidence is presented in Rob Cunningham's book that in Canada in the 1990s, the rise in illicit trade occurred as a result of Canadian tobacco companies massively increasing exports of Canadian cigarette brands to the United States for which there was virtually no demand, and which were then smuggled back into Canada where demand was high.

It seems almost intuitive that implemented public policies that reduce tobacco consumption would also contribute to lower illicit trade in tobacco, especially over the long-term. If lower initiation, higher cessation, and lower intensity consumption levels ensue for tobacco products compliant with tax regulations, those who quit or never start will also have less demand for tobacco products that are non-compliant with tax regulations.

Quantifying the illicit trade in tobacco

There are a number of reputable papers that discuss the challenges and methods of quantifying the illicit trade in tobacco. These include the Joossens and Raw paper; the International Agency For Research on Cancer (IARC) handbooks 'Methods for Evaluating Tobacco Control Policies (2008)' and 'Effectiveness of Price and Tax Policies for Control of Tobacco (2011)'; and economist and tobacco control expert Dr. Hana Ross's 2015 guide, 'Understanding and Measuring Cigarette Tax Avoidance and Evasion – A Methodological Guide.'

Of particular importance for consideration are (1) the research methods for measuring the illicit trade in tobacco, and (2) the criteria for evaluating the reliability of papers that present findings on the quantification of the illicit trade in tobacco. Dr. Ross discusses at length criteria for evaluating the quality of papers on illicit trade.

Papers submitted for peer-review which survive the process maintain their credibility, while those that are not formally scrutinized by independent experts do not. In addition, the funding source (if any) should be disclosed – in striving for objectivity and accuracy, it is essential that funding does not come from vested interests expecting a pre-ordained conclusion.

In her guide, while noting the difficulties in obtaining reliable data, Dr. Ross summarizes many of the methods that have been used for measuring the illicit trade in tobacco. She recommends that in striving for the most reliable analysis, it is advantageous for researchers to triangulate (combine different research methods and cross verify from other sources) and to focus on papers that comply with the basic tenets of objective research.

The chart in this article summarizes the 11 tobacco illicit trade research methods discussed by Dr. Ross and a sampling of

A perfect method or methodology by which to measure the illicit trade in tobacco does not exist. Any study that contends that one particular methodology can make a definitive conclusion concerning the measurement of illicit trade should be disregarded. By using several methods that comply with objective research rules, reasonable estimates can in some settings be made.

her comments. Elaboration on the research methods she describes can be accessed at http://tobaccoecon.org/wp-content/uploads/2014/10/Understanding-and-measuring-cigarette-tax-avoidance-and-evasion_a-methodological-guide.pdf.

No silver bullet for quantifying the illicit tobacco trade

A perfect method or methodology by which to measure the illicit trade in tobacco does not exist. Any study that contends that one particular methodology can make a definitive conclusion concerning the measurement of illicit trade should be disregarded. By using several methods that comply with objective research rules, reasonable estimates can in some settings be made. Moreover, illicit trade cannot be viewed in isolation; smoking rates and revenue collections from tobacco taxes are not only easier to measure, but are vital matters for public policy.

More information

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Dubai Customs: Journey towards a ‘Customs of the future’



By Juma Al Ghait,

EXECUTIVE DIRECTOR, CUSTOMS DEVELOPMENT DIVISION, DUBAI CUSTOMS

JUST A FEW years ago, the Dubai government set a very aggressive vision to compete with the major cities of the world, and to stand out as the leading trade hub in the Middle East. This left Dubai Customs with no choice but to evolve and transform.

The characteristics of the environment when this transformation started was by no means favourable. Dubai Customs was a traditional paper-based organization. There were about 1,500 employees, processing about two million Customs declarations per year. The information technology (IT) functions were limited to basic software development, using traditional technologies.

According to a diagnostic study undertaken by the WCO in 2002, while Dubai Customs offered a number of services, the operating environment did not meet the expectations of the international trade supply chain, nor did it enable the administration to fulfil its obligations towards the protection of the local economy and society.

Between 2002 and 2005, some activities aimed at responding to the WCO diagnostic study were undertaken, but these actions were not based on a full

understanding of the future needs of Dubai. In 2006, Dubai Customs launched a larger Reform and Modernization Programme (RMP) to transform the organization from a paper-based administration into an electronic enabled, paperless, world leading administration in the field of digital services.

Looking at the future

The first task undertaken under the RMP was to establish a full understanding of what was needed for the future of Dubai, and to identify the gaps between Dubai Customs' current environment, and the 'Customs of the future' envisioned by the organization.

Reform and modernization key drivers

Strategic Drivers	Operational Drivers
WCO Diagnostic Study	Dubai Growth Challenge
GCC Integration Initiative	Limited Human Capabilities
UAE Strategic Plan / Direction	Long Process
Dubai Custom Vision and Scope Document	Inadequate Technologies
Economical Analysis Study	Outdated Organization Structure
Technical Analysis Study	Slow Service Delivery

To do so, the current state of the organization was assessed – the performance of its operations was determined, notably by calculating the time that it took to clear goods from airports and seaports, and the amount of documentation that had to be supplied. A study on what Dubai would look like in 2010 and in 2015 was also undertaken.

The study predicted that by 2010 declarations would grow by 400%, and passenger traffic by 300%. To support this growth without reforming the then existing operating model meant that Dubai Customs would have to increase its staff numbers from 1,500 to 6,000 by 2010. Moreover, there was a need for increased efficiency of ports and airport operations if existing clearance times were maintained.

In the initial planning phase, it was thought that all Dubai Customs would have to do to meet the challenges of this future environment would be to introduce new technology systems. But it was very quickly realized that, in order to implement a sustainable solution, Dubai Customs needed to change the basic premise of its operations with the consequential impact on the organization's operating model and the way its staff worked.

Reform components

The components of the RMP included:

1. Building business capacity, and more specifically:

- Establishing a reform and modernization function which would take into account existing international standards and directives developed by:

- the WCO (introducing intelligence-based risk management – incorporating a ‘risk assessment engine’ – in transaction processing, introducing a post-clearance audit function to assure compliance, introducing a reconciliation function to validate transaction data obtained from documents such as declarations, discharge lists and import manifests, and introducing trade facilitation measures, the most notable being the use of the ATA Carnet for the temporary admission of goods which Dubai implemented in 2013);

- the World Trade Organization (specifically in the area of goods valuation);

- the United Nations (several frameworks that streamline and control international trade);

- the Dubai government (the transformation of all services to electronic/mobile services, and the creation of an executive service ‘dashboard’ which enables directors to monitor the performance of their teams and the quality of the service delivery).

- Establishing a new operating model that would incorporate the above-mentioned WCO recommendations on risk management as well as Dubai government directives, in order to ensure full understanding of the transformation initiatives by all concerned operational units. This operating model has been the building block for the entire organization’s transformation, and is driven by four core enablers: people; processes; technology; and information.

- Establishing a legislative infrastructure by the creation of business units dedicated to setting and enforcing legislation, notably a legal department (to handle the interpretation of laws and

represent Dubai Customs in lawsuits), a compliance unit, a post-clearance audit unit, and a policies and notices unit (to issue Customs policies and notices that are aligned to laws and legislation).

- Defining working methodologies in areas such as project management, business process management, and service management.

2. Building technological capacity

Revamping IT functions into a state-of-the-art business unit that would be capable of supporting the transformation of the entire organization towards full automation. This required rigorous structural re-engineering and automation of Customs processes, by implementing global best practices in IT integration, governance and management in order to optimize efficiencies.

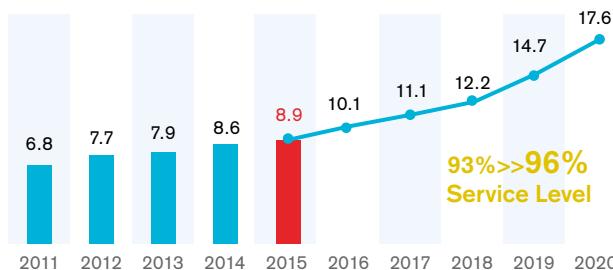
3. Building human capacity

Modifying the organizational structure, ensuring the availability of qualified staff for each practice area, and ensuring the effectiveness of the structure through a defined framework for monitoring, assessing, and refining organizational structures.

Figure 1: Impact on trade facilitation

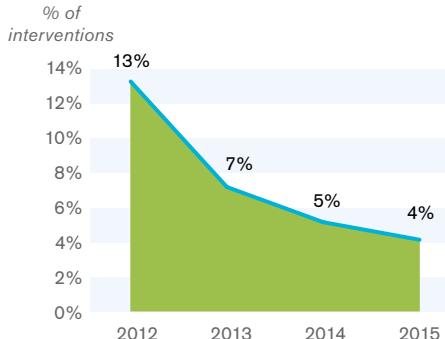


Total Transactions Processed by Dubai Customs (Millions)

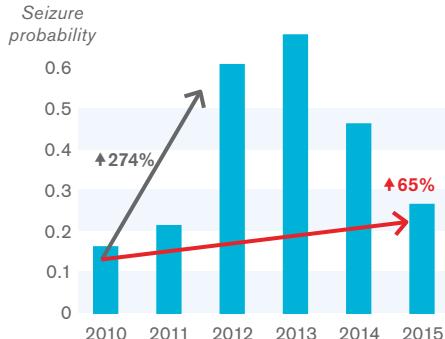


Customer Satisfaction



Figure 2: Optimized trade facilitation**Reduce Intervention rate to 4%**

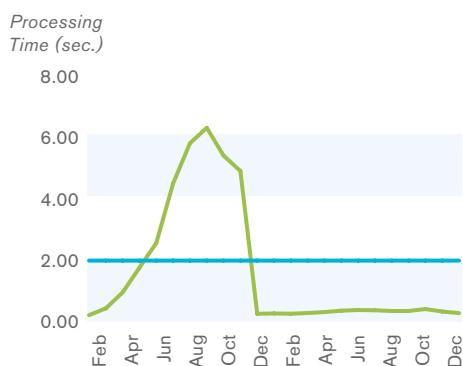
Intervention rate has been reduced to 4%, resulting in an increase of auto-cleared transactions

Figure 3: Increase Protection and Compliance**Increase Risk Profile Effectiveness by 50%**

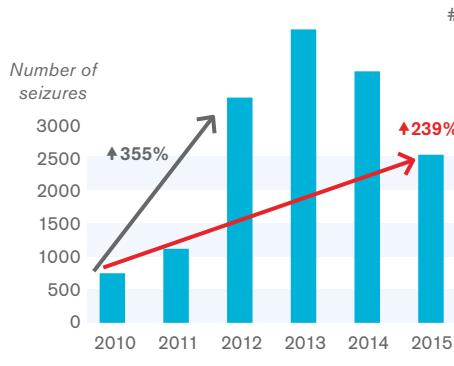
Risk profile effectiveness target exceeded by 274%, resulting in an increase of positive hits

Figure 4: Improve Operational Performance**Reduce IT operational costs by 50%**

The cost of IT operations reduced by 65% in 2012 and 56% in 2015, which reflects a lesser dependency on IT

Reduce time to process a transaction to less than 2 seconds

Each declaration gets risk assessed in less than 1 second

Increase Number of Risk Engine Seizures

Number of seizures increased by 355% during the period 2010-2012

Increase number of transactions processed in less than 10 minutes

A 328% increase up until 2012 and a 504% increase up until 2015 in the number of transactions processed within 10 minutes

Challenges and achievements

The main challenges that Dubai Customs has met along the way towards the transformation of its organization included having to set the legislative reference. For example, Customs policies had to be identified and modified to allow paperless transactions.

Yet, the biggest challenge was changing peoples' mindset, and gaining traction amongst employees. Dubai Customs worked very closely with its Human Resources Department to mitigate resistance to change by defining and applying a framework for managing change, as well as resistance to change.

In terms of achievements, figures 1 to 4 illustrate the delivered results of the transformation enablers that are tied directly to Customs' core mission and objectives, namely facilitating trade and protecting society.

Mirsal 2

Dubai Customs launched a paperless Customs clearance system, known as Mirsal 2, in March 2010. This advanced Customs system allows the electronic clearance of simple declarations through the internet in less than two minutes, without the need to submit any papers before the arrival of goods.

Mirsal 2 is a combination of IT services. The system manages all operations, including the collection of Customs duties. It also manages the risk management cycle. The main uniqueness about the product is that clients are able to electronically sign their declarations by using a digital certificate. Added to this, it is connected to other entities that form part of the trade supply chain within Dubai, meaning that information about the declaration is seamlessly exchanged amongst these entities, thereby

allowing for faster processing of goods and cargo.

Mirsal 2 provides a large number of benefits to Customs, its clients, and other related parties:

Client benefits

- Paperless online declarations available 24/7;
- Pre-clearance of goods;
- Time, effort and cost savings of up to 75%;
- Consistency in treatment, and better predictability;
- Availability to submit different requests through a full-fledged file or by connecting the client's systems to the Customs system, which can be very beneficial in cases where there are many invoices and goods that need to be cleared in one request.

Dubai Customs benefits

- Real-time risk assessment;
- Efficiency of controls by focusing attention on risky consignments;
- Possibility to share intelligence information with strategic partners;
- Improved border management coordination with other government departments;
- Enhanced possibility to receive clients' opinions, and to view and share information with them;
- Systematic and documented processes;
- Improved collection of trade statistics and data used, to develop strategic planning in the region.

Risk Assessment Engine

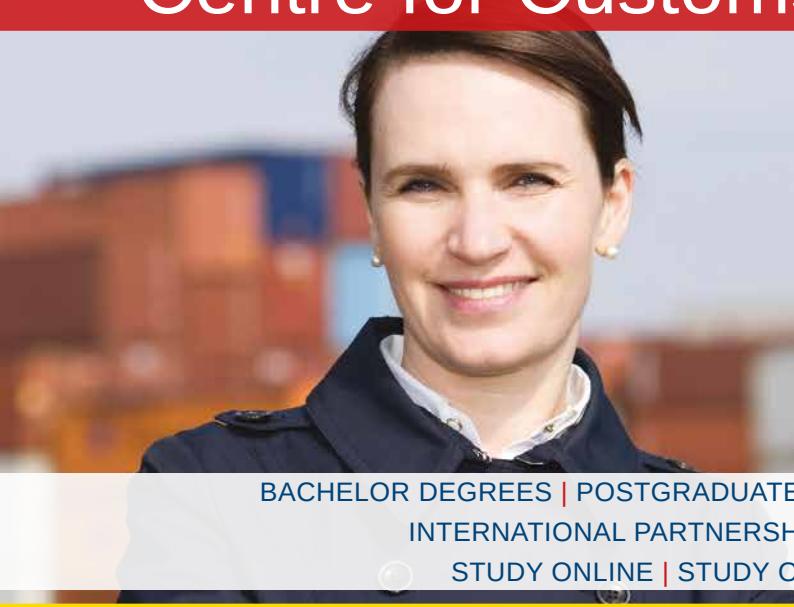
Developed in-house by Dubai Customs, the 'risk assessment engine' is considered to be the 'beating heart' of Mirsal 2. This

integrated smart system, which stands out as a reference model worldwide, assesses Customs transactions according to pre-defined risk profiles. These risk profiles are loaded into the system following the linking and analysis of intelligence gathered from various channels. As per the risk engine, all transactions flagged as risky are routed for further risk mitigation and inspection.

Consignments cleared in less than 10 minutes have increased by 328%; and now represent 82% of all Customs transactions. The risk assessment engine has also helped to reduce the time required for risk assessment to less than two seconds, which means that 97% of non-suspect transactions are cleared automatically in less than one minute from the time the consignment data is logged.

Dubai Customs is also working on 'smart inspection glasses' that will allow inspectors to upload cargo declarations, and visualize scanned images of the cargo and other relevant documents, just like they do on their smartphones and tablets. They will also be able to enter inspection reports through their smart inspection glasses, using voice commands or a virtual keyboard.

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Advanced Container Scanning System

The Advanced Container Scanning (ACS) System combines X-ray and radiation scanning inspection technologies. The device is capable of screening the contents of 150 trucks per hour moving at 8 to 15 km per hour – that is one truck every 24 seconds.

What is unique about the ACS System is its integration with the Customs inspection and clearance systems. An inspector using the ACS System can access data from the risk engine directly from his workstation, in order to check why a scanned shipment has been selected for inspection. He can also access the declaration, in order to compare the scanned image with the shipment details.

The implementation of this technology contributed to an increase in the compliance rate at Jebel Ali Port from 42% in 2010 to 91.7% in 2013, a reduction in the time taken for the total inspection from two hours to 20 minutes per container, and a drop in the costs involved by 54%. Last but not least, the number of Customs' clients at Jebel Ali increased by 33% during the 2010 to 2013 period.

Building-up towards a 'Smart Customs'

In line with the vision for Dubai espoused by His Highness Sheikh Mohamed Bin Rashid Al Maktoum, Vice President and Prime Minister of the United Arab Emirates (UAE) and Ruler of Dubai, the Dubai government launched the Dubai Smart Government (DSG) Strategy in June 2014. It consists of four major areas and sets out 21 strategic objectives aimed at making customers happy, and at enhancing their confidence in the adoption of 'smart government' services.

All of Dubai Customs' services have been eEnabled since 2009 and mEnabled since 2013. Despite the remarkable drastic transformation undertaken by Customs over the last few years, there is still much work to be done to cope with today's ever-changing and increasingly globalized world.

In early 2015, Customs launched the 'smart version' of its Transformation Strategy, fully aligned with the Dubai Plan 2021 (a visionary plan for the Emirate up to 2021) and the DSG Strategy. Customs defines 'smart transformation' as an intelligent approach to delivering services to traders and customers in a faster, more accessible, and more cost-efficient way.

The Smart Transformation Strategy of Dubai Customs lays the foundation for future innovation, and focuses on service modernization, improving user experience, technological innovation, increasing efficiency, and reducing costs.

Dubai Customs' handling of the flow of goods, people and conveyances across borders can be done in a better way if it uses the right technology and has the right human capabilities. Work is underway, in collaboration with its stakeholders in the trade and security supply chains, to adopt enabling information and communication technologies (ICT), like 'big data,' open data, mobile technologies and cloud computing, to help drive connectivity among border agencies and with trade operators.

Dubai Customs is, for example, working on building a 'Smart Workspace' for its clients. Its main features are:

- 'My Template' – allowing clients to create declaration templates with pre-populated basic data;

- 'My favourite' – allowing clients to mark an existing transaction as a 'favourite,' if they know they will reuse the data submitted for another transaction;
- 'My Frequent' – an analytical tool that enables the most common transactions to be ascertained, providing clients with an option to create templates or add these transactions to their list of favourites;
- Predictive service – specific decisions usually initiate specific procedures. For example, if an inspection is required, the client is notified by way of an inspection booking request. In this context, thanks to the predictive service functionality, the system will automatically create a draft message.

Dubai Customs is also working on 'smart inspection glasses' that will allow inspectors to upload cargo declarations, and visualize scanned images of the cargo and other relevant documents, just like they do on their smartphones and tablets. They will also be able to enter inspection reports through their smart inspection glasses, using voice commands or a virtual keyboard.

The approach to transformation by Dubai Customs is unique and innovative, particularly in how it smartly combines several transformation enablers. This approach could act as a reference point or blueprint for other Customs administrations and border agencies, and potentially for other industries as well. It is worth mentioning that the UAE federal government plans to leverage Dubai Customs' approach to risk management and risk mitigation in other government organizations.

More information

www.dubaiCustoms.gov.ae

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SOLUTIONS



Publishing TRS results in the public domain: Poland's positive experience

By Tomasz Michalak,

DIRECTOR, CUSTOMS DEPARTMENT, MINISTRY OF FINANCE, POLAND

Numbers are a universal language. They reflect an intelligible and neutral understanding about what is happening on the ground. Measuring should therefore be a random activity in the daily life of any Customs service searching to improve its procedures as part of its efforts to enhance its economic competitiveness.

This article explains how the Customs Service of Poland has been using Time Release Studies (TRS) to improve border clearance processes, and keenly advocates the publication of performance results.

The Trade Facilitation Agreement of the World Trade Organization (WTO TFA) clearly states in Article 7 (paragraph 6) that “Members are encouraged to measure and publish their average release time of goods periodically and in a consistent manner, using tools such as, inter alia, the Time Release Study of the World Customs Organization”.

To conduct a TRS, countries can refer to the WCO TRS Guide – a document containing comprehensive and practical tools for the purpose of TRS implementation and analysis. It rightly underlines the three stages of the study: preparation; collection of data; and analysis of the results. However, another useful stage could be added: the optimization of procedures where results are not satisfactory, followed by the undertaking of a new assessment. This would close the circle.

The result of a TRS and any other performance measurement activity should be published, in line with Standard 9.1 of the WCO Revised Kyoto Convention which provides that “the Customs shall ensure that all relevant information of general application pertaining to Customs

law is readily available to any interested person.” This idea is reiterated in the WCO Transparency and Predictability Guidelines, which list the ‘results of performance measurements’ among the information that Customs is encouraged to publish.

Not only should results be made public, but “experiences in measuring average release times, including methodologies used, bottlenecks identified, and any resulting effects on efficiency” should be shared

according to Article 7 (paragraph 6.2) of the WTO TFA.

Given the WCO’s role as a platform for information sharing and cooperation, and the focus the Organization has been putting on performance measurement over the last few years, I would like to share the Polish experience on the use of Time Release Studies (TRS), as well as my views on the publication of TRS results.

Figures are useful

One key step towards the implementation of a performance measurement approach in Poland was the adoption of the ‘Business Strategy of the Polish Customs Service’ for the period 2014 to 2020. The strategy established goals which triggered projects, leading to the need for measurement. Another key driver was meeting the expectations of trade operators and travellers in terms of time – time taken to release goods and for crossing borders.

A set of indicators were developed, and are constantly being monitored. These indicators are made public, as well as the results obtained against the objectives outlined in the strategy. Two of these indicators directly refer to the time taken to release goods and to process people crossing the border, a process which may not only involve the Customs service, but also other border agencies.



Screenshots of the mobile application for smart phones and electronic watches

At the land border

Among other agencies that the Polish Customs Service cooperates with in collecting data on average crossing times is the Border Guard. Truck drivers and cross-border travellers are also questioned, in order to verify official measurements. Moreover, occasionally the results are verified by non-governmental organizations (NGOs). The aggregated data is available online.

A project is currently being tested to improve the measurement process. It involves the use of a more sophisticated technology: drivers can confirm their position at the border via a dedicated application installed in their GPS and/or mobile phones.

The methodology used for the TRS was carefully designed by a joint team of Customs and Border Guard officers, and approved at the highest level. The results are analysed every day by local duty officers. If waiting times exceed the levels deemed as acceptable (and publicly declared as such), Customs managers are obligated to take appropriate measures, as defined in a reaction plan. The results are regularly discussed at management board meetings, where benchmarking exercises between border crossing points are notably examined.

Publishing TRS results to the public is of the utmost importance. Waiting times are publicized through the use of different media:

- Via a dedicated website – www.granica.gov.pl – which displays the times taken for processing goods and travellers at every border crossing point, on entry and exit, with times shown separately for travellers and commercial truck drivers. A mobile application is also available;
- By way of radio broadcasts dedicated to drivers, with relevant announcements being broadcasted frequently throughout the day;
- On large-scale monitors installed at the crossroads of highways close to the border.

People visiting the [granica.gov.pl](http://www.granica.gov.pl) website may access a wide variety of information in a number of languages, such as Customs and immigration provisions, relevant addresses, and required documentation. Even a virtual tour of the border crossing point is available that includes the border control verification process. The tour is popular with tourists visiting Eastern Europe for the first time.

Anyone having doubts about the veracity of the information provided via the media channels may verify the actual situation at the border point of their choice by connecting to the web cams installed on the roads leading to them.

Publicly declaring waiting times has had an impact on the Customs workflow. Different facilitation schemes were set up at land border crossing points: green

lanes for low-risk commodities and vehicles; fast lanes for authorized economic operators (AEOs) and empty trucks; and pre-booking of clearances, etc.

A four-party agreement was signed between the Polish Customs Service and the Border Guard on the one side, and their counterparts in neighbouring countries on the other side. In terms of the agreement, each side stipulates the minimum and maximum numbers of cars and trucks to be cleared per day, as well as the amount of time required and the methods used to respond to identified irregularities or fraud.

This border management agreement enables bottlenecks to be avoided. If wait times are excessive, all the parties would know how to react appropriately. The performance of the agreement, as well as the set limits, is verified regularly, and approved at Director-General level.

Last but not least and as mentioned above, NGOs also play a role in monitoring border processing performance. Reports by NGOs are discussed together by Customs Service and Border Guard officers.

At the seaports

Seaports are gateways that are essential to the welfare of many countries. Ensuring that the flow of goods is processed smoothly through such entry points is, therefore, critical, especially as competition between and within countries is stiff.





Waiting times displayed on large-scale monitors

Border	Data from:	Customs Chamber Białystok				Customs Chamber in Biala Podlaska			
		Kuznica	Bobrowniki	Poręcze	Koroszczyn	Terespol	Stalowczyce		
Estimated waiting time to cross the border [h]	0.00	0.00	0.00	0.00		0.00			
Estimated waiting time to cross the border [h] - passenger traffic	0.00	0.00	0.00		0.00	0.00			
Estimated waiting time to cross the border [h] - Tax free	0.00	0.00	0.00		0.00	0.00			
Time of the update	08.00	06.55	07.26	06.40	07.00	06.46			
<< 2016-5-18 the beginning of the day shift									
More...									

Icons and text below the table:
 - no data
 - View from the cameras
 - Free access (hotspots) to www.granica.gov.pl website
 - Tell others how long you are going to stand in the queue.

Screenshots of the www.granica.gov.pl website

Yet, a few years ago, the situation was completely different, and rather worrisome. The trade community complained about long waiting times – it took up to three days to release a shipment. All port stakeholders worked separately, and some procedures and data were duplicated. As a result, Polish ports were losing competitiveness.

This led to the Polish government deciding to correct the situation. The Customs Service was given the task of coordinating the necessary reforms, together with more

than 15 different agencies authorized to check imported and exported goods.

Project ‘Porty 24h’ (Seaports 24h) was launched with the idea that all procedures related to the clearance of goods, the transfer of containers, etc., would have to be finalized within 24 hours, unless specific situations occurred, such as a missing entry declaration, the temporary storage of goods, or a quarantine issue. Detailed procedures were adopted, and the necessary information technology (IT) solutions developed.

Publicly relayed results can be a very effective motivation factor for Customs officers, and also for other governmental and non-governmental bodies. It enables inter-agency cooperation to be improved, clear communication mechanisms to be set up, and trade community expectations as well as transparency obligations to be met.

The ‘24h rule’ was later enacted by the national parliament and became law. To coordinate controls, all agencies, following individual risk assessments, are obliged to notify their requests for physical examination in advance.

Customs coordinates the time and place of the controls, which are carried out following a one-stop-shop model. The results of every control or activity undertaken by Customs, the Veterinary Inspection Service, the Sanitary Services, or any other agency are submitted to a common IT platform which is available to all.

The Customs Service – as the coordinator of the Seaport 24h project – provides, on its website <http://pkc.gdynia.uc.gov.pl/statystyki/gdynia>, the consolidated performance results of all the agencies. These results are broken up for each seaport, listing the average waiting time, as well as the shortest and the longest release times.

Daily TRS reports are available online. Since the project became operational, less than 0.5% of all agencies’ control procedures exceed the declared 24h. The average time to process a shipment is 10-12 hours. The binding character of the 24h rule is a crucial component of the project’s success.

It is worth noting that there are no sanctions for extra hours. Therefore, the key element of compliance can be attributed to the fact that the results are made publicly available! This was, and still is, a very strong motivating factor for all stakeholders taking part in the Seaport 24h project, playing a bigger role in motivating officers

than the performance evaluation conducted by senior management internally at each agency.

The project has received positive comments from the World Bank. Poland achieved the first rank in the Doing Business 2016 reports in the ‘Trading Across Borders’ index, which measures the time and cost (excluding tariffs) associated with three sets of procedures – documentary compliance, border compliance, and domestic transport – within the overall process of exporting or importing a shipment of goods.

Lessons learnt

TRS projects usually contain a disclaimer stating that “the data is not to be published, and that no ranking is to be made among participants.” I would argue that such an approach is wrong.

The above examples clearly show that publicly relayed results can be a very effective motivation factor for Customs officers, and also for other governmental and non-governmental bodies. It enables inter-agency cooperation to be improved, clear communication mechanisms to be set up, and trade community expectations as well as transparency obligations to be met.

Any benchmarking exercise is indeed a good starting point to review practices and further improve administrations. Moreover, it enables recommendations to be drawn up and promoted at the international level.

There is another strong argument for the publication of TRS results and other performance statistics: if no official data is available, unreliable information that is

difficult to refute would be relied upon, which may distort the perception of the public in a negative way. Not only would the work and efforts undertaken go unnoticed, but people could think that we have something to hide, or that we are not doing anything.

Naturally, not every indicator in a performance measurement scheme should or can be made public, as some are particularly sensitive. Yet, none of the results emerging from a TRS is confidential. Therefore, there is no reason why we should not declare loud and clear that our figures are fine, when they are actually fine.

More information

www.clo.gov.pl

www.granica.gov.pl

<http://pkc.gdynia.uc.gov.pl/statystyki/gdynia>



MCA

CUSTOMS, TAXATION AND INTERNATIONAL TRADE LAW
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The MCA in Customs, Taxation and International Trade Law is a well-established course for customs practitioners in the public and private sectors of all countries. It is held in English and takes place in Germany.

The MCA was founded in 2005 to prepare students for roles as strategic managers in the field of customs. It is offered by the University of Münster and the AWA Foreign Trade Academy.

The course is part-time and lasts 18 months. The MCA is ECTS-accredited and recognised by the WCO. Graduates are awarded the degree “Master of Customs Administration” (MCA) by the University of Münster.

Start: September 2016

Location: Münster, Germany

Duration: 18 months

Contents: Lectures, project work and master’s thesis

Contact: University of Münster

Phone +49 (0)251 83 27591

E-Mail customs@uni-muenster.de



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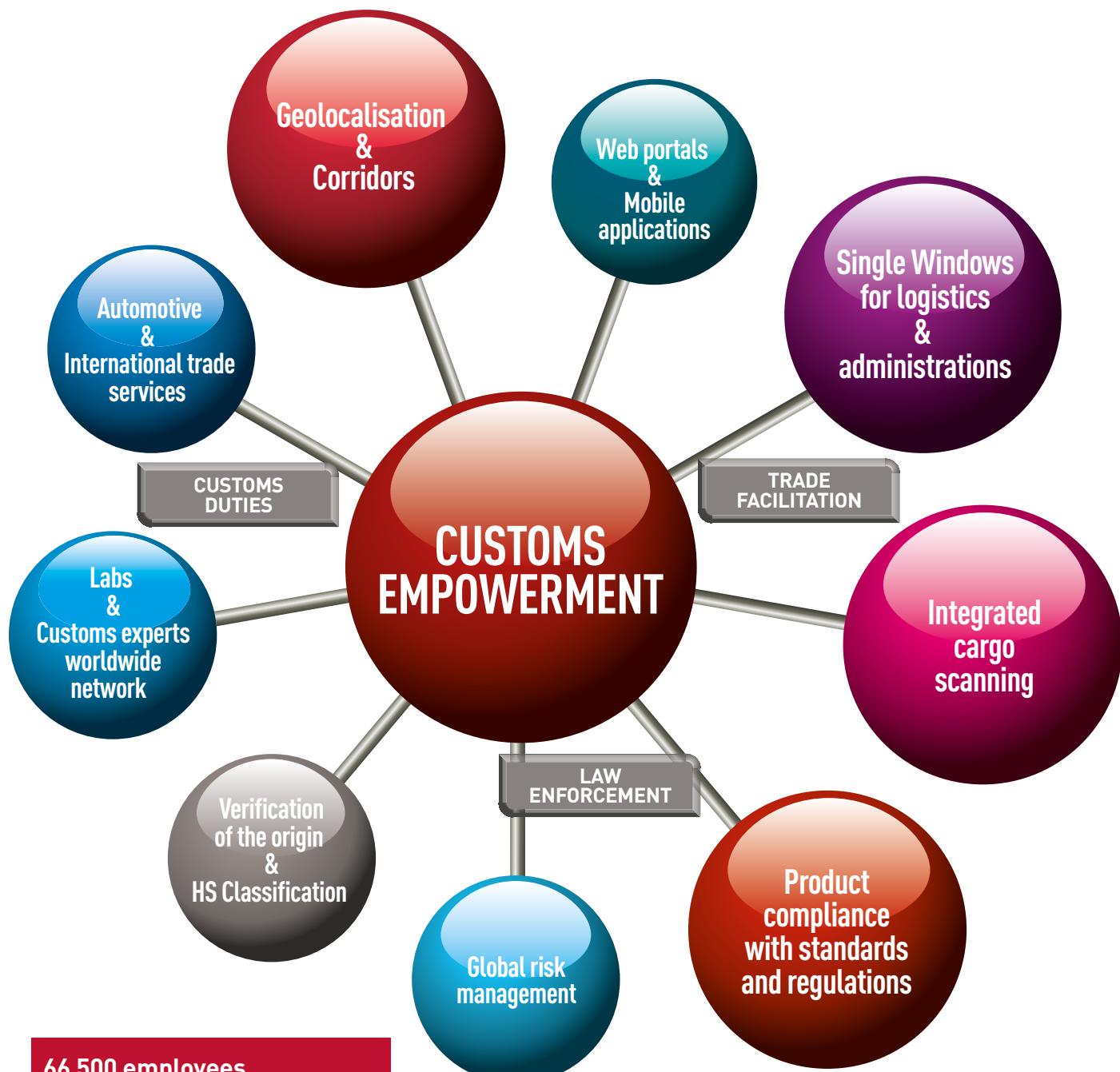
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Move Forward with Confidence



Customs-Police cooperation – the Canadian experience

By Nada Semaan,

EXECUTIVE VICE PRESIDENT, CANADA BORDER SERVICES AGENCY (CBSA)

The Canada Border Services Agency (CBSA) provides integrated border services that support national security and public safety priorities while facilitating the legitimate flow of people and goods. To fulfill this mandate, the Government

of Canada has developed a legislative and regulatory framework that results in a strong working relationship between the CBSA and the Royal Canadian Mounted Police (RCMP), Canada's federal police service.

This framework clearly delineates the roles and responsibilities of the CBSA and

the RCMP, and allows for effective cooperation on matters that fall under the responsibility of each organization. As a result, CBSA-RCMP cooperation is stronger and more efficient.

In essence, the Canadian experience has demonstrated that an interconnected and interdependent world, with an increasing demand for greater security, requires Customs authorities to work effectively with their police counterparts. I was proud to deliver a presentation on this topic at the recent Customs meeting of the WCO Americas and Caribbean region in Bolivia in April 2016.

CBSA's history

The CBSA's own history is founded on the principles of coordination and partnership with key stakeholders. In 2003, the CBSA was established as an integrated border management organization. Responsibilities related to the border were brought together, including those for Customs and revenue collection, immigration, and food plant and animal safety.

The result is a single organization responsible for managing the flow of goods and people across Canada's borders, administering over 90 different Acts and Regulations. One of the founding principles of the CBSA is that coordination across government, with a focus on the border, is essential, for both security and trade.

CBSA-RCMP cooperation

The CBSA and the RCMP are partners under its portfolio head, Public Safety Canada, meaning that we report to the same Cabinet Minister of the Crown. Cooperation between our two organizations begins at the highest level, with the President of the CBSA in regular dialogue with her counterpart, the Commissioner of the RCMP.

We recognize the important part that each organization plays; we have clear roles and responsibilities that delineate our interactions, and we strive for the



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greatest cooperation at the strategic, operational and tactical levels. In essence, the CBSA has primary responsibility at ports of entry, while the RCMP is responsible for everything that takes place between them.

In addition, we hold joint executive meetings and regular operational discussions, and have day-to-day interactions at the regional and local levels. One of the most important examples of cooperation is our Joint Working Group, led by CBSA's Vice-President of Operations and her counterpart at the RCMP. Through this working group we are able to share information and review joint forces operations.

In environments requiring long term Customs-Police cooperation at the local level, a formal agreement covering this collaboration is required to clearly set out guidelines through what is known as Joint Forces Operations (JFO) agreements in Canada.

Recently, a JFO consisting of some 700 Customs and police officers were mobilized during a major operation against a criminal network involved in tobacco smuggling, drug trafficking, and money laundering. Seizures from this operation of tobacco and narcotics were valued at approximately 5.3 million Canadian dollars.

This joint operation took place simultaneously in six countries located in North and South America, as well as in Europe, and resulted in the arrest of approximately 60 individuals linked to organized crime. Over the course of the operation, this criminal organization allegedly smuggled at least 158 loads of tobacco, which represents a fraud of over half a billion dollars (530 million) to the Canadian federal and provincial governments through the evasion of duties and taxes.

The dialogue extends to day-to-day interactions at the local level. For example, this past January, Customs officers at our busiest airport, Toronto Pearson International Airport, found 110 kg of cocaine. In these instances, the narcotics are turned over to the RCMP for further investigation that may include a controlled delivery.

Internationally, we also work together with our federal police counterparts to leverage respective strengths and resources. For example, our International Liaison Officer network, consisting of 44 officers in 32 countries, collaborates regularly with our federal police counterparts to review issues impacting operational effectiveness, in order to protect Canada's borders from abroad.

The CBSA-RCMP Memorandum of Understanding

Since the creation of the CBSA in 2003, we have signed over 120 agreements with the RCMP on an ad-hoc basis. In 2012, the senior management at both the CBSA and the RCMP agreed that a new, overarching Memorandum of Understanding (MoU) with seven subject-specific annexes should be developed to consolidate and replace the 120 existing agreements between the two organizations.

Signed in early 2014, this new umbrella MoU, enhances national consistency in CBSA-RCMP interactions, clarifies roles and responsibilities, and allows for a consolidated point of reference for staff.

CBSA-RCMP Joint Border Strategy

The CBSA and the RCMP signed a Statement of Cooperation in July 2013, which describes a desire for both organizations to work towards greater cooperation at the strategic, operational and tactical levels. To solidify this commitment, the first Joint Border Strategy was adopted in April 2015 and distributed publicly on various websites.

The strategy is meant to facilitate collective discussions on jointly identified issues, including formalizing working relationships for collective priority setting and planning, enhancing information and intelligence sharing, leveraging existing infrastructure, and formalizing training and secondment processes.

Lessons learned and looking to the future

Building a strong and fluid relationship with a country's police service is not always easy. An efficient cooperative relationship needs to overcome obstacles, such as differing organizational cultures/interests, legislative barriers, technological complexities and funding, to name a few.

Throughout our experience in building the relationship, it became clear that open and fluid communication between the two organizations is critical. Success factors include political will, and a clear definition of our respective roles and responsibilities for jointly ensuring the safety of Canadians. In this way, the return on investment can be quite significant, resulting in better positioning for both Customs and police to achieve their joint mandate.

While there will not be a 'one-size-fits-all' blueprint for countries to adopt, a concerted effort to consolidate border functions and develop an efficient framework for Customs-Police cooperation is critical to strengthening border management, which requires a balance between facilitation and security measures.

More information

www.cbsa-asfc.gc.ca



Overview of Australian Border Force's counter terrorism capabilities

By the Australian Department of Immigration and Border Protection

THE NATIONAL SECURITY environment is one of uncertainty and complexity, with security threats emerging from different conflicts and threatening different interests. Despite its relatively remote geographic location, the threat to Australia and Australians from terrorists and violent extremists is both real and growing.

Australia has one of the largest and most challenging border environments in the world with approximately 37,000 kilometres of coastline – much of which is in remote regions, eight major international airports, more than 60 international seaports, and an offshore exclusive economic zone covering 10 million square kilometres of ocean.

Australia's Department of Immigration and Border Protection (DIBP) considers the border as a strategic asset, and plays a critical role in national security. The Australian Border Force (ABF), the operational arm of the Department, performs a vital role in protecting Australia's borders and keeping Australians safe.

Established on 1 July 2015, the ABF brings together all of the operational functions of the former Customs and immigration departments. It delivers on regional, national and international border protection, law enforcement and national security priorities, and is strongly committed to staying ahead of the very real and evolving threat of terrorism.

Special Counter Terrorism Unit

To enhance the capability of the ABF to deal with inbound and outbound national security threats, special Counter Terrorism Unit (CTU) teams are deployed at Australia's eight major airports. "CTU teams provide a visible and active demonstration of the Australian Government's commitment to maintaining the integrity of Australia's borders and Australian law", said ABF Acting Deputy Commissioner Clive Murray.

CTU officers proactively intercept suspicious persons of national security interest in Customs controlled areas. The officers also screen all inbound and outbound passengers, using a range of indicators to determine which passengers they wish to speak to. Since their deployment the CTU has had a real impact at the Australian

border. “The CTU has prevented the travel of minors to conflict areas, found evidence of significant movements or attempted significant movements of large sums of cash, and detected images and material of an extremist nature. Some cases have resulted in the suspension or cancellation of passports, and others in the imposition of infringement notices,” said Murray.

Since the implementation of the CTU, the teams have undertaken almost 278,000 real time assessments. Such assessments involve the CTU officer asking a short series of questions to determine risk, and then making a decision on whether further action is required including baggage examinations.

Additionally, over 19,000 patrols have been conducted, adding to the ABF’s detection and deterrence capability in the airport environment, and supporting the Australian Government’s national security priorities.

Advance Passenger Processing system

The ABF’s capability to target security concerns is further enhanced through an Advance Passenger Processing (APP) system. APP has been in place since 2003, and is one of the most advanced border control systems operating today. It operates at check-in to verify if a traveller holds a valid visa or other authority to travel to Australia.

In 2015, APP capability was expanded to include outbound information to better understand who is departing from Australia. With this expansion, the ABF now has more time to conduct checks, against alert lists, before the individual crosses the immigration primary line to depart Australia.

While protecting Australia’s borders from threats is critical, facilitating the smooth flow of people and goods across the border is also essential to Australia remaining a prosperous and cohesive society. Each year the ABF processes more than 35 million travellers through Australian air and seaports.

© Australian Department of Immigration and Border Protection



The total number of international travellers arriving and departing Australia continues to grow on average at about 5 to 7% each year. In December 2015, the ABF saw record numbers of passenger departures, and January 2016 similarly saw the highest number of passenger arrivals.

The advancement and investment in technology have provided opportunities to improve how the ABF enables and facilitates its operations. It has increased the Department’s ability to process passengers while upholding Australia’s strict security arrangements.

SmartGate

An automatic passenger processing technology called ‘SmartGate’ is now providing a faster and simpler process for travellers while maintaining the security of the border. It performs the checks usually conducted by an ABF officer, and uses facial biometric technology to confirm the identity of travellers.

According to Michael Milford, First Assistant Secretary of the DIBP’s Major Capability Division, implementing SmartGate allows legitimate, law-abiding travellers to be facilitated more efficiently and with less manual intervention, leaving ABF officers to focus more effort on traveller interactions, intelligence collection, enforcement, and targeting activity.

“SmartGate technology is also critical in improving our ability to accurately confirm the identity of travellers. It can

help prevent incidents of people travelling illegally on someone else’s passport — improving both the departures experience for legitimate travellers, and boosting our border security efforts and outcomes,” said Milford.

SmartGates are scheduled to be operating in all eight Australian international airports by 1 July 2016, and since the commencement of the project the Department has already seen more than 5.6 million passengers processed using this technology. “It’s about rewarding the good, and ensuring that those who attempt to illegally breach our borders are detected and consequently face the full weight of our laws,” Milford added.

The ABF will continue to use and develop sophisticated digitized systems to collect and safeguard duties, and control goods and the movement of people. This coupled with the ongoing investment in training a highly skilled and adaptable task force ensure that the future is positive.

In this rapidly changing border environment, Australia’s DIBP and the ABF remain committed to delivering the capabilities required to address threats, and to harnessing opportunities to promote a streamlined and simplified border experience for legitimate travellers.

More information

www.border.gov.au



Calendar of Events

June

- 27 June - 6 July Knowledge Academy for Customs and Trade

July

- 11 - 13 Policy Commission, 75th Session
14 - 16 Council, 127th/128th Sessions

September

- 12 - 16 Data Model Project Team
 - 19 - 20 Information Management Sub-Committee (IMSC), 71st Meeting
 - 21 - 23 E-commerce Working Group (to be confirmed)
 - 27 - 29 PICARD Conference, Manila (Philippines)
 - 26 - 27 Harmonized System Committee, Working Party
 - 7 Oct Harmonized System Committee, 58th Session

28 Sept - 7 Oct Harmonized System Committee, 58th Session

October

- 10 - 11 Agreement on Trade Facilitation Working Group, 6th Meeting
 - 12 - 14 Permanent Technical Committee, 213th/214th Sessions
 - 17 - 21 Technical Committee on Customs Valuation, 43rd Session
 - 24 - 25 Private Sector Consultative Group
 - 25 SAFE Members Only Meeting
 - 26 - 28 SAFE Working Group, 16th Meeting

November

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

December

- 5 - 7 Policy Commission, 76th Session
12 - 16 Harmonized System Review Sub-Committee, 51st Session

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

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”



– February 1, 2016, 17:30:52 –

Extract of an interview of Jean Gurunlian Webb Fontaine President and Former Executive Secretary of the United Nations Summit on Trade Efficiency.