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WTO Trade Facilitation Agreement

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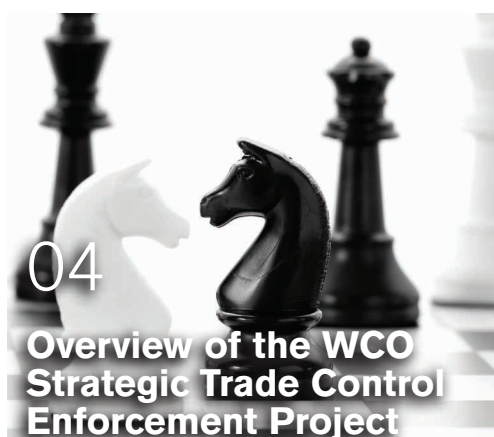
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Strategic Trade Control Enforcement Project: a new component of the WCO Compliance and Enforcement Package

One year ago, the WCO Secretariat launched a Strategic Trade Control Enforcement (STCE) Project as directed by the WCO Enforcement Committee and in response to calls for technical assistance from WCO Members. The Project's anniversary marks a good opportunity to take stock of what has been accomplished so far, and what remains to be done.

STRATEGIC GOODS 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.

Another notable anniversary this year is that of United Nations Security Council Resolution 1540 (UNSCR 1540), adopted 10 years ago to prevent illicit trafficking and smuggling of WMD and related items. With its focus on the need to develop and maintain appropriate and effective border, export, transit and transshipment controls, implementation of UNSCR 1540 depends on Customs.

Background

Despite the importance of combatting illicit trafficking in strategic commodities, this is a particularly challenging topic for Customs. At the 31st Session of the Enforcement Committee, in March 2012, several WCO Members took the floor and outlined the challenges they faced in relation to enforcing strategic trade controls (STCs).

The WCO Secretariat was encouraged to explore ways of supporting WCO Members in this context, and a few months later the Organization hosted its first STCE Conference in Brussels. Over 190 participants from 90 countries attended the event and called for more technical assistance in this field. Their call led to the launch of the STCE Project in March 2013, with three key lines of activity to be completed by June 2015:

1. organization of awareness-raising seminars;
2. production of a comprehensive STCE training curriculum for Customs;
3. execution of a global STC law-enforcement operation.

In the first year of this truly global project, a great deal has been accomplished already.

Awareness-raising seminars

Six regional awareness-raising seminars were conducted during the first year of the Project (see table 1).

Table 1 - Awareness-raising seminars

Date	WCO Region	Location	Participating WCO Members
September 2013	Asia/Pacific	Faridabad, India	Afghanistan, Bangladesh, Cambodia, Hong Kong (China), Indonesia, Malaysia, Maldives, Mongolia, Philippines, Singapore, Sri Lanka, Thailand, Vietnam
October 2013	Europe	Baku, Azerbaijan	Albania, Azerbaijan, Bosnia and Herzegovina, Bulgaria, Croatia, Cyprus, Czech Republic, Estonia, Georgia, Germany, Hungary, Italy, Kazakhstan, Kyrgyzstan, Latvia, Lithuania, Malta, Moldova, Montenegro, Poland, Romania, Russian Federation, Serbia, Slovakia, Slovenia, The Former Yugoslav Republic of Macedonia, Turkey, Ukraine, United Kingdom, Uzbekistan
November 2013	Americas and the Caribbean	Veracruz, Mexico	Argentina, Belize, Bolivia, Brazil, Chile, Haiti, Mexico, Panama, Paraguay, United States
February 2014	East and Southern Africa	Mombasa, Kenya	Angola, Kenya, Malawi, Mauritius, Mozambique, Namibia, South Sudan, Swaziland, Tanzania, Uganda, Zimbabwe
March 2014	North Africa and Near/Middle East	Riyadh, Saudi Arabia	Algeria, Egypt, Jordan, Morocco, Oman, Saudi Arabia, Tunisia, United Arab Emirates
April 2014	West and Central Africa	Abuja, Nigeria	Cameroon, Congo, Nigeria, Togo



These seminars served as a forum for WCO Members to discuss in detail the implementation challenges that they face and also to share good practices some administrations have developed to tackle the challenges. Following these seminars, over 130 representatives from over 85 Customs administrations and several international organizations attended the second WCO Global Seminar on STCE that took place from 8-10 April 2014.

The second Conference continued discussions begun in November 2012 during the WCO's first STCE event, building upon the understandings developed through the regional seminars and the curriculum development effort to identify lessons learned, the further raising of awareness about strategic trade controls, and the beginning of initiatives to coordinate enforcement at borders.

Key identified challenges

The first observation to be made from these discussions is that the challenges to effective enforcement of strategic trade controls can be divided into two main categories: those that can only be addressed by senior managers and policy officials, and those that can be addressed at the operational level.

Until the high-level issues are dealt with, little can be accomplished at the working level. As a result, the WCO Secretary General has asked Directors General of Customs to give this matter their highest possible support within their administrations.

The principal high-level challenges identified include:

- ensuring a high-level policy commitment to the security mission and adequate resources for STCE;
- identifying the legal and regulatory basis

for STCE, including penalties sufficient to deter non-compliance, including forfeiture of goods, fines, criminal prosecution, and loss of export privileges;

- creating mechanisms for coordination and information-sharing with regulatory, investigative, and intelligence agencies;
- creating mechanisms for Customs-business engagement;
- promoting the use of risk management principles;
- creating training programmes to raise the awareness of frontline officers and providing them with timely technical support;
- addressing challenges of inspector liability and seized property disposition.

Good practices

At the working level, the good practices listed under table 2 have been identified (see below).

Table 2 - STCE Good Practices

Functional Process	STCE Good Practices
Awareness-raising outreach to the trade community	Visits to enterprises and the provision of briefings and resources online and through trade groups or industry associations Outreach coordinated or conducted jointly between Customs and regulatory authorities. Creation of a mechanism for traders to report suspicious procurement enquiries.
Audit	Linking the audit and risk assessment processes. Separation of audits focused on revenue collection and those focused on STCs. STC audit teams with specialized knowledge of national STC legislation and control lists, licensing procedures, sanctions, evasion methods, etc.
Risk assessment, profiling, and targeting	Promoting understanding of the dual-use and commercial nature of many strategic goods, and the resulting selectivity challenges. Profiles based on the nature of the goods as well as the nature of the transaction. Mechanisms for end-user screening. Profiles based on intelligence concerning the identity and modus operandi of supply and procurement agents, brokers, and networks. Use of information arising from previous transactions, seizures, investigations, and audits. Use of information from the licensing or permitting agency, such as the nature of common strategic goods with which they deal, known traders related to those goods, suspicious parties, and (critically) information related to permits/licences issued and denied. Use of "release profiles" for patterns that correspond to low-risk shipments.
Verification and commodity identification	Applying checks and controls in a progressive manner, beginning with the least invasive and disruptive, and progressing only as necessary. Using commercial invoices to identify the goods and parties to the transaction. Use of the WCO Risk Management Compendium in developing and evaluating risk indicators for documentary checks. Understanding the limitations of technical examinations using portal monitors or container X-ray scans with respect to most strategic goods. Training inspectors in commodity identification, and the ability to obtain timely technical support from qualified specialists.

Implementation guidance

As part of the STCE Project, the WCO has drafted a comprehensive STCE Implementation Guide to assist WCO Members in developing, reviewing, and implementing their STCE processes and procedures and to provide a framework for the curriculum to be developed along those lines.

This Implementation Guide was unanimously endorsed by the most recent Session of the Enforcement Committee in March 2014. It is currently available to all WCO Members via the Customs Learning & Knowledge Community (CLiKC!) STCE Portal, and will soon be made available on the WCO Website.

The Implementation Guide is divided into two principal sections, one for senior Customs managers and policy officials, and the other for operational Customs officers:

- the section for senior managers discusses the importance of STCs, the role of Customs, and how to establish STCE procedures and processes as well as how to create conditions for their success;
- the section for operational Customs officers discusses techniques used to carry out the major functions that comprise the overall STC process and several related activities.

Of importance is the Annex to the Implementation Guide. It contains profiles of many strategic goods, and is organized following the chapters of the Harmonized System (HS) to provide a reference on strategic goods from a Customs perspective.

Next steps

Now that the awareness-raising seminars and the Implementation Guide are complete, the STCE Project will focus for the

next year on developing the curriculum and enhancing global operational cooperation in STCE matters.

Given the fact that the Project has focused unprecedented attention and importance on STCE implementation by Customs administrations and promoted global coordination of their efforts, it already can be considered a success.

The global Customs community is truly rising to the need to play a central role in ensuring supply chain transparency and implementing the border-related parts of relevant internationally-binding agreements and commitments.

More information

enforcement@wcoomd.org

WCO launches its Technology Network

THE WCO LAUNCHED a new web-based application called the Technology Network (TeN) to replace its Databank on Advanced Technology. Although the TeN offers new functionalities and a modern and user-friendly environment, the objective of this new tool remains the same as the old one: to enable Customs administrations to easily find information on the latest technology solutions and products available on the market.

Companies are invited to register their products free of charge. To do so, they need to connect to the TeN web address – <http://ten.wcoomdpublications.org> – and create an account. After their request has been validated, they will be provided with a login and password.

The TeN has two main interfaces:

- a public interface open to anyone interested in Customs and border-related technology matters; and
- a restricted interface open for Customs and other border agencies.

The new platform also includes two separate discussion forums which are not accessible to the general public. The first

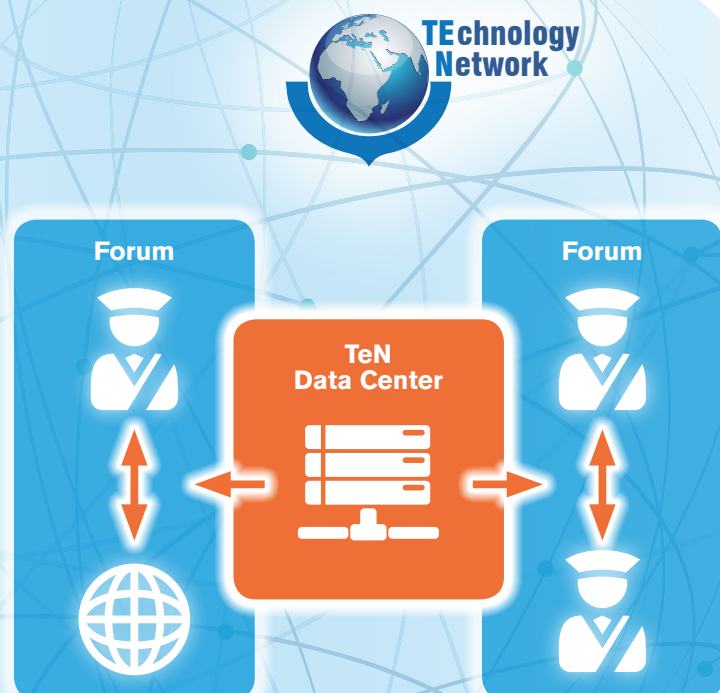
one is limited to Customs and other border agencies, allowing them to exchange views on technology-related experiences and future developments. Besides these government actors, the second one also welcomes registered companies, giving

users and suppliers the opportunity to interact.

More information

technologynetwork@wcoomd.org

<http://ten.wcoomdpublications.org>



The Why and How of Performance Measurement Contracts

THE WCO SECRETARIAT has for the past few years been testing the use of performance contracts and is assisting several Customs administrations in the implementation of this approach, aimed at improving Customs border procedures by analysing data extracted from Customs clearance systems and the adoption of performance contracts between Customs leaders and frontline officers.

In a recently released publication entitled “The Why and How of Performance Measurement Contracts”, WCO experts explain how performance measurement contracts (PMC) can be the way for a Customs administration to carry out its reform and modernization at different levels, going beyond the fight against corruption and the enhancement of effectiveness. Not only does it enable corrupt activities to be identified and inefficiencies in Customs procedures to be ameliorated, its usage has been empirically proven to directly benefit Customs’ goals concerning revenue collection and trade facilitation, for example.

The publication illustrates how using indicators to produce quantitative data can show whether reforms put in place are appropriate in the field and whether some Customs procedures need adjustment. The use of PMC can also help to identify any stakeholders who may be hindering the reform process.

‘Measurement’ is the core PMC technique; requiring a Customs authority to regularly analyse data extracted from its automated Customs clearance system as a means to understand the activities and practices of a specific entity, such as frontline Customs officers or importers, in connection with Customs procedures.

Cameroon Customs was the first administration to pioneer the PMC approach, when it launched an exhaustive reform programme against malpractices which had been a constant stain on the reputation of the administration and had hindered the fulfilment of its national objectives.

The country’s reforms were supported by the installation of a sophisticated automa-

ted Customs clearance system which enabled the administration not only to track the processing of each consignment, but also to measure a number of criteria relevant to the reforms. The information extracted was provided to senior management, thus allowing management and frontline officers to share the same reality by analysing, over time, the performance indicator trends.

After a period of two years, Cameroon introduced individual performance contracts for officers based in two Customs offices located at Douala Port. Indicators extracted from the automated system were used to measure their behaviour and activities. The rationale for choosing the port was that its activities generated the largest portion of all revenue collected by Customs. Focusing on a core group of officers responsible for 80% of revenue collections ensured almost universal national reform over a relatively short period of time.

The preparation and deployment of the performance contracts lasted several months. Inspectors and their managers were involved in all stages of the preparation, including the drafting of contracts, the choice of indicators, and performance reviews. Soon after the implementation of PMC, Cameroon Customs began achieving positive results in terms of revenue collections, clearance times, and reduced corruption.

Cameroon’s PMC reform results have been presented at various international forums and published in several journals and in a book entitled ‘Reform by Numbers’ [Cantens, Ireland, and Raballand, 2013]. This prompted other countries, such as Liberia and Togo, to seek assistance in adopting the PMC approach.

The new WCO publication aims at giving countries, such as Liberia and Togo, as well as other national Customs administrations and experts wishing to implement the PMC approach, detailed information and practical guidance.

More information
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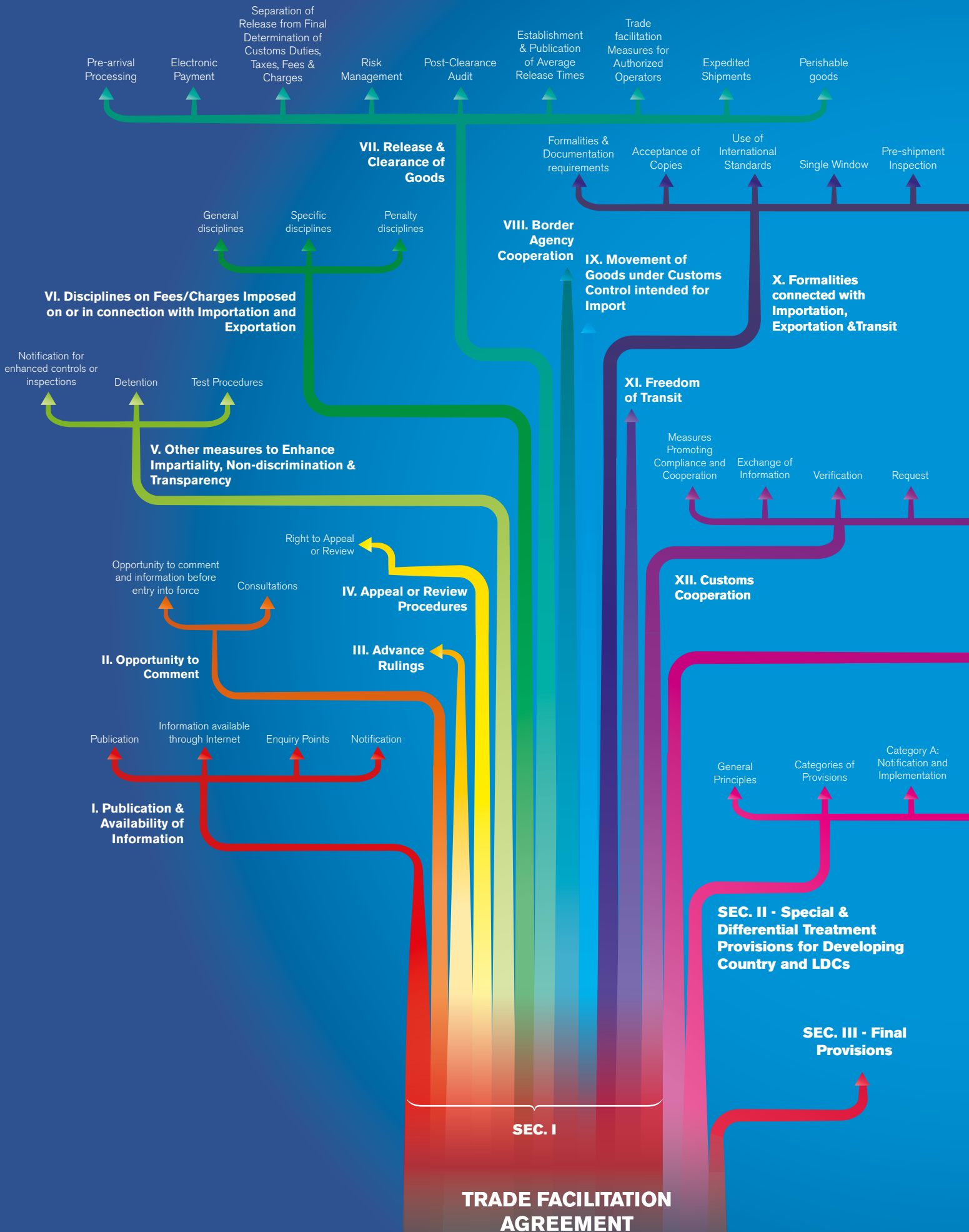


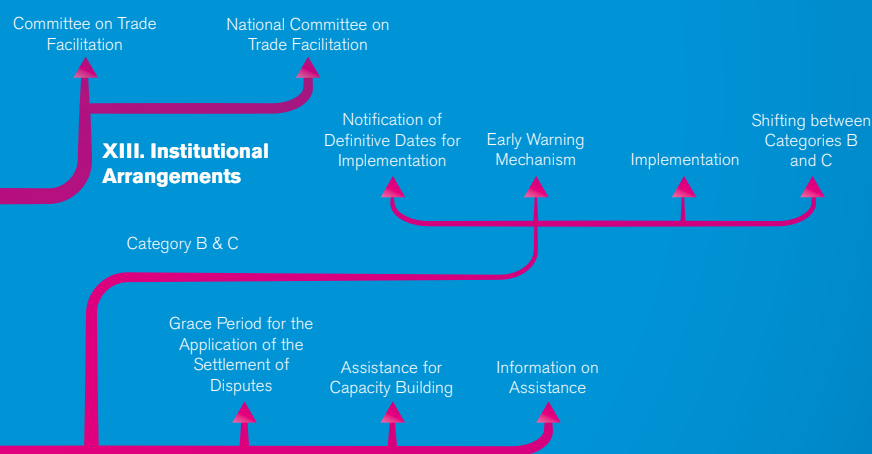
2013 Illicit Trade Report

DRUGS, ENVIRONMENT, IPR, revenue and security are the five areas covered by the 2013 Illicit Trade Report released by the WCO in June 2014. The objective of the publication is to raise awareness on the types and scope of Customs enforcement activities and to contribute to the pool of information for studying the phenomenon of illegal trade.

The Report presents seizure data reported to the WCO’s Customs Enforcement Network (CEN) database during 2013 and analyses trends and patterns concerning the aforementioned areas of enforcement. It also contains information on the results of international enforcement programmes, projects and operations conducted in 2013 that were organized and coordinated by the WCO, its Member administrations, and its international partners.

More information
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WTO Trade Facilitation Agreement

TRADE FACILITATION IS firmly on the global Customs and trade agenda, following the conclusion of the Trade Facilitation Agreement at the Ninth Session of the World Trade Organization's Ministerial Conference which took place in Bali, Indonesia in December 2013.

It is now universally recognized that trade facilitation is about making trade – both imports, exports and goods in transit – easier and less costly. These two key elements can bring significant economic benefits by making the whole process of trade simpler and smoother.

Given the key role played by Customs at borders, the WCO, as the centre of Customs expertise, is well-positioned to play an active part in the successful and expeditious implementation of the new Agreement in concert with its Members.

This fact is borne out by the new Agreement which specifically acknowledges the critical role that the WCO will play in the implementation process with its decades of experience in implementing global Customs standards, many aimed at facilitating trade.

The current edition's dossier focuses on the implementation of the new Agreement from different perspectives, including the readiness of the WCO to use its existing instruments, tools and programmes to ensure the well-ordered implementation of the Agreement.

Ready to implement the WTO Trade Facilitation Agreement!



By Kunio Mikuriya,
SECRETARY GENERAL,
WORLD CUSTOMS ORGANIZATION

The World Customs Organization (WCO) is on the move with regards to the implementation of the Trade Facilitation Agreement (TFA), recently concluded by the World Trade Organization (WTO). The WCO's strategy was set in Ireland when the WCO Policy Commission adopted the Dublin Resolution at its December 2013 meeting, committing the WCO to the efficient implementation of the TFA.

AMONG OTHER THINGS, the Dublin Resolution stipulates that the WCO will work in close coordination with the WTO, provide support to WCO Members that includes technical assistance and capacity building based on WCO instruments and tools, and enhance communication activities to raise its profile and that of national Customs administrations among political and business leaders.

TFA benefits and the WCO's role

The potential gains from trade facilitation are considerable, especially for countries that have yet to apply its principles. According to some analysis, TFA measures will boost prosperity by reducing administrative burdens and transaction costs. Both developed and developing countries will reap significant benefits from the TFA.

Developing countries are expected to save around 325 billion US dollars a year, including the acceleration of their integration into global value chains, and according to the Organization for Economic Co-operation and Development (OECD), developed countries stand to gain 10% cut in their trade costs, including easier trade flows for their economic operators.

The TFA thus presents a great opportunity for modernizing Customs administrations, boosting international trade, and strengthening the economic competitiveness of countries across the globe. With such positive indicators, the WCO is seizing the opportunity to play a meaningful role in the speedy implementation of the provisions contained in the TFA.

With its standards-setting activities for Customs at the global level, its ability to cooperate with other border regulatory agencies, international organizations and the private sector, its worldwide network of Customs experts, its acknowledged professionalism, and its long-standing support for trade facilitation globally, the WCO is certainly well-positioned.

In fact, the role of the WCO is specifically recognized in Article 13.1 of Section I of the TFA, which states that the WTO Committee on Trade Facilitation shall maintain close contact with the WCO with the objective of securing the best available advice for the implementation and administration of the TFA and to ensure that unnecessary duplication is avoided.

At the WCO level, the practical aspects of meeting expectations arising from the TFA discussions are being taken up by the WCO Working Group on the WTO TFA with the objective of ensuring a harmonized approach by Customs in implementing the Agreement.

The Group met for the first time in March 2014, and brought together delegates from WCO Members' Customs administrations, trade ministries and finance ministries, as well as representatives from the WTO, international organizations and the private sector who shared views on the implementation of the TFA.

At the national level, Article 13.2 of the TFA requires each WTO Member to establish and/or maintain a national committee on trade facilitation or designate an existing mechanism to facilitate both domestic coordination and implementation of TFA provisions. Customs being the key border agency responsible for all international trade transactions and playing a pivotal role in trade facilitation, it is necessary to ensure the appropriate level of involvement and competencies in this committee.

WCO instruments and tools

WCO instruments and tools are fully consistent with the TFA and will support its implementation. The Revised Kyoto Convention (RKC), the SAFE Framework of Standards to Secure and Facilitate Global Trade (SAFE), the Harmonized System (HS), and many other tools provide for simplified Customs procedures and improved border management processes, as well as a more predictable and trans-

“The WCO is launching an assistance programme dedicated to the implementation of the TFA. Built upon years of WCO experience in delivering Customs reform and modernization, the new programme offers comprehensive, tailor-made operational and technical support that fully responds to the requirements of developing and LDC Members in terms of implementing the TFA.”



parent trade environment for legitimate cross-border trade.

To support an understanding of the linkages between the TFA and WCO instruments and tools, the WCO released an Implementation Guidance tool on its Web site. For each TFA Article, it contains the following categories of information: Overview; Text of the TFA Article; relevant RKC Standards and RKC Guidelines; other relevant WCO tools; Member practices; and performance indicators.

The ability of the Customs administrations to successfully implement TFA provisions will depend largely on their direct engagement, agility and cooperation with other border regulatory agencies. The TFA provides the necessary level of political will to carry forward the trade facilitation agenda, especially in terms of bringing together all relevant border agencies and ensuring connectivity through coordinated border management.

WCO instruments and tools support the adoption of a coordinated approach through mechanisms such as the Single Window concept. Key instruments in this domain are the Time Release Study guidelines that identify problem areas from the arrival of the goods to their release, and the WCO Data Model which facilitates the

efficient exchange of information between business and governments by offering standardized data required by Customs and other border control agencies.

Technical assistance and capacity building

Section II of the TFA provides for assistance to be given to developing and least developed country (LDC) Members to support the update of their infrastructure, the training of their Customs officials and/or assisting them in any way that would help in ensuring the implementation of the TFA.

Developing Members and LDC Members can categorize their commitments, namely Category A, B & C, according to the transitional period of time, technical assistance and capacity building that they need. The role of relevant international organizations, including the WCO, in providing technical assistance and capacity building is also explicitly defined in the TFA context.

In this respect, the WCO is launching an assistance programme dedicated to the implementation of the TFA. Built upon years of WCO experience in delivering Customs reform and modernization, the new programme, which will be named at the Council Sessions at the end of June, offers comprehensive, tailor-made operational and technical support, that fully res-

ponds to the requirements of developing and LDC Members in terms of implementing the TFA.

One of the implementation challenges lies in coordinating all capacity building initiatives undertaken by the multiple actors involved in Customs reforms, and agreeing on the approach to adopt. The WCO strategy advocates a comprehensive and sustainable approach, and stresses the importance of tailoring capacity building projects to country-specific needs, while avoiding ‘one size fits all’ solutions.

The WCO is ready to support the implementation of its Members’ TFA obligations within the framework of a dedicated programme, by providing capacity building and technical assistance, and by coordinating donor engagement, consolidating relationships with development partners, and taking advantage of hundreds of Customs experts spread around the world.

Conclusion

The TFA is off to a good start and I am optimistic about its successful implementation. Both the WCO and the WTO have set clear implementation strategies. The hard work, however, begins now.



WTO Trade Facilitation Agreement: a potential catalyst for equality of opportunity

By Carlos G. Enriquez Montes

Trade facilitation, understood in its simplest form as the elimination of stumbling blocks to making international trade easier, has its origins in the multilateral scene of the 1970s with the adoption by the WCO in 1974 of its International Convention on the Simplification and Harmonization of Customs Procedures (Kyoto Convention). This Convention evolved into a more comprehensive instrument to address new realities, namely the Revised Kyoto Convention (RKC) that entered into force in 2006.

IN A SIMILAR vein, many countries have progressively developed a more trade-facilitative domestic environment. Mexico is a case in point, having introduced significant trade facilitation measures in the early 1990s and currently undertaking even more comprehensive reform.

In today's globalized economy, where multiple cross-border processes in geographically dispersed locations are increasingly common, burdensome costs, unnecessary delays and uncertainty due to a complex and unpredictable set of rules, put equality of opportunity in peril.

In other words, "the poor can't bear the costs of delays as well as the rich" [Stiglitz 2013, 253]. Owing to this, World Trade Organization (WTO) rules governing the multilateral trading system have had to evolve to create a new instrument to help its Members face present and future challenges.

Thus the recently concluded WTO Trade Facilitation Agreement (TFA), which seeks to cut red tape, streamline Customs and



port procedures, enhance transparency and predictability, and boost technical assistance for capacity building in developing and least developed country (LDC) Members, becomes a potential catalyst for equality of opportunity.

The Agreement by itself will not produce results; rather, it is incumbent on Members, together with relevant international organizations such as the WCO, to ensure the harmonized and smooth implementation of the TFA that will render the expected benefits.

Background of trade facilitation at the WTO

Debates on trade facilitation were initiated by the WTO in 1996 at its Ministerial Conference in Singapore. Its potential contribution to development, by building an adequate business environment that will allow firms (particularly small- and medium-sized enterprises – SMEs) to better integrate into global value chains – a worldwide tendency – resulted in trade facilitation becoming part of the Doha Development Agenda.

The negotiating mandate for trade facilitation was formalized in the ‘July Package’ of 2004 – being the sole survivor of the ‘Singapore issues’ that included trade and investment, trade and competition policy, and transparency in government procurement – and later materialized as the TFA during the 2013 Bali Ministerial Conference; the first harvest of Doha’s single undertaking.

The TFA addresses three pillars: (1) expediting the movement, release and clearance of goods, including goods in transit (Articles V, VIII and X of the 1994 General Agreement on Tariffs and Trade, or GATT); (2) effective cooperation between Customs or any other appropriate authorities on trade facilitation and Customs compliance issues; and (3) enhancing technical assistance and support for capacity building.

As part of the Agreement, a Preparatory Committee was mandated to ensure its expeditious entry into force and to prepare for its efficient operation upon its entry into force. Thereon, a Committee on Trade Facilitation open to all WTO Members will continue to work on securing the due operation of the TFA, including all matters related to inter-institutional coordination.

Mexico’s trade facilitation efforts

In the early 1990s Mexico launched significant reforms to facilitate trade, such as the automation of its Customs system in 1993 and later, a series of trade facilitation measures within the North American Free Trade Agreement (NAFTA) and subsequent trade agreements, such as transparency elements, advance rulings, review and appeal mechanisms and Customs cooperation – all elements found within the TFA.

While such reforms were crucial to dynamize the Mexican economy and make international trade easier, there are still challenges ahead. Within the country, there are regions, productive sectors and actors, particularly SMEs, with limited participation in international trade matters.

For the current administration under President Peña Nieto, the elimination of obstacles hindering productivity is a key strategy to achieve the national goal of

consolidating a prosperous Mexico. The National Development Plan 2013-2018, an instrument that governs all government programmes and actions, provides specific objectives, strategies and actions to enhance productivity, including trade facilitation reform, where the Customs authority plays a fundamental role.

In this regard, the strategic objectives of the Tax Administration Service (i.e. the Mexican Revenue Authority) include the easing of trade through concrete actions oriented at streamlining Customs procedures and reducing time and costs, while improving revenue collection. Seeking to provide more predictability and the efficient implementation of such measures, international best practices are being observed, particularly ensuring consistency with relevant international commitments and instruments, including the TFA and the WCO RKC.

For example, among the most significant recent actions, Mexico reformed its Customs Law on 9 December 2013, enabling persons to transact business with Customs either directly or by designating a third party to act on their behalf. Other reforms include flexibilities in accessing the Authorized Economic Operator (AEO) scheme, as well as mechanisms to promote Customs cooperation, such as providing the Ministry of Finance with the power to authorize joint Customs clearance with offices in foreign countries.

Importance of facilitating trade

The TFA constitutes the element of Doha with the greatest prospects for development and real income gains, at a relatively modest cost of implementation – a recent review by the Organisation for Economic Co-operation and Development (OECD) of costs incurred by several developing countries found that the total capital expenditure to introduce trade facilitation measures ranged between 5 and 25 million US dollars per country, spread over a number of years [Moisés, E., 2013]. Estimates suggest that benefits linked to trade facilitation reform far exceed those available from further tariff reduction – up to six times [WEF, 2013, 13].

In a nutshell, the TFA represents a strategic tool to build the appropriate business environment that unlocks new oppor-

“Working in isolation would be useless. For companies, particularly SMEs, to achieve true export competitiveness and successfully integrate into global value chains, it is crucial that Mexico’s trading partner countries support such a trade facilitation strategy, particularly by fully implementing the TFA in a prompt manner.”

tunities for economic growth, development and job creation, whilst allowing governments to conduct more efficient and reliable tax collection, of particular importance for developing governments which in some cases face more than 5% revenue loss from inefficient border procedures [OECD, 2005, 4].

Why is it important to embrace trade facilitation in the WTO and how can it be complemented by other international organizations?

Trade facilitation has undoubtable benefits, since everyone will be better off when unnecessary costs are avoided. Therefore, a binding multilateral agreement with non-discriminatory principles, such as the TFA, provides legal certainty and predictability when transacting business.

It is essential in increasing export competitiveness, particularly considering that its scope extends to Customs and all relevant border regulatory authorities, such as agencies dealing with sanitary or health issues – for perishable goods, where the risk of loss due to border delays is significantly greater, the TFA provides specific provisions, including the obligation for

WTO, the TFA introduces the most innovative approach to special and differential treatment in GATT/WTO history. It establishes specific provisions for developing and LDC Members, including self-determined periods to phase in obligations – without precedent in the Organization – and commitments to provide assistance and support for capacity building.

With a view to ensuring effective implementation and due operation of the TFA, the Agreement establishes a Trade Facilitation Committee (TFC). Amongst others, it is mandated to maintain close contact with other international organizations, such as the WCO, with the objective of securing the best available advice for the implementation and administration of the TFA and ensuring that unnecessary duplication of effort is avoided.

Furthermore, in seeking the efficient use of resources devoted to assistance and sup-

Members to give appropriate priority to such goods when scheduling inspections.

Being one of the core principles of the

port for capacity building, the TFC will enhance coordination amongst Members as well as with other international organizations, including the WCO, the OECD, the International Monetary Fund (IMF), the United Nations Conference on Trade and Development (UNCTAD), the World Bank, United Nations regional commissions, and regional development banks.

How important is it for Mexico to consolidate its trade facilitation reform and to what extent is this determined by international factors?

In Mexico, foreign trade plays a key role in attracting investment and creating jobs, and accounts for around 60% of the country’s Gross Domestic Product (GDP). Thus, a successful strategy to unlock Mexico’s trade potential and to democratize trade; i.e. to provide opportunities for all regions, sectors and actors, to participate and reap the benefits of a freer and more competitive trade environment, while supporting job creation, cannot be envisaged without comprehensive trade facilitation reform.

However, working in isolation would be useless. For companies, particularly SMEs, to achieve true export competitiveness and successfully integrate into global value chains, it is crucial that Mexico’s trading partner countries support such a trade facilitation strategy, particularly by fully implementing the TFA in a prompt manner. Moreover, this implementation needs to be harmonized to ensure the predictability required for business planning.

Considering that the WCO has long supported Customs modernization and trade facilitation, developing many tools and instruments with proven effectiveness, such as the RKC, the SAFE Framework of Standards to Secure and Facilitate Global Trade, the Single Window Compendium and the Time Release Study, and given that “such WCO tools and instruments fully cover the Customs-related provisions and articles in the WTO TFA” [WCO 2014, 2], it would be in the interest of countries to profit from these WCO instruments and tools. This will ultimately contribute to the cost-effective and harmonized implementation of the TFA.

About the author

The author has represented Mexico for more than 12 years in international trade negotiations in the areas of trade facilitation, Customs procedures, rules of origin, and trade remedies. From 2010 to 2013 he was the Economic Counsellor at Mexico’s Permanent Mission to the WTO in Geneva, where he was responsible for the trade facilitation negotiations and was designated by the Chair of the Negotiating Group on Trade Facilitation as a facilitator for the negotiations.

He is currently the Minister Representative of Mexico to the WCO and the Mission of Mexico to the European Union. The author is the Vice-Chair of the WCO Working Group on the WTO Trade Facilitation Agreement. He has a BA degree in international relations from the Universidad Iberoamericana (Mexico) and an MSc degree in international political economy from the London School of Economics (UK).

Carlos G. Enriquez Montes contributed this article in his personal capacity. The views expressed are his own and do not necessarily represent the views of the Mexican Government.

Conclusions

The full implementation of the TFA will contribute to economic growth and recovery, improved revenue collection, and the alleviation of poverty. Nonetheless, this is subject to the effective implementation of the provisions by each WTO Member and more broadly, to the extent that harmonization is achieved.

The TFA will be applied on a non-discriminatory basis – thus benefiting all – and provides the ability for each WTO developing and LDC Member to self-determine implementing periods for each provision. However, if attracting investment and building an enabling environment is relevant, it should be in the interest of every developing and LDC Member government to opt for prompt and internationally coherent implementation.

The reason why such a signal by developing and LDC Members would be regarded as positive is that, given the increasing pace of global transactions and the benefits in terms of cost-planning, major investors, who represent a key driver for the integration of SMEs into global value chains, would seek to locate their investments where the trade environment allows for greater predictability.

Mexico envisions a future where it achieves its maximum potential through increased productivity that enhances economic growth in order to consolidate a more prosperous and equal society. To achieve its aims, the country has put in place a strategy where trade facilitation is fundamental to enable all regions, sectors and actors to be able to reap the benefits of international trade and global value chains.

More specifically, the Mexican strategy will enhance Customs modernization and infrastructure investment, streamline trade and Customs procedures to reduce costs, and update or introduce international best practices in all Customs matters [PND 2013, 154].

More information

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TFA challenged conventional WTO wisdom, new paper says

In a World Trade Organization (WTO) working paper entitled ‘The long and winding road: how WTO Members finally reached a trade facilitation agreement’, Nora Neufeld, a Counsellor in the Trade Policy Review Division, states that “the new Trade Facilitation Agreement (TFA) is going to have an impact not only on the trade facilitation universe but the WTO and the multilateral trading system as a whole”.

Tracing the trade facilitation negotiations which lasted over nine years, the author, who was the talks’ Secretary throughout the negotiations and whose views are hers alone, explains that “WTO Members launched the process under terms that explored new avenues; implementation was no longer an afterthought but an upfront consideration.”

“Rather than continuing the traditional practice of largely equating special and differential treatment for developing and least-developed countries (LDCs) with transition periods and granting flexibilities on the basis of a country’s association to either the developing or least-developed group, the trade facilitation mandate called for an individual, country-by-country and measure-by-measure approach. It explicitly eschewed a one-size-fits-all model”, wrote the author.

According to her, the success of the trade facilitation undertaking makes it likely that it will serve as a benchmark for other negotiating exercises – it will be difficult, for instance, to define special and differential treatment for developing and LDCs in future WTO agreements without at least considering the trade facilitation model.

New ground was also broken in the way the negotiations were conducted. The trade facilitation negotiations were predominately carried out in an open-ended, inclusive setting and novel philosophies were also applied to the way the negotiations were led.

“Work was carried out in a bottom-up, member-driven manner with the chair functioning primarily as a facilitator, there to broker a compromise based on delegations’ wishes. This way of conducting the talks is also likely to set new standards in the trade negotiating business,” concludes the author.

More information

The long and winding road: how WTO members finally reached a trade facilitation agreement, Nora Neufeld, World Trade Organization, Economic Research and Statistics Division, April 7 2014.

www.wto.org/english/res_e/reser_e/ersd201406_e.pdf

Linkages between Section I Articles of the TFA and WCO instruments and tools



SECTION I OF the Trade Facilitation Agreement (TFA), concluded by the World Trade Organization (WTO), contains trade facilitation and Customs cooperation measures embodied in 12 articles. WCO instruments and tools have strong linkages to each article of the TFA and in some cases go beyond the provisions contained in the TFA articles.

In publishing Implementation Guidance, the WCO sought to provide relevant information and guidance to facilitate implementation of the TFA provisions through the use of existing WCO instruments and tools to ensure a harmonized implementation approach by Customs administrations. The Implementation Guidance is available on the WCO's Website.

This article delves into two of Section 1 of the TFA's most important provisions, namely Article 7.7 (Trade Facilitation Measures for Authorized Operators) and Article 12 (Customs Cooperation), explaining the linkages to WCO instruments and tools and how they may be used to assist the implementation of these TFA Articles.

Trade Facilitation Measures for Authorized Operators (Article 7.7)

This Article makes provision for 'Authorized Operators' who meet specific criteria, which may include an appropriate record of compliance with Customs and other related regulations, a system of managing records for necessary internal control, financial solvency, and supply chain security. None of these criteria are mandatory; an Authorized Operator scheme may include any combination of the specified criteria.

The SAFE Framework of Standards to Secure and Facilitate Global Trade (SAFE Framework), which was adopted by the WCO in 2005, provides global standards for

launching and maintaining an Authorized Economic Operator (AEO) programme, having eligibility criteria such as a demonstrated compliance record, a satisfactory system for management of commercial records, financial viability, and security concerning cargo, transport conveyances, premises, personnel, and trade partners.

While the focus in the TFA Authorized Operator scheme is on trade compliance, and may have supply chain security as one of its criteria, an AEO in terms of the SAFE Framework must always, but not exclusively, comply with a range of mostly physical security standards. Due to the varied models and the non-standardized nature of the Authorized Operator scheme, Mutual Recognition Agreements/Arrangements (MRAs) between such programmes could prove to be a challenging task.

The TFA encourages WTO Members to develop Authorized Operator schemes on the basis of international standards, where such standards exist. Given that the TFA mentions all four criteria – even if they are non-binding – for the Authorized Operator scheme, it may be appropriate to use the SAFE Framework's AEO model as a standard to develop the TFA Authorized Operator scheme, as the use of AEO criteria to implement Article 7.7 will assist in ensuring a harmonized approach and enable countries to achieve seamless mutual recognition at the bilateral, sub-regional, regional and global levels.

Customs Cooperation (Article 12)

This Article sets out the terms and requirements for WTO Members to share information in order to ensure effective Customs control, while respecting the confidentiality of the exchanged information.

The Article provides for the exchange of information (contained in the import/

export declaration and its accompanying documents, such as the commercial invoice, the packing list, the certificate of origin and the bill of lading) for the purpose of verifying an import/export declaration in cases where there are reasonable grounds to doubt its truth or accuracy, only after the requesting member has conducted the appropriate verification, including the inspection of available documents.

However, the Article does not provide for the verification of the accuracy of exchanged information nor does it provide for the conducting of any enquiry or investigation on the part of the requested administration in order to obtain any additional information.

WCO instruments like the Revised Kyoto Convention (RKC), the SAFE Framework, the Nairobi Convention, the Model Bilateral Agreement, the Johannesburg Convention (not yet entered into force), the Guide to the Exchange of Customs Valuation Information and the Globally Networked Customs (GNC) Feasibility Study together with various WCO Recommendations on mutual cooperation and administrative assistance, are very comprehensive and cover Customs cooperation on a wide range of issues.

These instruments and tools could support the implementation of Article 12. One potential course of action to initiate the implementation of the Article could be the development, by interested and willing WCO Members, of a tailor-made Utility Block (under the enforcement track of the WCO's GNC concept) for the exchange of the stipulated information.

More information

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Advance rulings, a key element of trade facilitation

Article 3 of the World Trade Organization's Trade Facilitation Agreement (TFA) provides for advance rulings. The expression generally refers to the option that Customs has to issue a prior decision or ruling on a regulation in force, at the request of an economic operator planning a foreign trade operation. This article argues that WCO instruments relating to binding advance rulings provide comprehensive information for WCO Members who have not yet implemented such schemes, as well for those Members who are already issuing such rulings.



ADVANCE RULINGS ARE used to enhance the predictability and transparency of the Customs clearance process, and are instrumental in the success of an effective, informed Customs compliance programme. The trader benefits from greater certainty with respect to Customs requirements and any duty liabilities, as well as a greater chance of less Customs intervention. Customs, on the other hand, receives advance information of anticipated transactions that can be fed into its risk management engine.

Although advance rulings have been on the WCO's agenda for many years and have been actively promoted by the WCO as a trade facilitation measure, the TFA puts a new emphasis on the procedure by introducing an obligation on Members of the World Trade Organization (WTO) to issue binding advance rulings on the classification and origin of goods. Article 3 also encourages WTO Members to provide advance rulings on:

- the appropriate method or criteria, and the application thereof, to be used for determining the Customs value under a particular set of facts;
- the applicability of the Member's requirements for relief or exemption from Customs duties;
- the application of the Member's requirements for quotas, including tariff quotas; and
- any additional matters for which a Member considers it appropriate to issue an advance ruling.

WCO guidance

A number of Customs administrations have already established a binding ruling programme in accordance with the provisions of several WCO tools which are currently being examined by the WCO Secretariat to ensure that they are fully consistent with Article 3 of the TFA.

One of the key trade facilitation instruments developed by the WCO is the

Revised Kyoto Convention (RKC) on the simplification and harmonization of Customs procedures. Adopted in 1999, the RKC entered into force in 2006 and currently has 92 Contracting Parties. The RKC was also used as an important reference tool during the negotiations that led to the conclusion of the TFA.

Advance rulings are covered under the provisions of Standard 9.9 of the RKC. They are commonly applied in the areas of, but not limited to, classification and origin. Moreover, specific advice and recommendations on advance rulings are also available in the following WCO instruments and tools:

- Recommendation of the Customs Cooperation Council on the introduction of programmes for binding pre-entry classification information (18 June 1996);
- Recommendation of the Customs Cooperation Council on the improvement of tariff classification work and related infrastructure (25 June 1998);
- Technical Guidelines on Binding Origin Information for Rules of Origin;
- Practical Guidelines for Valuation Control, which form part of the WCO Revenue Package.

With regards to the classification of goods, the Recommendation on the introduction of programmes for binding pre-entry classification information recommends that WCO Members should take all appropriate action to introduce such programmes.

This Recommendation lays down the basic principles of such programmes, stating that any person may make a request for binding pre-entry classification information in writing, and must include a full description of the goods. Likewise, the information, which is binding on Customs authorities, is to be communicated to the applicant in writing. The Recommendation also lays down provisions relating to the annulment of information and when information ceases to be valid.

The Recommendation on the improvement of tariff classification work and related infrastructure recommends establishing

an adequate classification work infrastructure and carrying out classification work in a manner that facilitates international trade, with an emphasis on the pre-entry and post-clearance stages.

One part of this Recommendation is devoted to pre-entry classification, stating that it could be carried out at Customs headquarters, in a classification centre or by a regional or local office. It also emphasizes the importance of publishing the information in order to provide guidance to the general public and to ensure uniform classification.

Similar provisions exist in the Technical Guidelines on Binding Origin Information for Rules of Origin which are in line with the WTO Agreement on Rules of Origin (ARO), thereby ensuring effective and uniform implementation. The ARO contains the obligation to provide origin assessments in the context of non-preferential rules of origin. The same obligation is also to be found in the context of preferential trade within the provisions of the Common Declaration with regard to Preferential Rules of Origin.

The Technical Guidelines provide recommendations on the information that should be included in the application as well as the validity of the decision, inter alia, and are aimed at helping relevant bodies to enhance their overall understanding of binding origin information and providing them with assistance in the practical implementation and application of binding origin information.

Recommendations regarding advance rulings on specific aspects of a Customs value are provided in the Practical Guidelines for Valuation Control which form part of the WCO revenue Package, one of the four pillars supporting the WCO Strategic Plan. It is generally considered not practical or useful to offer rulings on an actual Customs value which will, of course, vary from one consignment to another.

Instead, the Practical Guidelines recommend that rulings should be offered on specific aspects of a Customs value which may apply to a number of imports under

a particular contract, for example, a commission or royalty. In this way, the importer will have certainty regarding how Customs would treat the aspect in question – i.e. whether or not it may be included in the Customs value.

Implementation challenges

WCO Members which have not introduced advance ruling schemes are encouraged to apply the Recommendations and Guidelines developed by the WCO as these will assist in setting up appropriate infrastructure and facilitate the effective implementation of advance ruling schemes. For such Members, it may be necessary to revisit the way the work is organized in their administration.

One possible outcome of this exercise could be the setting up of new dedicated units or functions supported by staff with the requisite skills and knowledge to operate an advance ruling programme. From an organisational point of view, this would involve an additional budget to fund the recruitment and possible training of staff, including any other required resources. Members which already have an advance ruling scheme in place may also apply the WCO Recommendations and Guidelines.

It is important, when operating an advance ruling scheme, not only to provide the necessary infrastructure to issue such rulings, but also to cater for justice for applicants. A person who is not satisfied with an advance ruling must be given the right to appeal. Thus a proper appeal procedure must be provided, together with the appropriate infrastructure. The RKC and the Recommendation on the improvement of tariff classification work and related infrastructure provide for this requirement, which is now reinforced by Article 4 of the TFA.

Developing and LDC Members of the WTO which may require assistance to properly implement the TFA and reap its benefits can count on the WCO both for guidance and technical support.

More information

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WCO Technology Network

What is it?

The WCO Technology Network (TeN) is a web-based application that groups information on existing technologies used by Customs and other border agencies. The application also offers Customs and the private sector the possibility to communicate and collaborate on issues related to technology.

Benefits:

For Customs:

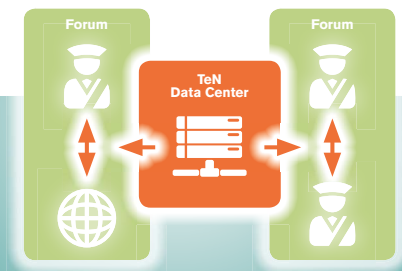
As the main user of this system, Customs can access TeN to search for information on the latest technology solutions and products available on the market. The dedicated forum allows Customs officers to discuss and exchange views on technology solutions and other matters related to their deployment and usage.

For companies:

The WCO TeN serves as a platform for companies to promote their products to Customs and border agencies and inform them of the latest innovations. The online forum also gives companies the opportunity to interact with users, answering questions or comments and helping them with any technical aspects.

Interested in knowing more?

Contact the WCO TeN team: technologynetwork@wcoomd.org
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Phasing out PSI: WCO thinking and recommendations

Article 10.5 of the Trade Facilitation Agreement (TFA), concluded by the World Trade Organization (WTO), provides that WTO Members shall not require the use of pre-shipment inspections in relation to tariff classification and Customs valuation, and encourages Members not to introduce or apply new requirements regarding their use. This article presents some thinking and recommendations on pre-shipment inspection (PSI) service contracts and explains how the WCO can support national Customs administrations to reduce their reliance on inspection services or even terminate existing contracts.

Genesis

IN THE 1960S, a number of governments entered into inspection service contracts with pre-shipment companies for foreign exchange purposes – i.e. to deter capital flight in countries where exchange controls existed by preventing deliberately inflated invoicing. Under these contracts, imports were inspected by a private surveillance company at embarkation ports or airports or at exporters' premises, instead of by the importing country's Customs administration.

As capital controls were progressively phased out in the 1980s, the rationale for these contracts shifted to the evasion of import tariffs and PSI companies started taking over core Customs functions, such as the determination of Customs duties and taxes payable on imported goods – for example, in areas relating to Customs valuation, the classification of goods and the determination of origin of goods.

More recently, destination inspection services (DIS) were also introduced. As the name suggests, destination controls are conducted at the point of importation, and are a kind of umbrella heading under which you find a wide range of activities including managing scanner based inspections, developing and operating Single Window environments and Global Positioning System (GPS) tracking systems, and managing risk analysis.

These inspection service contracts, which are often regarded as the temporary quasi-privatization of selected government functions, are seen as a second best policy in countries where Customs administrations are perceived to be performing poorly, in many instances due to a lack of skills on the ground and inadequacies in operational/management capacity, or as a result of widespread corruption.

Thinking and recommendations

Over recent years, as Customs administrations have implemented reform and modernization programmes, the number of countries using inspection services has

steadily declined, with many countries successfully taking ownership of core Customs functions related to Customs valuation and the classification of goods without any adverse effect on revenue collection following the termination of such contracts.

Today, most of the countries still using inspection services are located in West and Central Africa (WCA). However, a number of these countries are looking into their current position, with a view to considering ways to strengthen their capacity to conduct core Customs controls and reduce their reliance on inspection services or even terminate existing contracts.

The new provision in the TFA, namely Article 10.5, gives a new impetus to these efforts and offers the WCO an opportunity to promote its thinking and recommendations in this domain. Recognizing the need to do better in capturing lessons learned in how to manage the transition and exit phase, the WCO decided to stimulate the debate around the necessity for inspection service contracts.

In June 2013, a regional workshop hosted by the Niger Customs administration in Niamey resulted in the Niamey Declaration; a statement by Directors General of Customs in the WCA region setting out the responsibilities of Customs administrations, governments and the WCO in working towards the successful termination of PSI/DIS contracts.

A second event, hosted by the WCO at its Brussels headquarters in March 2014, gathered together representatives from Customs administrations, international organizations, regional economic communities and development partners, including the International Monetary Fund (IMF) and the World Bank.

Participants expressed the view that, in some instances, these contracts have been costly to governments and detrimental to the realization knowledge and skills by Customs administrations in such areas as Customs valuation, goods classification and origin

determination, and that the objectives of these contracts were not being achieved or had not been achieved.

Together, participants drew up recommendations for the attention of governments, Customs administrations and international and regional organizations, as well for development partners, recognizing the specific roles of these three key stakeholders as follows.

1) Governments

- Provide political will, support and resources to Customs administrations to assume responsibility for the core Customs functions of determining Customs duties and taxes payable, managing risk, and examining goods. These functions are distinct from contracts for support services, such as those relating to information technology (IT) infrastructure and the procurement and maintenance of non-intrusive inspection equipment, where Customs does not have the capacity to undertake these support services in the short-term.
- Involve Customs administrations fully in the design of contracts, including the negotiations and decision-making, where exceptional circumstances dictate the entry into, or extension of, contracts.
- Ensure that such contracts are short-term, transparent, and cost-effective, and procured in an open, competitive and transparent manner commensurate with the applicable laws of the country, and that the fees are commensurate with services provided.
- Further, ensure that such contracts provide at least for (i) the measurement of agreed results and objectives, (ii) the governance arrangements and responsibilities, (iii) the appropriate compliance with obligations, in line with international and regional commitments, and (iv) the transfer of appropriate skills, knowledge and technology to Customs as a key objective.

2) Customs administrations

- Engage national policymakers and take ownership of the Customs functions covered by PSI and DIS contracts.
- Demonstrate leadership and commit to reform and modernization to assume responsibility for functions covered

by these contracts by developing comprehensive strategies and implementation plans.

- Commit to good governance and to combat corruption by effectively implementing integrity promotion programmes.
- Coordinate support provided by development partners and donor organizations transparently and efficiently.
- Enhance communication and partnerships with stakeholders, including neighbouring Customs administrations, to better articulate Customs' efforts concerning modernization and trade facilitation.

3) International and regional organizations, as well as development partners

- Provide advice consistent with the recommended principles to governments with regard to inspection companies, including the exceptional cases or situations where there may be a need in the short- to medium-term for contracts.
- Engage with each other in a more structured manner to coordinate and harmonize, as far as possible, their policies and instruments on Customs reform and modernization and on capacity building programmes.
- Coordinate their efforts and initiatives to advise and support Customs administrations to successfully manage their reform and modernization programmes, particularly the core Customs functions.

Technical assistance and support

The WCO believes that it is urgent to draw a line between the areas of responsibility and tasks to be covered by service contractors and Customs officers. All core Customs duties should be managed by Customs itself, whereas all services which do not entail any decision-making could, if necessary, be provided by private companies.

Any phasing out strategy would require the demonstration of leadership, the expression of a vision and the use of modern project management practices based on accountability. As an administration prepares to take over, it must develop a strong capacity building programme, focusing on building the appropriate infrastructure for

Customs valuation, goods classification and origin determination, as well as invest in people to give them a sense of mission, pride, hope, and direction.

Low staff morale, lack of skills and capacity by staff to deliver classification, valuation and rules of origin functions, corruption, and poor attitude to work are characteristics that are not uncommon among Customs administrations under a PSI/DIS regime. Staff may need to be trained or retrained and highly specialized skills need to be available within the administration, especially for post clearance audit (e.g. accounting, IT, and audit skills with professional qualifications attached).

Under its capacity building programme, the WCO offers supports to administrations willing to sustainably strengthen



“Any phasing out strategy would require the demonstration of leadership, the expression of a vision and the use of modern project management practices based on accountability.”

their capabilities to conduct core Customs controls. In Niger, the WCO organized a workshop with the Customs administration, the contracted inspection service company and the Minister of Finance to evaluate the ongoing contract, which covers work related to valuation, classification, risk management and scanners, and develop an exit strategy.

As Niger Customs does not have operational specialized structures to manage these core Customs areas and no professional and experienced staff to work in these areas, the WCO will provide assistance with the setting up of these specialized structures, as well as provide training for

the Customs officers, so that they can perform these tasks in a professional manner. Lately, WCO experts also conducted a diagnostic mission focusing on scanner activities in Benin and Nigeria, with Nigeria having suspended all contracts with inspection companies.

The WCO's Practical Guidelines for Valuation Control provide some guidance to Customs in terms of developing a strategy for the elimination of PSI for Customs Valuation and classification purposes and the WCO is conducting further work under its Revenue Package programme to provide additional guidance to Customs administrations which are planning to terminate

existing inspection service contracts. This guidance will be available by June 2015.

Last but not least, the WCO provides guidance on how to prevent corruption and increase the level of integrity in Customs. Besides its integrity instruments, WCO Members can find inspiration in countries' experiences discussed within the WCO Integrity Sub-Committee. At its latest meeting, participants discussed, for example, government procurement and criteria in securing integrity in procurement processes, an issue which touches very strongly on service inspection contracts.

More information

www.wcoomd.org





Landmark WTO agreement has major implications for African trade

By Hester Hopkins,

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THE WORLD TRADE Organization's Trade Facilitation Agreement promises to streamline global Customs clearance procedures, cutting trade costs by almost 14.5% for low-income countries. But what are the repercussions for South Africa and other African states?

The Trade Facilitation Agreement (TFA) supports the simplification and harmonization of processes which are already underway in Africa as a direct result of the implementation by Customs administrations of the WCO Revised Kyoto Convention on the simplification and harmonization of Customs procedures.

Although the TFA aims to alleviate the main barriers to trade by creating a fair playing ground, it is widely acknowledged that the costs of trade affect small- and medium-sized enterprises (SMEs) disproportionately, in some cases rendering them uncompetitive. Minimizing trade transaction fees, such as the cost of clearing goods, documentary administration costs, and border

delays are all part of the Agreement's objective.

One of the measures in support of developing countries and least developed countries (LDCs) ensures that they are not obliged to invest in infrastructure related to trade facilitation beyond their means. This is where increased support from external parties is necessary to help developing countries and LDCs meet the commitments required by the TFA in line with their trade needs.

Implications for Africa

Manufacturers, freight forwarders, logistics providers, express carriers and entrepreneurs seeking to export, all stand to benefit from this Agreement. The TFA comprises two sections: the first deals with trade facilitation measures and obligations, while the second focuses on flexibility arrangements for developing countries and (LDCs).

The Agreement, which comes into effect in 2015, will be binding in developed countries, but developing countries and LDCs will be given an extended period in

which to comply with its provisions. The biggest challenge lies in the implementation of the trade facilitation commitments within the given time frames, the high implementation and regulatory costs involved, training needs, and the application of new policies and regulations.

Due to these challenges, monetary and training assistance has been made available to developing countries and LDCs by donor organizations and their members. WCO Members too are expected to ensure a high level of transparency and predictability within their Customs processes, and maintain information which is accurate, reliable and updated immediately.

Private sector involvement

The private sector will be involved in the TFA implementation phase through stakeholder engagement projects, so that authorities can be apprised of the views of economic operators, and also counteract and plan for any negatives – for example, limitations on information and communications technology (ICT) infrastructure, the cost of compliance, and overall implementation support.

Time frames for implementation are also crucial, as governments need to know what the private sector can cope with – change demands both time and resources. Given that the private sector often has a better understanding of commerce than government officials do, their insights into the impact of these changes will be valuable – for example, border opening and closing times, and stay-over facilities for trucks if needed.

Impact on Africa

Customs authorities and other border agencies in Africa will be required to exchange information and alleviate bottlenecks to ensure trade facilitation. Generally, they will have to modernize their facilities as many border posts still have poor physical and telecommunications infrastructure, and optimal exchange of information depends on this. There is however great progress being made in Africa with one-stop border posts and Single Window projects everywhere, which contributes to trade facilitation.

A major impact of the TFA on Africa is the removal of pre-shipment inspection (PSI) and destination inspection (DI) companies who have built infrastructure, trained Customs officials and generally assisted Customs on technical matters, such as tariff classification and valuation. Customs will have to operate going forward, without the support of these companies which will require administrations to further increase their capacity and technical knowledge.

Some LDCs – for example, Tanzania – have expressed fears that the Agreement could result in skewing its balance of trade in favour of cheaper imports, thus endangering local industries and jobs. But we believe these fears are ill-founded: foreign investment often results in job creation and secondary benefits, such as corporate social investment that often includes the building of schools and clinics. If countries feel threatened by the TFA, they can impose minimum quotas for local employment on foreign companies wanting to invest.

The TFA also supports regional integration, standardization of cross-border processes, and the elimination of unnecessary trade barriers. This will have a positive impact on African regional trade routes and corridors. The Agreement, together with similar initiatives, will improve the Cost of Doing Business Index, which includes cross-border analysis of how many documents are being used, the cost of delays, and the processing time of trucks and documents at border crossings.

The road ahead

To conclude, developing countries and LDCs should aim to implement the provisions of the TFA in a timely manner, taking full advantage of the assistance being offered by international organizations, such as the WCO and the Organisation for Economic Co-operation and Development (OECD), as the benefits that will arise from this new modernized, transparent Customs system far outweigh the costs of implementing it.

More information

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Time to get to grips with information exchange

By Rob van Kuik,

COUNSELLOR, DIRECTORATE-GENERAL FOR TAX AND CUSTOMS POLICY AND LEGISLATION, NETHERLANDS MINISTRY OF FINANCE

In Dublin, the WCO Policy Commission discussed the role of Customs in combating cross-border tax evasion and avoidance. One of the conclusions was that given the political focus on the topic globally, the WCO should review the legal framework, including WCO instruments, for the exchange of information between Customs administrations. This seems appropriate as both the WCO through its 'Customs-to-Customs information exchange' and the Organisation for Economic Co-operation and Development (OECD) through its 'Tax-to-tax administration information exchange' have placed these topics on their agendas.

THIS ARTICLE FOCUSES ON exchange of information (EoI) developments in tax and Customs in the past years with particular emphasis on automatic exchange of information (AEOI), and on the exchange of personal data. It is the personal view of Rob van Kuik, a senior Customs official at the Netherlands Ministry of Finance, who happened to get caught up in work relating to direct taxes for four years and in the early stages of the major changes that have occurred in this field. His article also highlights the intriguing difference in speed of developments between the tax and Customs worlds in the field of EoI.

State of play in EoI vis-à-vis Customs matters

With the exponential increase in global trade and transport after World War II (WWII), Customs administrations realized that there was a need for cross-border cooperation, as operating in isolation was no longer a viable option. This cooperation began with practical arrangements for Customs controls in adjacent countries in respect of road and rail transport crossing land frontiers, and included bringing together import and export data.

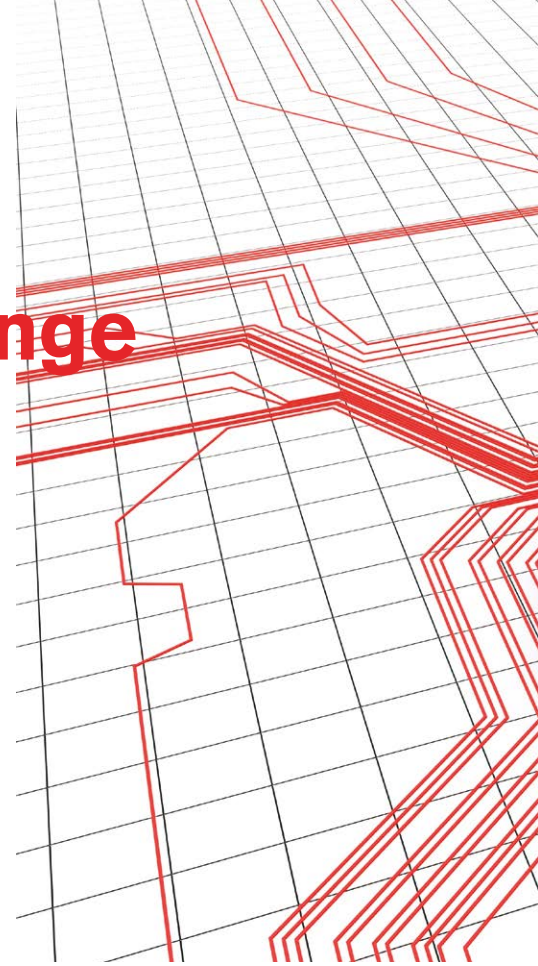
Customs transit arrangements also popped up around the world, and included the sharing of information – and sometimes pre-departure information. But it soon became clear to many Customs administrations that a much broader EoI and other forms of mutual administrative assistance (MAA) were key to enhancing Customs controls and enforcement. For decades Customs has been at the forefront of exchanging information to cope with the increase in international trade transactions, and the associated increase in risk relating to infringements of Customs legislation.

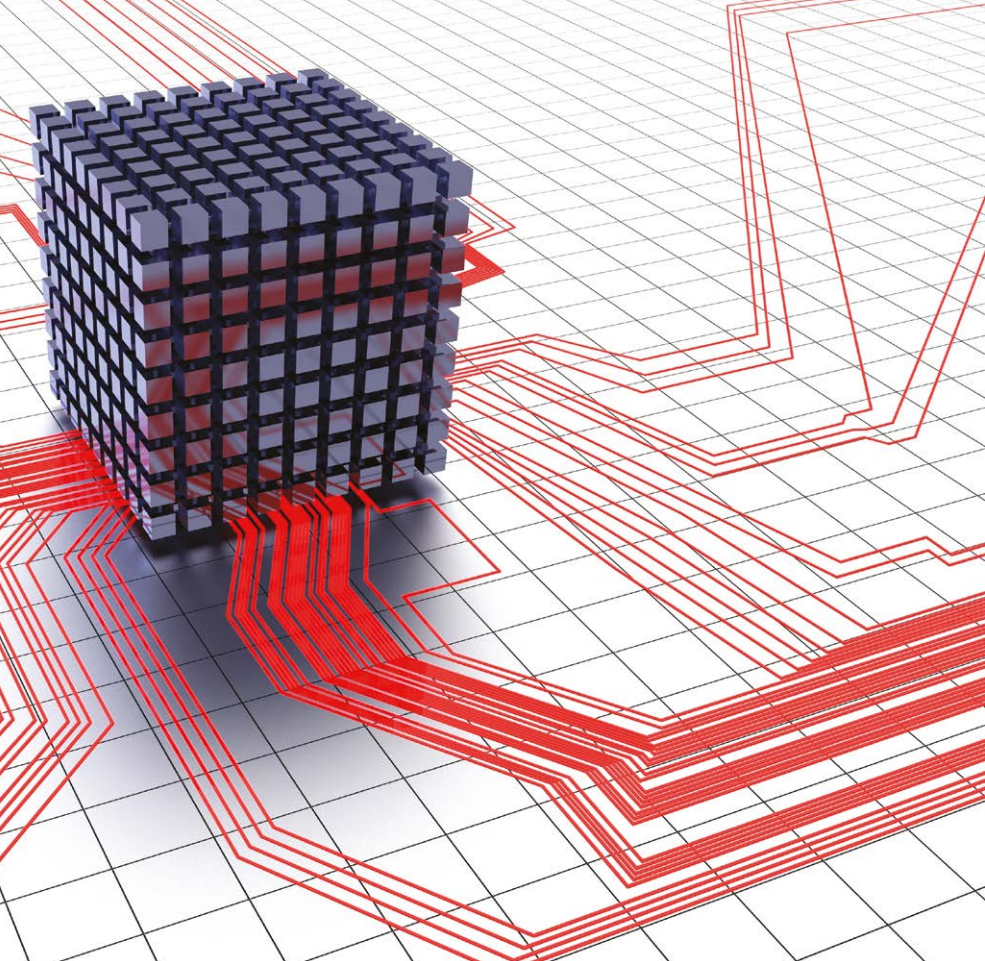
International EoI requires setting aside national legal provisions that require Customs administrations to keep information they obtain from natural or legal persons confidential, and use it only for specific predefined purposes. Furthermore, spe-

cial attention is required for international exchange of personal data. Rules on the protection of personal data have evolved quickly in past decades, and the differences in sometimes very strict national rules have to be overcome if personal data needs to be exchanged with other Customs administrations.

How this can be achieved depends to a large extent on the legal system in the jurisdiction concerned. National rules can be set aside by bilateral Customs MAA agreements. Some jurisdictions have the option to use Executive Agreements or Memoranda of Understanding (MoUs) for this purpose, mostly with a standard text that should be adhered to as much as possible. For other jurisdictions, a full-fledged treaty is needed, as stipulated in the 1969 United Nations (UN) Vienna Convention on the Law of Treaties, which has to be approved on a case-by-case basis by their national parliaments.

The WCO has supported its Members by providing several legal tools for enhanced EoI, such as the 1953 Recommendation on MAA, the Model Bilateral Agreement (last revised in 2004), and the 1977 Nairobi Convention on MAA, as well as the 2003 Johannesburg Convention on MAA. Although numerous bilateral agreements and MoUs – many of them based on the WCO model – have been concluded in





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the past years, the WCO Johannesburg Convention on MAA has not entered into force yet, probably because the expectations of Customs administrations differ, and many unwarranted fears exist about the actual implementation of a multilateral convention.

The reasons for the failure of earlier attempts to obtain agreement on a multilateral Customs instrument and, more importantly, to have it widely ratified and implemented do not relate to the quality of the legal instruments concerned. The Johannesburg Convention is in fact very similar, as stated correctly in the document discussed by the WCO Policy Commission in Dublin, to the OECD/Council of Europe (CoE) Convention on Mutual Administrative Assistance in Tax Matters, which is actively promoted by G20 Members.

State of play in EoI vis-à-vis tax matters

After WWII EoI was not as obvious in tax matters as it was in the Customs environment. Nevertheless, tax authorities, just like Customs administrations, were increasingly confronted with cross-border issues, such as companies with branches (including subsidiaries) abroad aiming to avoid or even evade paying direct taxes, and private individuals hiding money in foreign banks or living in other countries after retirement. Some jurisdictions, com-

monly referred to as tax havens, made it their primary business to facilitate such international evasion and avoidance, and were a major obstacle to transparency and EoI for decades. Attempts by the OECD and the UN to curb these practices were not successful.

The financial and economic crisis of the past years has led to a revolutionary change in the political landscape. During the London G20 Summit in April 2009, a decision was taken to address the issue of tax evasion, following up on earlier OECD work to address tax compliance risks posed by tax havens. In September 2009, the Global Forum on Transparency and Exchange of Information for Tax Purposes [http://www.oecd.org/tax/transparency/progress_report_G20.pdf] was created. The Global Forum has been a catalyst in progressing EoI in the tax world. Its first focus was on 'exchange on request', based on Article 26 of the OECD's Model Tax Convention on Income and on Capital (the model for double taxation agreements) and on Tax Information Exchange Agreements (TIEAs).

But the G20 and the OECD are in the process of making AEoI the de facto global standard for the exchange of tax information, and the OECD/CoE Convention on MAA in Tax Matters, amended by a protocol in 2011, is the multilateral framework

for this. All G20 countries are now signatories to the amended Convention and most have ratified it already. The amended Convention is in force in 50 countries and the number is steadily increasing.

The meeting of the Global Forum that was held in Jakarta, Indonesia in November 2013 recognized this new global standard and set up an AEoI Group to facilitate the transition towards and implementation of AEoI. This new standard was published on 13 February 2014 and contains a model competent authority agreement. Enhanced AEoI will also play an important role in efforts to tackle the problem of (tax) base erosion and profit shifting (BEPS).

At the same time, the United States (US) is implementing its Foreign Account Tax Compliance (FATCA) legislation, which requires foreign financial institutions to systematically disclose the details of US account holders, including their account balances. The Netherlands, as another example, has already agreed to AEoI for tax matters with many other tax administrations, mostly in the context of the European Union (EU) – in the field of savings and value-added tax (VAT) for example – but also with an increasing number of non-EU States.

The G20 push to get the OECD/CoE Convention on MAA in Tax Matters ratified by all its Members, as well as by other States and jurisdictions, including former tax havens, will offer unprecedented opportunities for enhanced transparency and the (automatic) exchange of information in tax matters

Evaluation of the present MAA situation in Customs

The present legal status quo in the Customs world is even more regrettable in my view as EoI – and in particular AEoI – is at least as important for Customs administrations as it is for tax authorities. The WCO SAFE Framework of Standards to Secure and Facilitate Global Trade (SAFE) and the closely related WCO International Supply Chain Management (ISCM) Guidelines consider AEoI to be the basis for advanced, integrated Customs procedures and control mixes for the future.

The trend towards more regional economic integration – and as a consequence,

intensified Customs cooperation – also calls for multilateral solutions rather than the complex interdependence of bilateral agreements. Customs capacity building may need to highlight the need for intensive EoI on the basis of a proper legal basis even more than it does at present.

The Dutch experience in the EU-China Smart and Secure Trade Lanes project has shown that many of the theoretical concepts contained in the SAFE and the ISCM Guidelines are working in practice. But to make these concepts a truly global success, going beyond the bilateral EU-China project, a firm global legal basis for AEoI is really needed.

An illustration of the problem is that the WCO Globally Networked Customs (GNC) initiative was intended to fill some of the legal gaps. In practice, GNC projects, thus far, are only being run between Customs administrations which already have bilateral Customs MAA agreements in place. The legal toolbox that was designed to allow for quick legal fixes has not been used so far. It therefore seems that only broad-based legal solutions will pave the way towards making GNC the success many hoped it would be.

The adoption by the World Trade Organization (WTO) of the Bali Package, which includes the Trade Facilitation Agreement, in particular Article 12 on Customs cooperation, is another effort to solve this problem for the Customs community. The WTO text is, however, restricted as it only covers the basic elements of the tax base for Customs duties in the case of doubts about the correctness of lodged Customs declarations. This will – due to the limited scope and many exemptions foreseen – probably not be the solution that the WCO Policy Commission had in mind in its December conclusions.

As the WCO Johannesburg Convention has not yet entered into force and as another comprehensive multilateral framework for Customs MAA is currently not available, Customs administrations seeking to exchange information among each other must largely rely on bilateral or regional arrangements.

To seriously implement modern working methods, such as the SAFE concepts to

which most WCO Members have committed, there would be a need to create a comprehensive network of bilateral Customs agreements. This is, however, neither a realistic nor a desirable option. The cost and effort involved in concluding bilateral Customs MAA agreements will deter many Customs administrations from building up the required network of bilateral agreements. A one-time ratification process for a multilateral convention may, however, be a feasible option. Ratification could be embedded in ongoing reform and modernization projects, for example.

Special personal data exchange considerations

Personal data is normally defined as “any information relating to an identified or identifiable natural person”. It requires a special level of protection to ensure the fundamental right to privacy of individuals, particularly relevant when large scale AEoI will occur. This is a politically highly sensitive area, looking back at recent revelations in respect of almost unrestricted data collection by secret services and the outcry from civil society. In well-regulated relations concerning MAA between Customs administrations, such infringements on the fundamental human right to privacy may simply not occur.

There are several sets of minimum requirements in this respect. Again, a CoE instrument dating back to 1981 [Convention for the protection of individuals with regard to automatic processing of personal data] gives a set of rules that reflects the global consensus at that time, but is still fairly adequate for today’s requirements. An EU Directive (95/46/EC) [Directive on the protection of individuals with regard to the processing of personal data and of the free movement of such data] is another example, and is an important component of EU privacy and human rights legislation.

This EU Directive is likely to be replaced by a more detailed and stricter Regulation. A remarkable aspect of the EU Directive is that it obliges the EU as a whole and its Member States, when aiming to exchange

“The cost and effort involved in concluding bilateral Customs MAA agreements will deter many Customs administrations from building up the required network of bilateral agreements.”

personal data with ‘third-countries’ (non-EU States), to ensure that the level of protection of the personal data exchanged in the third-country is equivalent to that in place in the EU.

The issue of the protection of personal data has received relatively little attention in tax discussions. The issue was resolved in the OECD/CoE Convention on MAA in Tax Matters by providing that the level of protection in the jurisdiction from which personal data is furnished will be applied in the country where it is received and will be used. It is not entirely clear, just as in the case of the EU Directive, how requesting administrations should know about and implement details of the personal data protection legislation in the ‘furnishing’ jurisdiction.

Article 26 of the OECD Model Tax Convention on Income and on Capital – the standard EoI article – does not go into much detail either. This is generally justified by the fact that these agreements focus on avoidance on double taxation and/or non-taxation, and EoI is a derived and supporting provision in these agreements.

For TIEAs this argument cannot be used as EoI is the core of these agreements. Many TIEAs concluded by, for example, the Netherlands therefore provide for a set of minimum rules for the protection of personal data, such as the right of individuals to be informed and to correct personal data exchanged or stored, but do not prevent the exchange of the data. Even in cases where an individual objects to the storage or exchange of data concerning him/her, the exchange will still be possible when the public interest in exchanging the data outweighs the interest of the individual who does not want his/her data exchanged.

In Customs, the WCO Model Bilateral Agreement has some rules on personal data in Article 25, and the WCO Johannesburg Convention deals more in general with personal data protection in Article 26 and Chapter X (more specific data protection rules for the Customs Automated Information System).

To cut a potentially much longer story short, the above examples show that adequate protection of personal data is increasingly recognized as a crucial element of MAA agreements, and that a variety of provisions is available to cater for privacy concerns while not impeding effective EoI.

Conclusion

The issue of EoI is both topical and politically important. An ambitious approach seems essential to me for raising the global political profile of the WCO. Such ambition should include efforts to achieve worldwide acceptance of a broad multilateral MAA convention, enabling Customs administrations to exchange information and engage in other forms of administrative assistance.

With the benefit of hindsight, I believe that the WCO Johannesburg Convention text agreed 10 years ago was simply ahead of its time. At that time, the legal minds in many countries were not ready to accept a multilateral legal basis for Customs EoI

or any other type of EoI for that matter. It may also be that the full potential of the EoI tool for enhancing day-to-day Customs work was not recognized at that point in time either. The fear of being overwhelmed with requests for EoI or other forms of MAA provided in the Convention may also have deterred Customs administrations from seriously considering accession.

Many of the Customs administrations in the G20 countries that have now embraced the multilateral OECD/CoE Convention on MAA in Tax Matters were in that camp. Their positions may now have changed when we address this issue again in the light of the revolution that has taken place in the past years in the tax field! A better management of expectations and fears should be part of launching a new attempt.

The provisions of the WCO Johannesburg Convention should therefore be reviewed carefully. Such a review may need, based on the above considerations, to focus in particular on the AEoI provisions in

Articles 9 and 10 that are crucial for the implementation of the SAFE. A review of Chapter X may also be appropriate, as its complexity may be one of the deterrents that prevent WCO Members from embracing Johannesburg. Special attention should obviously also be devoted to the issue of personal data protection.

Finally, I find it difficult to understand why the multilateral tax convention is embraced by the G20 and is in the process of ratification in all G20 countries (where they are not already Contracting Parties) and in many other jurisdictions, even including some of the former tax havens, while the largely comparable WCO Johannesburg Convention is yet to enter into force, more than 10 years after its adoption by the WCO Council. It is therefore a wise decision of the WCO Policy Commission to engage during 2014 in a constructive discussion on this issue.

More information

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Standards and interoperability for secure track and trace

By Christine Macqueen,

DIRECTOR, CORPORATE AFFAIRS, SICPA

THE WCO GLOBAL AEO Conference in Madrid provided a good opportunity to look at ways in which secure authentication and track and trace systems can support trusted trader regimes by providing additional tools to deal with high-risk supply chains. Put simply, goods are given a unique identity (like a passport) which enables them to be monitored throughout their lifecycle.

This additional level of control enforced across the full length of the supply chain, from manufacturers to consumers, can enable Customs authorities to deal in a normal way with goods they would otherwise regard as in high risk categories most susceptible to criminal activity. It is a win-win for Customs officers and

traders alike. Delays at borders can be reduced, trade is facilitated, and high-risk is made low-risk.

The approach is applicable to a range of products – be they products subject to excise, which are highly taxed, goods which are crucial to a person's health, or equipment which is regarded as strategically sensitive. What's not to like?

So how to make it happen in practice? There are varying opinions on what is required, and some consequent confusions and misunderstandings which serve only to inhibit progress. Individual countries can of course start by introducing national systems, and indeed it is important that they can make choices based on their own specific needs and situations.

But by definition trade is only facilitated if the systems work across borders. So if we want to make it real, we need to ensure that we are all talking the same language and that there is agreement on common standards and definitions.

Cross-border systems need to talk to each other, but that doesn't mean they are identical

One of the topics that seems to cause confusion is what we mean by interoperable systems. It is clearly essential that cross-border systems can talk to each other. But this does not mean that they have to be the same. What is crucial, however, is that they are designed so that they can safely and accurately exchange important information. This is not a banal task, and requires specific expertise. Nor is it one which demands a 'one-size-fits-all' approach.



SICPA's definition of secure track and trace

Tracking is the ability to monitor the progress of a product through its life cycle.

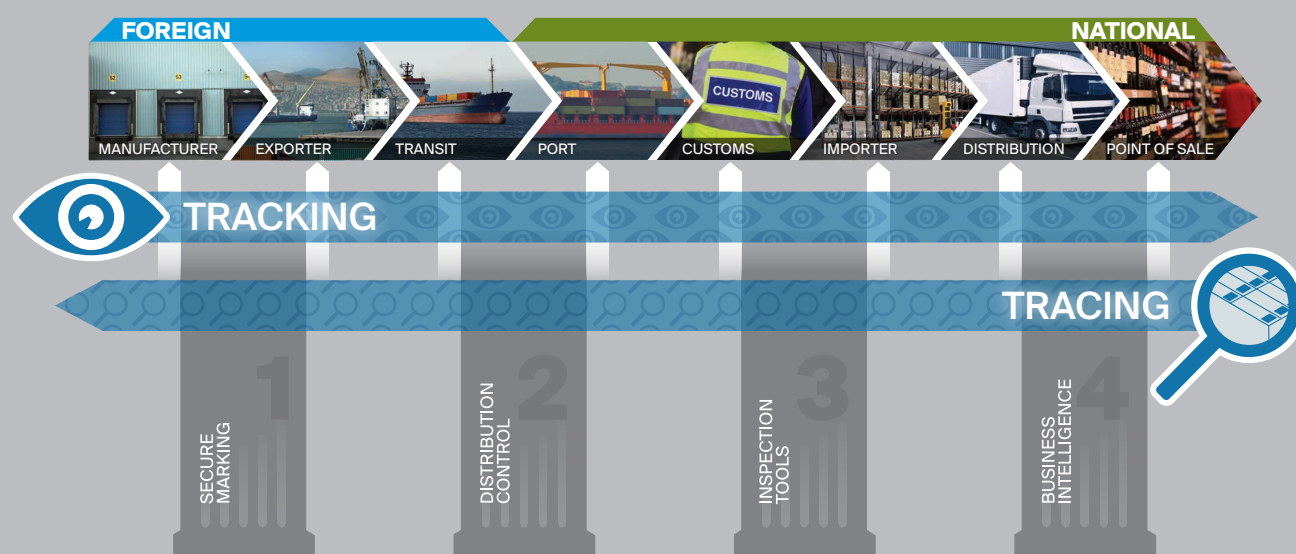
Tracing is the ability to look backwards to where a product has been and/or where it originated.

Secure track and trace covers the authentication and traceability of products through a secure supply chain so that governments,

manufacturers, economic operators and the population at large can be confident that products are genuine and origin is proven.

It is based on 4 essential pillars:

- (i) secure marking of legitimate production;
- (ii) distribution chain tracking functionalities;
- (iii) inspection, authentication and traceability tools; and
- (iv) business intelligence.



Another topic which seems to have people talking at cross purposes is that of 'open standards'. Where security is not a concern, open standards are highly attractive – easy and relatively inexpensive. But, 'as it says on the can', open standards are... open; accessible to those wishing to exploit them for criminal purposes, as well as to the authorities who use them to exercise control.

For high-risk supply chains this is just not good enough. Secure marking is required and this means deploying features which are protected and not available to those who are not authorized. Recent work on ISO 16678 (GuideLines for interoperable object identification and related authentication systems to deter counterfeiting and illicit trade) has brought clarity to what is required to protect trade in sensitive goods – setting an international standard, which is interoperable, but not open to all indiscriminately.

In particular, the standard emphasizes the need to ensure that queries issued by inspectors are routed to an authoritative source for validation, protecting the system from possible frauds. In addition to providing guidance for interoperability, this international standard also highlights the limitations of schemes that rely purely on ID verification, as they are vulnerable to common frauds, such as ID code duplication. In order to mitigate the risk of duplication, the standard recommends adding material-based authentication elements, such as security inks, into the code.

A new standard covering the full range of issues associated with secure track and trace

But more is required. A new standard covering the range of issues associated with secure track and trace would be useful. Among the issues it would need to include are the data model, communication/interface protocol standards, aggrega-

tion standards, global query and reporting capabilities and related security aspects, as well as authentication tools.

The idea of a new standard has been proposed informally, and we will certainly be adding our weight to those who want to take it forward. There is a world of complexity in these issues, but if we are to benefit from the best latest technologies that are on offer, if we are to manage risks appropriately, control what needs to be controlled, and exploit 'big data' opportunities wisely, there is no better time to start than the present.

More information

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Namibia's Customs modernization drive and nCEN experience

By Lesley Tiboth,

RISK MANAGEMENT SECTION, NAMIBIA CUSTOMS AND EXCISE

As part of its Customs modernization drive, Namibia Customs is gradually introducing the concept of risk management across the entire organization. In November 2013, an important milestone was achieved with the launch of the nCEN designed by the WCO.

AS PART OF its Customs modernization drive, Namibia Customs and Excise (NCE) is gradually introducing the concept of risk management across the entire organization, while developing staff capacity in this domain with the aim of making risk management a key component of Customs operations. In addition, NCE has recently established a Risk Management Unit within its organizational structure.

The adoption of a risk management approach entails the collection of quality and consistent data which may be used to undertake relevant analysis, gather intelligence, create selectivity rules, and monitor and evaluate shipments. All these actions will enable officers to provide the NCE Commissioner with accurate analysis, thereby enabling him to deploy resources where they are most needed and to enhance controls without hindering the free flow of trade.

In November 2013 an important milestone was achieved by NCE with the launch of a National Customs Enforcement Network (nCEN) designed by the WCO. This project was financially supported by the Government of Finland through its Ministry of Foreign Affairs. Although risk management may still be in a developing stage at NCE, Namibia believes that being able to rely on a resourceful enforcement tool such as nCEN will make a difference in its operations.

Current challenges

As a transit route and gateway to the Atlantic Ocean for many landlocked countries, Namibia has experienced a rapid increase in trade volumes, which has resulted in the country now being targeted by crime syndicates. As a result of these developments, and being a developing country, NCE faces the following challenges:

- facilitating regional integration and interconnectivity by the timely sharing of information with other neighbouring Customs administrations;
- effectively combating illicit trade, such as the smuggling of cigarettes;
- promoting legitimate trade by reducing clearance dwell times.

Although NCE has an automated information system in place – ASYCUDA ++ – which will soon be upgraded to ASYCUDAWorld, the features offered by the current system are not being utilized to the full, and the use of available Customs data for analysis purposes, especially the enhancement of risk management, is not satisfactory. This situation is attributed to the minimal data-mining capabilities of the current system. Although trade and enforcement data are being captured, the data lacks structure and consistency.

The nCEN application was developed to remedy this situation by giving Customs the ability to collect, store, analyse and disseminate law enforcement data effectively at the national level, in order to establish

robust intelligence capabilities, enhance profiling at a strategic, tactical and operational level – including risk mapping of commodities, routes and traders most prone to Customs tax evasion – and boost information-sharing between Customs administrations.

With nCEN, NCE is now equipped with four independent databases (Seizures, Suspects, Companies and Pictures) and a communication tool (Interface Communication Manager, or Icomm), which enables Customs administrations using nCEN to exchange information swiftly – provided the legal basis exists – and to transfer non-nominal data to the WCO's global Customs Enforcement Network (CEN) at the touch of a button.

The installation of nCEN will undoubtedly position NCE at the forefront of combating fraud and crime by providing it with a means of improving its operational techniques and addressing the challenges mentioned above as follows:

• *Enhancing regional integration and interconnectivity*

Icomm will allow NCE officers to share enforcement information with neighbouring Customs administrations in a secure environment, thereby enabling effective interconnectivity among Customs services in the region. This interconnectivity will promote regional integration and contribute to the implementation of the WCO's Globally Networked Customs (GNC) concept.

• *Combating smuggling effectively*

The nCEN databases will provide the basis for the systematic capture and storage of enforcement data – for example, information on seizures or suspicious consignments/passengers, while the application's powerful analytical tools will allow NCE to effectively analyse data, develop valuable intelligence on different crime areas, and identify trends and patterns in Namibia's trading environment. These valuable out-

puts can then be fed into ASYCUDA's risk management engine.

• **Promoting legitimate trade**

The use of nCEN will enable NCE to enhance its information-gathering capabilities, including the quality of the information. With better information to hand, the filtering of Customs declarations will be more reliable and effective, thereby reducing the overall average clearance time of legitimate consignments. This will impact positively on NCE's revenue collection mandate and enhance Namibia's economic competitiveness.

Way forward

After the installation of the nCEN software in November 2013, 10 officials were swiftly trained by the WCO on how to operate

the application. At present, data related to detentions, seizures, people of interest and companies involved in illicit activities, as well as pictures of contraband and conveyances, are being recorded in nCEN where they will be analysed to build risk profiles and indicators.

To ensure the timely capture of data and the quality of reported information, a training programme is currently being developed. Its objective is to ensure that all NCE officials are trained in the use of nCEN. This will enable them to promote the WCO tool throughout the region.

Besides the deployment of nCEN and the adoption of a risk management approach, Namibia's Customs modernization efforts also include:

- the implementation of non-intrusive inspection technology;
- the deployment of ASYCUDAWorld and its risk management engine;
- the establishment of one-stop border posts;
- the current review of the Namibian Customs Act No. 20 of 1998.

All these initiatives are testimony to NCE's commitment to its Customs reform and modernization programme, and are driven by the desire to move the country to the forefront in the WCO East and Southern Africa region, as well as globally.

More information

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Growing information exchange between Customs and tax authorities in Korea

Development of automated systems and information exchange

CUSTOMS AND TAX authorities in Korea did not have a meaningful exchange of information until the Korea Customs Service (KCS) developed an automated clearance system in the early 1990s. Before the introduction of an automated clearance system, the KCS and the Korea National Tax Service (KNTS) intermittently requested each other to verify whether a suspicious transaction or tax return that was being investigated accorded with the records held by the other party. However, the introduction of an automated clearance system enabled KCS to regularly provide all import and export information to the KNTS, enabling the tax authorities to use trade transaction information to assess whether traders' tax returns at their disposal were correct and reliable.

KNTS was somewhat late in developing an automation system that enabled the tax authority to manage records of tax payers' incomes and assets systematically. As a result, KCS barely benefited from KNTS's tax information system until mid-2000 – the period in which they became fully automated. Before KNTS's automation, information from KNTS to KCS was confined to exchanging information on the collection of delinquent Customs duties and taxes, particularly information needed by KCS on tax payers' income and assets when traders refused to pay taxes on their imports, resulting in KCS needing to locate defaulters' hidden income and assets that could be subject to forfeiture.

After each tax payer's income and assets were electronically recorded and systematically managed, KCS was regularly provided by KNTS with information on each trader's annual purchases and sales and stored this information in its own data warehouse. The information was used to gauge each trader's business scale and identify his or her business partners, as well as enabling KCS to compare a trader's aggregate import/export records

and its purchase/sales records reported to KNTS. However, information on traders' purchases and sales does not automatically lead to the detection of Customs duties and taxes on trade being evaded, but the information did serve as a reference point for Customs to narrow down its investigative targets.

Exchange of information on investigative cases

Although KCS and KNTS did exchange information on tax bases, both parties seldom exchanged information on cases that they were examining or investigating until 2013, as each agency was reluctant to accept that something that may have been missed in their examinations or investigations could have been detected by the other. However, the two agencies made a breakthrough in information exchange in 2013, as Korean society required an extended social security system more than ever and the country's economy had not

yet recovered from the fiscal crisis being experienced by European countries.

In order to generate extra revenue required for the extended social security system, the Korean government opted to fight against informal and illegal economies rather than raise tax rates. This led to KCS and KNTS focusing, in particular, on information exchange to disclose hidden tax bases and tax evasion. In this regard, in September 2013 both parties concluded a Memorandum of Understanding (MoU) to facilitate the exchange of information on cross-border tax evasion. In fact, even though there were laws supporting information exchange between government agencies before the conclusion of the MoU, KCS and KNTS were hesitant to exchange information under the pretext of protecting tax payers' privacy and respect for the other party's turf.

Table 1: Changes in information exchange between KCS and KNTS

		Before the MoU (2010-February 2013)	After the MoU (March 2013-October 2013)
Information on tax bases	KCS → KNTS	8	13
	KCS ← KNTS	7	21
Information on investigative cases	KCS → KNTS	4	139
	KCS ← KNTS	6	17



For instance, after early 2000, KCS examined the flow of money between traders and their overseas partners to detect illegal trade transactions and assess the veracity of trade payments. In the course of such investigations, KCS frequently discovered that traders hid their corporate income overseas to evade corporate income tax. However, KCS hesitated to inform KNTS of any suspicious cases of cross-border corporate income tax evasion – between 2010 to just before the conclusion of the MoU in September 2013, KCS and KNTS only exchanged information in a total of 10 cases and collected taxes amounting to 16.6 million US dollars.

Under the terms of the MoU, KCS and KNTS agreed to share not only information on tax bases but also information on investigative cases with respect to cross-border tax evasion. As shown in Table 1, information on tax bases that KCS has shared with KNTS increased from 8 to 13 cases; KNTS has in turn sent KCS information on 21 cases, up from 7. Regarding investigative cases, KCS and the KNTS have exchanged information on 156 cases over a period of seven months and collected 57.2 million US dollars which otherwise would not have been collected. Clearly, information exchange has increased considerably between KCS and KNTS following the signing of the MoU with both agencies reaping rewards from their cooperation.

More information

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Mexico signs a Mutual Recognition Agreement with the Republic of Korea

The signing of a Mutual Recognition Agreement (MRA) between Mexico and the Republic of Korea on 11 March 2014 affirms the compatibility between their respective trade partnership programmes. This event is also a boost for the WCO's efforts to encourage its Member Customs administrations to recognize each other's Authorized Economic Operator (AEO) initiatives.

Called the New Authorized Businesses Plan in Mexico and the AEO Program in Korea, these AEO programmes are voluntary partnerships between members of the trade community and their respective governments. Trade participants that adopt specific supply chain security standards set out in these programmes will enjoy a number of incentives, including recognition of their status as secure and reliable trade partners.

Mexico's authorities are of the view that the MRA with Korea will facilitate improved commercial outlets and the competitiveness of Mexican businesses. It will also encourage investment and promote the smooth movement of goods between the two partners while fostering the development of increasingly secure and efficient international trade supply chains.

In particular, the MRA should result in a fall in the number of inspections performed by the Korea Customs Service which has undertaken to provide personalized, rapid service to Mexican businesses. The latter will therefore enjoy time and cost savings that will help to enhance their economic competitiveness on the world market.

Having made the signature of MRA's a priority, Mexico is now the first Latin American country to conclude a negotiating process of this kind. It will shortly sign an MRA with the United States and has opened negotiations with Costa Rica and Japan.

More information

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‘Customs-for-business’ – a new level of ambition for Poland’s Customs Service



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Poland, like other Members of the WCO, has been applying the ‘Customs-to-business (C2B)’ concept in its relations with the trade community for many years. Since successfully concluding the process of integration into the European Union (EU) and joining the European Customs Union, Poland’s client-oriented approach has gone from strength to strength. But now, the challenge of the Polish Customs Service goes far beyond that, with the focus falling on ‘Customs-for-business (C4B)’ – a new level of ambition for Customs.

THE WORD ‘SERVICE’ in the official name of the Customs Service of Poland reflects precisely its responsibility towards other international trade stakeholders. This year a new business strategy called Polish Customs 2020 was adopted at govern-

ment level. A source of inspiration for the strategy was, among others, the needs of trade operators – needs which were also identified during the World Trade Organization (WTO) Ministerial Conference in Bali.

It is worth mentioning that, alongside the strategy, a new vision has been declared by Polish Customs: ‘The Customs Service – using knowledge innovatively to provide better service in the digital lifestyle era’. We are convinced that Customs has to do

“Customs has to do its best to achieve the same level of modernity as economic operators, otherwise Customs procedures might be associated with potential bottlenecks in international trade.”

its best to achieve the same level of modernity as economic operators, otherwise Customs procedures might be associated with potential bottlenecks in international trade. Conclusions of this kind may have led the Ministers in Bali to conclude the Trade Facilitation Agreement (TFA).

The TFA is an important legal and political instrument designed to meet the expectations of both the Customs and trade communities. The provisions of just 13 TFA Articles, in a relatively short text, cover the full scope of Customs' core business and should be read as a 'to-do' list for Customs administrations; trade facilitation should be seen as the 'Customs facilitation' that Customs should be offering to business.

It is true that some administrations have a long way to go, but Section II of the TFA offers “Special and Differential Treatment for Developing and Least-Developed Countries”. The other perspective is the role of the WCO and the EU who are expected to play an active part in the TFA implementation process. Sections I and II of the TFA demonstrate a well-balanced approach to Customs facilitation.

Having regard to Article 12 of the TFA, namely 'encouraging the sharing of information on best practices', before the WTO Committee on Trade Facilitation starts to become the platform for daily cooperation, please allow me to present a few trade-facilitating practices from the Polish Customs Service's perspective, which may be of some interest to other Customs administrations. The practices follow the order of the TFA:

- **Information (TFA, Article 1)**

The availability of Website information is currently standard for most Customs administrations. But what about webcams at border crossing points? What about the virtual crossing of a border? In Poland we offer a virtual trip using a virtual 'Customs assistant' to show passengers what needs to be done when crossing the border between Poland and Ukraine, and what documents are necessary.

- **Consultation (TFA, Article 2)**

The consultation of draft regulations via

the Internet or via the Trade Contact Group is functioning very well in the EU. At the national level, Poland has the Customs Board – an independent body – to comment not only on legal provisions but also on the daily work of Customs. The Board is composed of trade, academic and former Customs experts, and its status has been confirmed by Poland's Customs Law, an Act of Parliament.

Moreover, the new business strategy – Polish Customs 2020 – provides for the implementation of a new programme. Known as 'Customer Relations Management', it is a tool well-known in the trade community, but quite unique in the public administration domain.

- **Pre-arrival processing (TFA, Article 7)**

Traditional Customs procedure demands that the goods to be cleared, including all required documents, should be presented at the same time. With international trade now moving much faster and the number of individual cases on the increase, a new approach is a must. But submission of the import documents and other information before the goods arrive is just a first step. Customs also needs to have sufficient capacity to process them prior to the arrival of the goods.

In Poland, since January this year, we have been offering pre-arrival processing of maritime transport at all seaports. The goods to be cleared can not only be declared on the day they arrive, but even a day before!

- **Average release time (TFA, Article 7)**

Processing time is one of the key performance indicators for Polish Customs. The measurement of entry declaration processing time, border crossing time and authorization release time are just a few indicators worth mentioning.

Poland also has a dedicated Website offering information on crossing times at each border point. The new concept offers 'zero waiting time' thanks to a dedicated

booking system – the 'e-booking bus' – that offers operators the possibility of using the Internet to book their preferred time to have their goods checked at the border.

- **AEO facilitation (TFA, Article 7)**

At the EU level, the Authorized Economic Operator (AEO) concept and the list of benefits is well-known. However, at the practical level some additional simplifications and facilitations are offered in Poland, such as a dedicated learning and Customs consultant for each operator, regular meetings at the Customs senior management level, direct newsletters, and a dedicated parking place at clearing depots. This is compliance in practice.

- **Cooperation between border agencies (TFA, Article 8 and 10)**

A broad system of Memoranda of Understanding (MoUs), signed by Polish Customs and other agencies who play a trade stakeholder role, is well-advanced and long-lasting. However, this year MoUs have started to take on an international dimension!

Poland's Customs Service and Border Guards have signed an agreement with their relevant partners in Ukraine. This 'four party agreement' covers such issues as control, facilitation, and exchange of information. During the UEFA EURO 2012 football championships, the four agencies agreed to organize 'one-stop shop' controls at the border, instead of a cascade of four consecutive checks. We hope to improve this cross-border cooperation with Ukraine in the very near future.

These few examples illustrate in brief the broad concept of the Polish Customs Service's move from C2B to C4B. We are convinced that Poland's new, client-oriented business strategy provides the appropriate and right response to the successful implementation of the TFA.

More information

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Second WCO Global AEO Conference under the spotlight

IT IS NOW widely acknowledged that building collaborative relationships with trusted traders is advantageous for governments facing the challenge of growing trade volumes and increased security requirements on the one hand, and the need to develop efficient cross-border processes that allow businesses to be more competitive on the other hand.

Over the past decade, specific programmes have been put in place, opening up a new chapter in traditional Customs-business partnerships, namely Customs compliance programmes and Authorized Economic Operator (AEO) programmes.

Customs compliance programmes focus on traditional Customs requirements, such as the payment of Customs duties, while AEO programmes include security requirements as prescribed in the WCO SAFE Framework of Standards to Secure and Facilitate Global Trade (SAFE). Under these programmes, economic operators who demonstrate that they meet minimum standards and best practices receive trade facilitation benefits.

Given that these programmes all share similar challenges, although they may differ in terms of scope (import/export), types of operators and requirements depending on the country, the WCO launched its Global AEO Conference two years ago, to serve as an open platform for business, Customs and other border agencies to exchange ideas and share views on each other's expectations, and how to enhance the partnership.

Highlighted below are just some of the many issues discussed and experiences shared during the second Global AEO Conference, which took place in Madrid, Spain from 28-30 April 2014, with more than 800 delegates from more than 90 countries in attendance.

Implementation of the TFA

The event started with discussions around Article 7.7 of the World Trade Organization's (WTO) Trade Facilitation Agreement (TFA), which provides for an 'Authorized Operator' scheme, similar to the WCO's AEO concept.

As the TFA encourages WTO Members to develop Authorized Operator schemes on the

basis of international standards, where such standards exist, the WCO pointed out that it may be appropriate to use its AEO model as a standard to develop the TFA Authorized Operator scheme, as the use of AEO criteria to implement the Article will assist in ensuring a harmonized approach and enable countries to achieve seamless mutual recognition agreements/arrangements (MRA).

"The TFA expressly states that supply chain security is one element of an AEO programme, but is not mandatory. In the US the primary focus is on security, that is to say not only terrorism, but also concerns around corruption and contraband, for example. We believe AEOs programmes should have security of the supply chain as a foundation," explained a representative of US Customs and Border Protection (CBP).

He also pointed out that "MRAs will be negotiated only with countries having implemented a fully-fledged AEO programme, which includes security requirements as described in SAFE. Moreover the US will support the expansion of these programmes."

Communication

“We have to make it as easy as possible for those trying to comply and make it as hard as possible for those trying to avoid paying their fair share or to undermine our country’s security. The Key to this approach is ensuring that taxpayers and traders understand their obligations,” said a South African Customs representative.

Communication was on everybody’s lips. There can be no trusted traders or AEO programme unless Customs knows its customers and engages with them. “There are five main modes of stakeholder engagement,” explained a WCO expert during one of the Conference workshops, “namely informing, consulting (asking for input from stakeholders), involving (get stakeholders to participate), collaborating (actively partnering with stakeholders to consider options and make decisions), and empowering (placing final decision-making in the hands of stakeholders).”

“When we launched our AEO programme in 2011, we realized that we needed to communicate our message to all traders. We engaged with the media and consulted companies directly after undertaking a mapping exercise of national stakeholders, identifying their needs according to the different categories of business”, explained a representative of Uganda Customs.

Communication is also important when incidents occur. “It is important to adopt the right approach on how you solve issues” stressed a representative from New Zealand Customs. “To err is human. You should not blame, but understand and of course take proportionate action”.

“When we implemented our trusted trader programme, we realized that some companies needed training in Customs matters,” said the representative from South African Customs. “Some did not even understand their errors at times. We developed a guide containing basic knowledge, and we started offering training, enabling us to pick up issues and thereafter sit down and discuss them with companies.”

The WCO took the opportunity to present its capacity building project, which aims to provide advice on improving the communication, consultation and negotiation skills within Customs administrations,

and to support the formulation of a stakeholder engagement strategy, as well as the establishment of dialogue platforms and structured consultation mechanisms.

The Conference was also the ideal venue for business and government representatives to discuss how they each perceive and manage risk. Some companies explained how they formulate their Customs policies to ensure compliance, as well as how they secure their supply chain, while some Customs administrations described how they identify high-risk cargo, and how they integrate the trusted trader/AEO element into their risk management policy.

Practical guidelines for securing shipments were provided to companies, with one presentation focusing on seal integrity for example, and another focusing on container inspection presented in the form of a live exercise; participants were shown how to control the integrity of a container and what to be on the lookout for, during the 7-Point inspection techniques demonstration.

A US Customs and Border Protection (CBP) expert reviewed seal affixing procedures in great detail, and explained what a seal inspection process entails, insisting that seals should be implemented throughout the supply chain, at all foreign and domestic locations.

Success evaluation

After more than decades of implementing trusted trader/AEO programmes, we should be able to measure their success. But how do you measure success? As the programmes are voluntary in nature, counting the number of participants may seem relevant, however as Customs representatives explained, it makes more sense to look at their share of import and export volumes.

For example, AEOs in Europe only represent 0.37% of the total number of operators, but are responsible for 50% of the volume of trade entering and leaving European territory, and are the source of 50% of all import and export declarations.

In China, in December 2013, after almost five years of implementing the Chinese AEO programme, there were 2,910 certified companies, representing 0.5% of

the total number of operators, but they are responsible for 15.92% of all Customs declarations, and in terms of value, their imports and exports represent 27.95% of all transactions processed. These percentages are rising with more and more companies getting what is called ‘Class AA’ certification level.

The fact that few companies have a predominant place in trade activities is also true for South Africa, where 70% of all import declarations and 80% of all export declarations are submitted by 10%, i.e. 4,000 of the active traders.

But it seems the older programmes are reaching a plateau in terms of the number of participants. “The question is how AEO programmes can further develop, and what innovations can we add so that they can flourish,” said a representative of United Kingdom (UK) Customs.

Benefits and incentives

“Our economy will not survive a security incident and we need to make sure our exports are safe. We are selling predictability” explained the representative from New Zealand Customs whose AEO programme is aimed at exporters. “But it is a lot of hard work to convince companies to join our programme, as the risk of an incident may appear quite theoretical until the situation actually emerges”.

The SAFE states that benefits for AEOs should be ‘meaningful, measurable and reportable’. It also gives an indicative list of benefits, which include a reduced data set for cargo release, expedited processing and release of shipments, a minimum number of cargo security inspections, priority processing following an incident requiring the closing and re-opening of ports and/or borders, and increased paperless processing of commercial import and export shipments.

Benefits, said private sector representatives, should be meaningful to the extent that they should justify the additional costs sustained by economic operators in meeting prescribed AEO requirements, and provide real improvements and facilitation gains for AEOs above and beyond the normal benefits enjoyed by non-AEOs.

“Internally, we have to up our marketing game, as the first thing our top management will ask is “what will I get for becoming an AEO”! “Convincing senior management is not an easy task” explained a representative from a global express mail service provider.

Asked whether they had seen benefits in action, business representatives were divided. Most of the freight forwarders and logistics sector representatives were seeing benefits in terms of being an AEO, considering it as a market requirement.

Regarding expedited processing and release of shipments, all pointed out that in many countries inspection levels were already so low and border procedures so effective that they saw little benefits in terms of clearance time. “Countries where there is already a lot of facilitation may run out of benefits, but developing countries may have more benefits to offer to their trusted traders or AEOs,” said the representative from Uganda Customs.

“We are not an AEO,” said a representative of a UK company, “but we are considering joining the programme to benefit from the guarantee waivers that will allow us to defer payment of some Customs duties. That’s the only real benefit that we have identified so far.”

Other participants highlighted that being allocated with a dedicated AEO account manager at Customs was one of the main benefits of becoming an AEO. Implementing an AEO programme enabled many Customs administrations to change the culture of their staff, and private sector representatives recognized that this can be seen in practice.

“What is most important for us,” said a representative of a French AEO, “is the relationship of trust which we have now established with the administration. We appreciate the fact that if we encounter

an issue with the automated online Customs clearance system for example, we just need to pick up the phone to get it resolved.”

“You have to see the global picture. In Europe, if you do not have the right process in place and if you do not embrace the right logic of process control, you will not be able to enjoy the dematerialization of documents, which will constitute a seam for cost savings in the future,” he continued.

Other benefits that are not very well known have to do with the internal structure of a company; traceability and sound management of procedures impact positively on cost reduction. For example, some AEOs have enjoyed lower insurance premiums for the same rate of damages by implementing security requirements.

A representative from a Jamaican company highlighted another positive impact of going through the AEO application process. “We were one of the pilot companies used by Customs to test its new AEO programme. We had to get everyone involved, to get the ears of our management and the support of our key staff, such as the security department personnel. The whole project had a very positive effect on the staff, as we all got together, sat back and looked at our supply chain. We consider that we own this programme.”

Border coordination

“We hear a lot from the trade that we have to improve how we cooperate with the 23 other agencies in the UK. This is high on their wish list. Regarding AEO implementation, we still have quite a long way to go in building cross-government programmes,” said the UK Customs representative.

All Conference delegates contended that determining how operational coopera-

“Other participants highlighted that being allocated with a dedicated AEO account manager at Customs was one of the main benefits of becoming an AEO.”

tion, coordination and communication can be optimized between different border enforcement agencies responsible for matters of safety and security, human and animal health, and the economy and the environment, is of utmost importance.

“In the UK,” explained the UK Customs representative, “one of the things that we started to have a conversation on is how we can use the concept of a trusted trader with our own internal agencies, whatever those agencies may be, for all the licensing and regulatory requirements, i.e. to apply the trusted trader concept across the board.”

“One government clearance and one government clearance for AEOs through all of our different organizations can be achieved technically through a Single Window environment, but we have to think about how we do that through better, joined up processes,” the UK representative added.

Colombia adopted a ‘whole of government’ approach when designing its AEO programme. The certification process is managed through an inter-sectoral commission consisting of Customs and several other national actors, such as the police – in charge of container security, the Colombian Institute for Surveillance of Food and Medicines (INVIMA) – handling the sanitary aspects of the processed food trade, and the Colombian Agricultural Institute (ICA) – responsible for issuing sanitary import permits for non-processed products.

In Jamaica, a public sector inter-agency committee had been created in order to coordinate the activities of all agencies with responsibilities at the border. Issues related to the AEO programme are discussed within this forum. On a day to day basis, the AEO account manager at

Customs acts as an intermediary between AEOs and other agencies. “If our shipments are being inspected, let’s say by the food security agency, I can call our account manager and enquire about the status of our goods,” explained a representative of a Jamaican certified company.

SME participation

Another issue of particular interest was the participation of small- and medium-sized enterprises (SMEs) in AEO programmes. It was agreed that SMEs should be given more attention as they play a driving role in national economic growth, and in generating and sustaining employment.

Governments should use every available opportunity to educate and inform SMEs about the value of participating in AEO programmes, as well as provide adequate assistance to SMEs wishing to enter the validation process.

In the UK, a private company developed, in partnership with UK Customs, a learning programme for potential AEOs/company auditors, to ensure that a linked set of resources and processes are in place for the safe handling and delivery of goods, and related services within the supply chain.

In France, ‘Business Advisory Offices’ have been created in every Customs regional division, offering potential applicants personalized support. The local advisory team approaches companies about the AEO programme and what AEO status means, assisting interested companies to prepare themselves, including the filling-in of the ‘self-assessment questionnaire’.

Another interesting initiative is the sponsorship project developed in France by the Customs administration together with the Union des entreprises de Transport et de Logistique de France, or TLF, an association representing transport and logistics companies, in order to assist their SMEs to become AEOs.

As companies in the logistics and freight forwarding sector use many subcontractors, it is critical for them to ensure that all transporters in the supply chain are certified. However, for many, especially small trucking companies, becoming an AEO is time-consuming and tedious. Under the project, large certified companies provide free support to SMEs, offering them training and helping them to review their process according to the AEO programme requirements, if needed.

For its part, Jamaica Customs decided to grant flexibility to SMEs having difficulties to fulfil the new requirements put in place following the revision of the administration’s AEO programme. “Since we implemented our trusted trader programme in 2009, we thought that we had an AEO programme, but we realized that the security elements were missing, so we decided to revamp the programme in order to align it to the SAFE,” explained the representative from Customs.

“We did not want to pull the rug from under the feet of our SMEs, so we allow those that cannot fulfill all the requirements yet, to keep some of the benefits they enjoyed before during a transition period; such benefits now only being granted to AEOs. We gave them two years to comply with all the requirements. If they do not make it, we will withdraw all their benefits,” she added.

Technology and transparency

“You may compare an AEO certification with a driving licence, it does not stop you from speeding,” declared a representative from a technology provider. “There are always high-risk situations. To use the same analogy, people may know where the radars are located.”

Some benefits entail more risks than others. Time is a predictor of change, but not the best one, and some data needs to be checked more regularly than other

data. Guarantee waivers, for example, are seen as a high-risk benefit by most Customs administrations, requiring careful watch and regular checking of a company’s financial situation on a continuous basis.

Some technology solutions enable Customs authorities to better monitor AEOs in this area, such as those using ‘big data’. These systems collect open information on companies in order to create as realistic a picture as possible of their financial situation. The idea is to be able to predict future behaviour, and take action accordingly. Dutch Customs is using such a system to monitor the solvency of its 1,400 AEOs as a means to mitigate financial risk.

It was also clear from the discussions that high-risk shipments can become low-risk shipments when using the right technology, such as track and trace systems for example, by creating transparency and building trust.

Conclusion

Schemes like that of the AEO or trusted trader, which provide Customs administrations with some degree of certainty around the actors in the supply chain, are seen as being part of the solution that enables Customs to lessen controls on legitimate businesses, thereby offering these businesses a transparent and predictable trading environment, and facilitating their sustainability.

By implementing such programmes together with sound data management – getting the right data at the right time and in the right quality, and ensuring the integrity of both the data and the providers of the data – and improved coordinated border management, Customs should be able to provide what businesses are looking for in the least burdensome way.

More information

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AEO programmes, the benefits for supply chain companies and MRA preparations

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THIS ARTICLE DISCUSSES Authorized Economic Operator (AEO) programmes and AEO Mutual Recognition Agreements/Arrangements (MRAs), in the context of recent research and consulting work carried out by the author, in Thailand (Thailand Europe Cooperation TEC-II, PDSC) and in the European Union (FP7-CAS-SANDRA).

More specifically, the article considers the following two issues, namely how to make an AEO programme more popular among supply chain companies in a country, and how to prepare for an AEO MRA between countries/regions.

Increasing the popularity of the AEO programme

Thailand introduced its own AEO scheme in 2011, initially for exporters only. It was subsequently expanded to include importers and Customs brokers on 1 February 2013. The benefits for supply chain companies are similar to those of the 'Gold Card' programme, Thailand's previous trade facilitation scheme, which was terminated as of 1 October 2013.

Royal Thai Customs is currently considering different options and approaches to increase the popularity of the Thai AEO

programme both among and beyond those companies which participated in the former Gold Card programme.

Below is a list of six key actions – most of which are equally relevant to many other countries across the globe – that should be considered by Royal Thai Customs to enhance AEO application and participation rates in Thailand:

1. Make the AEO application process for economic operators, as practical, low cost and fast as possible-

- Expand the current Thai AEO guidelines with more detailed content on what is expected from economic operators, including concrete examples on how to comply in a cost-effective and security-efficient manner; consider using the European Union (EU) AEO guidelines as a 'source of inspiration', as they include some of the EU's 'core wisdom' on AEOs since the launch of their AEO Programme in 2008.
- Recognize existing governmental and business certifications, authorizations and standards as part of the AEO approval process, and encourage companies to exploit their existing security poli-

cies, guidelines and work instructions during the process. Examples include the Transported Asset Protection Association (TAPA) and ISO 28000 certifications, among others.

- Consider exemptions to AEO requirements for small- and medium-sized enterprises (SMEs) due to the nature of their business and operations, which can differ significantly to those of large – and especially multinational – companies. The EU AEO guidelines have a number of concrete examples which can be used as a reference point.
 - Encourage companies to ensure that they have effective and efficient supply chain security measures and procedures in place and that they understand and appreciate the value of the programme during AEO application and monitoring processes; consider crime prevention and security management training within an administration, including the organizational management aspects of supply chain security, while discouraging purely checklist-based approaches.
- ### 2. Invest in the systematic design, implementation, monitoring and continuous improvement of an AEO benefits scheme-





- Construct a broad portfolio of benefits and incentives for AEO companies, in particular, company-level benefits and shipment-level benefits granted directly by an administration; consider exploiting an AEO benefits categorization model during this process, such as that presented in the next section of this article, namely the 'CBRA 4 bucket model'.
 - Analyse carefully AEO benefit suggestions by key international organizations, such as the WCO and the International Chamber of Commerce (ICC), as well as by other Customs administrations, while considering their economic, legal, procedural, and operational feasibility in the Thai AEO context. Pay detailed attention to which suggested benefits are still on the 'drawing board', and which ones have already been implemented in practice.
 - Ensure that AEO companies are explicitly recognized within the administration's risk management, assessment, profiling and other relevant procedures, especially in the context of risk management IT systems and tools.
 - Establish a system for continuous measurement and improvement of AEO benefits granted to AEO companies in Thailand. This should be done in close cooperation with Thai industries, in particular the key Thai industry associations.
- 3. Promote multi-agency cooperation under the 'Thai AEO umbrella', potentially as part of a coordinated border management agenda-**
- Study current worldwide developments, for example, in the EU and in the United States, including cooperative developments between Customs and aviation security authorities, as well as between Customs and food inspection agencies, and learn from their experiences, particularly their successes and failures.
 - Get together with one or more other Thai agencies – for example, food safety and/or aviation security – and start exploring cooperation options and requirements, including the legal frameworks required. Consider the first steps in operationalization, such as the avoidance of duplication and 'non-synchronized approaches' in company AEO (and similar) application and certification processes, audit visits, shipment inspections, laboratory tests, and so forth.
 - Launch a first pilot project with one selected agency and a handful of Thai companies. The pilot should subsequently be extended, based on lessons learned and in a broader framework of intra-agency collaboration, to see how economic operators and governmental agencies can benefit further in the future.
- 4. Consider extending the AEO scheme to additional actors eligible for AEO status, while fostering active collaboration with Thai industries-**
- Develop a plan to extend the scheme to the logistics sector, including freight forwarders, transport carriers and warehouse keepers; first study examples from across the globe, such as those of Costa Rica and Korea.
 - While extending the scheme, especially for the logistics sector, consider the specific business characteristics, as well as the risk factors, and their implications for security requirements per type of actor, for example in the postal logistics sector.
 - Hold regular discussions on, for example, security requirements and if

they make sense for the variety of economic operators, on procedures throughout the AEO lifecycle and if they can be further streamlined, and on AEO benefits and if they can be expanded and made more concrete.

- Use models and tools from literature to facilitate discussions and opinion sharing, and as a basis to discuss differing stakeholder interests and constraints. Several helpful models and tools are available in the public domain, including from the CBRA.

5. Consider complementing and/or replacing transaction-based approaches with systems-based and audit-based approaches in the future, focusing in particular on AEO companies. Good practice examples can be found, for example, in the Netherlands.

6. Contemplate the possible conclusion of AEO MRAs with one or more countries/regions; proactively manage AEO company expectations regarding the schedule and ultimate benefits of future MRAs. The last section of this article provides a proposal for a Thai-EU MRA roadmap.

Potential AEO benefits categorization model

It goes without saying that the benefit scheme lies at the heart of how to make an AEO programme more popular among economic operators in a country. Both governmental and non-governmental literature includes a vast amount of examples of potential AEO benefits – unfortunately expressed mostly in a non-structured manner, which causes difficulties, for example, in Customs-to-business communications about which benefits would be most desirable; which

ones are legally or operationally feasible; and so forth.

Following the research and consultation work done for the Thai project, as well as for the FP7-CASSANDRA project, the ‘CBRA 4 bucket model’ below presents examples of potential AEO benefits under four categories, together with background and characteristics, observations on measurability, and the challenges and peculiarities.

The purpose of this model is to support the systematic design, communication, implementation, monitoring and continuous improvement of AEO benefit schemes across the globe (A preliminary version was presented at the second WCO Global AEO Conference in Madrid, Spain, in April 2014).



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CBRA 4 bucket model on AEO benefits for supply chain companies				
Main category	(1) Benefits with explicit/direct government/Customs participation		(2) Benefits without explicit/direct government/Customs participation	
Sub-category	(1a) Customs-granted benefits – company level	(1b) Customs-granted benefits – shipment level	(2a) Company benefits – network certificate-driven	(2b) Company benefits – security measure-driven
Characteristics and background information	<p>This bucket of benefits is about 'traditional trade facilitation and simplifications', focusing largely on the administrative aspects of the supply chain – Customs interaction.</p> <p>In most countries, these types of benefits already existed during the 'pre-AEO era', as part of national trade facilitation and simplification programmes.</p>	<p>This bucket of benefits is about 'fast cross-border flow of goods' through (physical) fast lanes, fewer inspections (than the country average), various priorities in the event of inspections and high alert situations, etc.</p> <p>In most countries these benefits did not exist in the 'pre-AEO era'.</p>	<p>This bucket of benefits is about companies choosing to buy products and services from AEO certified parties – somewhat analogical; quality certifications were often expected or required since the 1990s.</p> <p>This bucket of benefits did, by definition, not exist during the 'pre-AEO era'.</p>	<p>This bucket of benefits is about having an 'adequate set of security measures and procedures in place', in order to minimize negative incidents and disruptions in the supply chain.</p> <p>This bucket of benefits already existed in full during the 'pre-AEO era'.</p>
Examples of potential benefits from governmental literature/sources (e.g. the WCO SAFE Framework of Standards, the European Commission's AEO Guidelines, Royal Thai Customs' regulations, etc.)	<p>Reduced data set for entry and exit summary declarations.</p> <p>Self-management of bonded warehouses.</p> <p>Tax privileges to be granted, such as speedier tax refunds and compensation.</p>	<p>Minimum number of cargo security inspections.</p> <p>Priority use of non-intrusive inspection techniques when examination is required.</p> <p>Priority treatment of consignments if selected for control.</p>	<p>Improved customer service.</p> <p>Lower inspection costs for suppliers and increased cooperation.</p> <p>Improved security and communication between supply chain partners.</p>	<p>Reduced security and safety incidents.</p> <p>Improved inventory management.</p> <p>Improved employee commitment.</p> <p>Fewer delayed shipments.</p>
Examples of potential AEO benefits from non-governmental literature/sources (e.g. the WCO Private Sector Consultative Group's AEO benefits paper, the Korea MRA study, the CBRA-BASC study, etc.)	<p>Financial guarantee waivers, reductions or rebates.</p> <p>Establishment of economic operator-based profiles, and audit-based controls, as opposed to transaction-based controls.</p> <p>The obtaining of assistance from Customs AEO and security experts.</p>	<p>Notification of intention to release goods prior to their arrival, i.e. pre-clearance.</p> <p>Priority Customs processing during a period of elevated threat conditions.</p> <p>Preferential treatment at border crossings in post-disaster/post-attack situations.</p>	<p>Reducing the overall vulnerability of the supply chain.</p> <p>Improving company image and credibility.</p> <p>Maintaining existing customers.</p> <p>Gaining new customers.</p>	<p>Anti-theft: preventing/reducing the amount/value of stolen goods.</p> <p>Enhanced tangibility and stability of the supply chain.</p> <p>Reduced lead times and increased predictability in the supply chain.</p>
Measurability	<p>This bucket of benefits is normally stable, predictable and easy to measure – in general terms, you 'either have these benefits or you don't; in a yes/no fashion'.</p>	<p>This bucket of benefits can be quite challenging to monitor and measure in a robust manner, due to several dynamic factors in logistics flows, as a result of multi-agency involvement, etc.</p>	<p>One enjoys this bucket of benefits – and measurement is quite straight forward – in case AEO status is either required or it helps to maintain a current customer base and/or win new business.</p>	<p>This may be the most difficult bucket of AEO benefits to measure, as the realization of such benefits (e.g. less theft incidents) is normally not per se dependent on having or not having AEO certification.</p>
Challenges and peculiarities	<p>As many such benefits existed before the AEO era, companies which have enjoyed such pre-AEO benefits may see this bucket as an 'upside down one'; i.e. a potential reduction in existing trade facilitation, instead of the introduction of new benefits.</p>	<p>Due to the dynamics in the cross-border flow of goods, outcomes might vary considerably over time – 'seeing is believing'.</p> <p>The benefits linked to 'elevated threat' and 'post-incident recovery', may appear quite theoretical until the situation actually emerges.</p>	<p>Some could also consider that the AEO system may become a technical trade barrier – the 'become an AEO or die' scenario.</p>	<p>Some might think that an AEO programme deters crime, as criminals would rather choose an easy target (i.e. a non-AEO target), for example in the case of warehouse theft.</p> <p>Alternatively, some might think that an AEO programme attracts criminals, as they know there are likely to be fewer Customs interventions – the smuggling of narcotics, for example.</p>

It should be noted that the benefits listed in the 'CBRA 4 bucket model' are just a few examples from governmental and non-governmental literature – while complete benefit tables from around 10 source documents are included in the full report of the Royal Thai Customs AEO-MRA study (Copies available on request).

Roadmap for the AEO MRA process: Thailand and the EU

One potential way of increasing participation by supply chain companies in AEO programmes is to pursue MRAs with one or more countries. In the case of the Thai AEO MRA study, the mandate was to focus on the Thai-EU MRA. However, the ten-step roadmap proposed below should be able to be applied by most countries and regions around the world:

1. Ensure clear high-level commitment to building a cooperative partnership between the Thai government and Customs administration. This should include the allocation of adequate human and financial resources to cover all stages of the MRA negotiation process.
2. Establish a legal framework for a binding MRA between Thailand and the EU; check early on if this requires any changes in legislation or any type of involvement from the 'political establishment'.
3. In line with the WCO SAFE Framework of Standards to Secure and Facilitate Global Trade, demonstrate the implementation of a Customs-to-Business programme, along with the five main elements of the Customs-to-Customs pillar.
4. Provide detailed guidance on what would be recognized as appropriate security measures to counter and combat different risks and threats; examine the possible alignment of the methodology used for risk assessment of AEO applicants with that of the EU's AEO COMPACT Model for risk assessment.
5. Consider whether the Thai AEO reference/identifier structure might be aligned with that of the EU's EORI in order to aid the identification and sharing of benefits offered to Thai AEO exporter companies trading with EU Member States.
6. Provide more details on revocations and suspensions, in particular the appeals process and timeframes for the AEO to remedy any deficiencies which give rise to the need for a suspension of the status, and the intended process of timely communication of revocations and suspensions to the MRA signatories.
7. Make preparations to receive EU Customs officials (authorities) visiting Thai Customs and selected AEOs and applicants; select AEOs and applicants in Thailand for EU Customs officials to visit (to show how an audit is carried out, in different conditions, and for different types of businesses; to see what security measures AEOs have in place and how they are being maintained, reviewed and improved as required; and to examine the management structures, contingency plans, etc.).
8. Prepare to be fully transparent about all AEO processes and procedures, such as the application and authorization processes and procedures, auditing, validation, monitoring, AEO status refusal/removal, data requirements, storage, data monitoring and data security, and the approval process for trade facilitation benefits and Customs simplified procedures.
9. Ensure that Thailand is fully prepared for the signing of a Thai-EU AEO MRA.
10. Make resources available to maintain adequate representation of Royal Thai Customs within the Joint Customs Cooperation Committee (JCCC) – the Thai-EU body responsible for overseeing the implementation and proper functioning of the AEO MRA, and consisting of representatives from the Parties' Customs authorities – and to ensure that communication channels with EU Customs officials function well.

Conclusion and future research

The purpose of this article has been to share concrete suggestions on how to make

the AEO programme more popular among economic operators in Thailand, and to indicate what steps are important to take while preparing for an efficient AEO MRA negotiation process – the author believes that following such actions and steps will be beneficial to the Thai economy as a whole.

Regarding the potential adoption of such suggestions across the globe, each Customs administration should consider which of the actions and steps are most relevant in their country, for Customs itself and for economic operators – which of them are feasible to implement in legal and operational terms – and then to set priorities for those actions and steps, instead of trying to "do all at once".

Future research on AEO programmes, benefits, MRAs, etc. will be carried out as part of the new supply chain security demonstration project, known as 'CORE' (www.coreproject.eu), which will run from May 2014 - April 2018 in collaboration with the WCO, INTERPOL, DHL, P&G, the European Shippers Council, CBRA, and over 60 other partners.

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Further information, including copies of the mentioned full reports and presentations, can be requested from the CBRA research team by sending an email to the address below.

More information

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Collaborative partnerships, the next phase of AEO programmes

By Daniel Baldwin,

FORMER SENIOR EXECUTIVE WITH U.S. CUSTOMS AND BORDER PROTECTION
AND CURRENT MEMBER OF THE UNDERWRITERS LABORATORIES (UL) SECURITY COUNCIL

The WCO SAFE Framework of Standards to Secure and Facilitate Global Trade (SAFE), and specifically the creation of the Authorized Economic Operator (AEO) programme, is undoubtedly among the most significant achievements in securing borders in the last decade. Since the adoption of the SAFE in June 2005, one needs to ask a critical strategic question – why is there not greater demand for AEO participation, given its potential security and economic advantages?



WHILE OTHER EFFORTS to engage with the trade community were underway, such as the United States' Customs-Trade Partnership Against Terrorism (C-TPAT) programme, the SAFE and its integral AEO concept marked an important step towards forging a global bond between government and business. That bond is built upon a growing trust and confidence between international trade partners.

As the lines of communication become more open and frank, both Customs and the trade community should become more trusting in the ability of companies to comply with supply chain security standards, and confident that those obligations would continue to be met in the future. Customs would rely on companies to protect their supply chain from adulteration, and improve it in this respect, and traders would be free from regulatory interference and increased

“While Customs must retain control of final certification for AEO participants, the global AEO programme will only grow to its full potential once Customs begins to leverage outside expertise to assist with standards and validations.”

costs. This model simply makes good sense, because:

- for Customs administrations, it is a model for success for those charged with protecting their national borders; and
- for trade enterprises, it establishes profitable businesses, thereby building a robust global economy.

Unfortunately, the original excitement and acceptance of this innovative approach to supply chain management has plateaued, as indicated by the number of participating companies enrolled in AEO programmes. The most recent statistics show that there are over 30,000 operators worldwide enrolled in an AEO programme, and over 80% of those operators are part of the United States or European Union programme.

Also, while there is almost universal commitment by the 179 Members of the WCO to implement this critical approach to supply chain management, only 56 AEO programmes are operational and another 10 are in development. With these statistics in mind, and given that there are millions of companies worldwide that participate in international trade, we need to ask ourselves if the economic potential of AEO programmes is clearly understood.

Shared interests, shared missions

There are, of course, at least two sides to every story, and some would suggest that there has been a rise and fall in the relationship between Customs and business. According to Vidar Gundersen, Chief Executive Officer (CEO) of KGH Cus-

toms Services, the “AEO project started out as an open book relationship built on trust where Customs would try to support and facilitate processes for companies that intended to be compliant.”

Gundersen goes on to say that “Throughout the years this mindset has been lost and today, in most AEO programmes, it is quite the opposite. Customs has gained a lot of information about AEO-certified companies and instead of facilitating their shipments, they now get more frequent and thorough control than non-AEOs. When errors are found, the AEO companies get fines even if the intention and effort has been put into being compliant. This gives no incentive to becoming an AEO.”

In the end, the interests of Customs and business are quite closely aligned as both are looking to minimize risk. Customs looks to reduce the risk of possible weaknesses in the supply chain, whether from intentional adulteration or weak controls. Business has precisely the same interest, as corruption of the supply chain can have a dramatic impact on growth, and a devastating impact on the value of their brand and credibility. Traders have an additional objective: to minimize escalating costs throughout the supply chain.

Two independent studies in the United States have demonstrated that the C-TPAT is not a significant cost burden on participants. However, these studies are unable to show that there are significant business incentives to participate, aside from complying with the requirements of Customs.

The principal challenge for both Customs and business is to find ways to treat AEO programmes as an investment, and not simply as a cost centre (an additional cost). This investment must have the potential for greater returns than just greater border security. There are, however, many thoughts and ideas on how to make the programmes more financially attractive – some are more progressive than others, and most assuredly should be considered for mature programmes and companies.

Principles for AEO growth and returns on investment

There are five principles for growth that can be considered to provide greater opportunities for enrolment in AEO programmes, whilst still presenting Customs with greater certainty in the most trusted of trading partners.

First, SAFE established the first set of standards for Customs’ use in securing the global supply chain. Over time, the standards have become more integrated into business models, to the point that many contracts now being written require business partners to be AEO compliant. However, there are also many supply chain security companies, non-profit organizations and associations that establish safety standards that apply to supply chain security.

Keith Williams, CEO and President of Underwriters Laboratories (UL), believes public and private partnerships play an important role, stating “UL works closely with our customers, members of the global law enforcement community and organizations such as the WCO, including Customs worldwide, to understand and mitigate the risk in the global supply

chain. As a global leader in establishing standards for safety and security protocols, such as alarm and video security systems, we welcome the opportunity to partner with law enforcement agencies to leverage those standards in order to help them build a more secure supply chain environment.”

Several organizations around the world have become experts in supply chain management and provide these services to businesses to help build a better supply chain. Customs should actively work with these groups to build on the mutual security expertise in both the private and public sector. Leveraging these efforts provides significant potential for business and Customs, giving greater predictability in the area of standards certification, and identifying more potential AEO partners.

Second, the current process of validating supply chains provides an opportunity for leveraging business practices. Many companies that specialize in developing supply chain protocols and standards also provide validation processes to ensure these standards are actually being met. Although the traditional approach to AEO validations has been through Customs working directly with the participant, scant Customs resources and the tremendous volume of global traders simply makes this untenable as the only approach.

Validations by third parties are a commonly accepted practice in many areas of product and transportation requirements, and these third party processes are based upon the establishment of

trust and confidence in the public-private relationship. While Customs must retain control of final certification for AEO participants, the global AEO programme will only grow to its full potential once Customs begins to leverage outside expertise to assist with standards and validations.

Third, a positive development in AEO programmes is the fact that there is continued exploration of ways to integrate other supply chain issues into the security protocols. Understandably, each programme was initially developed to address the individual risks and concerns of each country, but the variance between those priorities is quite wide. Protecting the supply chain from terrorists and terrorist weapons, from revenue losses to a country, even from the theft of intellectual property – all have become a focus of supply chain oversight.

These disparate approaches create an unintended barrier to global supply chain management, as companies try to accommodate the variety of interests and demands on a country-by-country basis without a more clear appreciation of a global approach. For developed AEO programmes and participants, a more holistic approach to partnership that addresses all risks along the global supply chain provides more consistent approaches from country to country, and greater incentives for participation.

Fourth, the application of third party certifications and standards could also apply to other agency controls. When Customs validates and certifies an AEO partner and provides facilitated ‘Customs’ clearance for participation, other agency requirements could still lead to delays and detention of shipments, and diminishing returns on the AEO investment.

Strong controls already exist for many trade sectors and flows – pharmaceuticals, fresh produce and flowers, military logistics, refrigerated cargo, and air cou-

“Strong controls already exist for many trade sectors and flows – pharmaceuticals, fresh produce and flowers, military logistics, refrigerated cargo, and air couriers, just to name a few. Customs should consider adopting security protocols for trade sectors that have a proven track record of success.”

riers, just to name a few. Customs should consider adopting security protocols for trade sectors that have a proven track record of success. These controls promote stringent supply chain security programmes while establishing profitable business models.

Finally, providing a more direct financial benefit to AEO participants is a common request. Answering this has been a challenge for Customs, with the most important incentive provided to date being the facilitated clearance of compliant cargo. This benefit is quickly forgotten, however, as companies will be looking for a direct offset to the investment they have made in order to meet AEO requirements.

Without question, the responsibility for making financial decisions rests with business, but Customs can entice participation by relaxing fees and taxes whenever possible. For example, in the United States there are user and merchandise processing fees collected for processing transactions, and there is some merit to the idea that AEO participants should pay a smaller fee than non-AEO companies. Creating a direct financial advantage for AEO companies could be the most effective recruitment tool available to Customs.

Full potential of AEO is close

The WCO has been very active in improving and further developing SAFE over the years, making enhancements as new risks and challenges arise. The impor-

tance of having Customs administrations work in tandem with global business interests to secure the supply chain cannot be overstated.

While Customs and business have worked together on these issues, many opportunities still remain to establish a premier integrated partnership. The full potential of the AEO programme, from both a security and an economic standpoint, will be achieved once both sides become partners dependent upon one another for success.

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“Every professional is also an individual engaged in a constant endeavour to gain a better understanding of the challenges facing him or her on a daily basis and to relate to them in intellectual terms”

Cédric Parizot,

RESEARCH FELLOW AT THE NATIONAL CENTER FOR SCIENTIFIC RESEARCH,
RESEARCH AND STUDIES INSTITUTE OF THE ARAB AND MUSLIM WORLD, UNIVERSITY OF AIX-MARSEILLE

THE DEMANDS OF globalization mean that borders have become somewhat detached from their linear context and seem increasingly mobile and diffuse, with border controls now involving many more parties than just the State. “Has the nature of borders changed in the 21st Century, and do they now extend beyond their geographical points of reference?”

This is the question being tackled by a team of researchers as part of the ‘antiAtlas of Borders’ project. They have chosen a multidisciplinary approach, at the intersection between the arts and the sciences, so that the concept of a ‘border’ can be investigated from a number of perspectives. This explains the name ‘antiAtlas’, which reflects the idea of being open to a less traditional definition of borders than that usually espoused by school atlases.

Globalization means that borders are fraught with contradictions, such as that between ensuring freedom of movement or facilitating trade on the one hand and the need to carry out checks on the other, or that between national sovereignty and the need for cross-border monitoring. Customs services are the obvious candidates to resolve these contradictions, by guaranteeing movement across borders and ensuring that people can remain safe in a world marked by an increase in the cross-border mobility of people, capital, goods and ideas.

Cédric Parizot, a political anthropologist and research associate at the Institute of Research and Study of the Arab and Muslim World (affiliated to the French National Centre for Scientific Research and Aix-Marseille University), is leading the project and agreed to tell us more about the benefits of this approach.

You have chosen a highly original way of examining the changing nature of borders. What is the philosophy underlying the antiAtlas project, and what are its main focal areas?

AntiAtlas is a multidisciplinary programme which looks at the changing nature of borders in the 21st Century. It brings together researchers working in both the social sciences and the hard sciences as well as artists and professionals, with a view to taking a critical and dynamic approach to these changes.

Launched in 2011 by the Mediterranean Institute for Advanced Studies (Aix-Marseille University), the project is co-led by the Higher Institute of Arts (Aix en Provence), the PACTE laboratory (University of Grenoble/French National Centre for Scientific Research), Isabelle Arvers (a French media art curator) and La Compagnie (specializing in transdisciplinary exhibitions that travel and cross borders, as well as offering exhibition space dedicated to contemporary images).

Our work is centred on five themes: the escalation of security and technological measures and their impact on border operations; the formal and informal economies which grow up around border checkpoints; the materialization and dematerialization of borders; the individualization of border checks and their relationship to the physical body; and, finally, the misappropriation and circumvention of borders by formally and informally appointed actors.

You are approaching the subject of borders from the perspective of both the sciences and the arts. What can you tell us about the added value and complementarity of these different approaches,

and how are they helping us gain a better idea of the true nature of borders today?

We are pursuing two objectives by inviting researchers from the hard sciences (specialists in artificial intelligence, theoretical physics and so on), professionals (representatives of Customs, the military and industry) and artists (Web artists, tactical geographers, hackers, film makers, etc.) to participate in the project alongside researchers who specialize in the human sciences (anthropologists, sociologists, historians, political scientists and geographers).

The first is to harness the synergies between their individual knowledge bases and methodologies with a view to understanding a subject which is becoming increasingly complex in technological, political, economic, social and legal terms. The second is to find a way of taking a more critical and dynamic approach to borders, or in other words, adopting a more distanced and nuanced perspective than that advocated by our respective disciplines and practices. These borrowings do not in any way undermine the inherent logic and coherence of each of our disciplines, but they do force us for a short time to reflect on the viewpoint of our counterparts.

The connection between Customs services and borders is almost inevitable. What role do you believe these services should play within the antiAtlas project, and how can this help them to better understand the tasks facing them in a globalized world?

The Customs officers with whom we have come into contact are fully aware of the complex nature of borders. They engage in daily interactions at these

du 30 septembre 2013
au 1^{er} mars 2014

antiAtlas des frontières

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borders with a number of different stakeholders who can sometimes have very different resources and ways of thinking: private sector players with public concessions for the management of ports or airports; other state-run services concerned more with monitoring migrants than goods; and economic entities which are subject to restrictions and practices that vary greatly depending on their size and the country in which they are operating.

Our dialogues with Customs officers have been very productive. Representatives of the WCO Research Unit have played an active part in our meetings since 2011. At the International Symposium held in

September 2013 on the occasion of the opening of The antiAtlas of Borders Art and Science Exhibition, we had the great honour and pleasure of welcoming Dr. Kunio Mikuriya, Secretary General of the WCO, and Ms. Hélène Crocquevieille, Director General of French Customs, as speakers. These were real highlights for us, since it is unusual for researchers to be able to talk in person to the people who are directly responsible for making public policy.

There were several points which emerged from these dialogues. The first was that many Customs officers love their jobs, and were more than happy to talk to researchers about the political and

technical restrictions under which they operate. The researchers themselves have also benefitted greatly from learning that these professionals are interested in research which has a functional application.

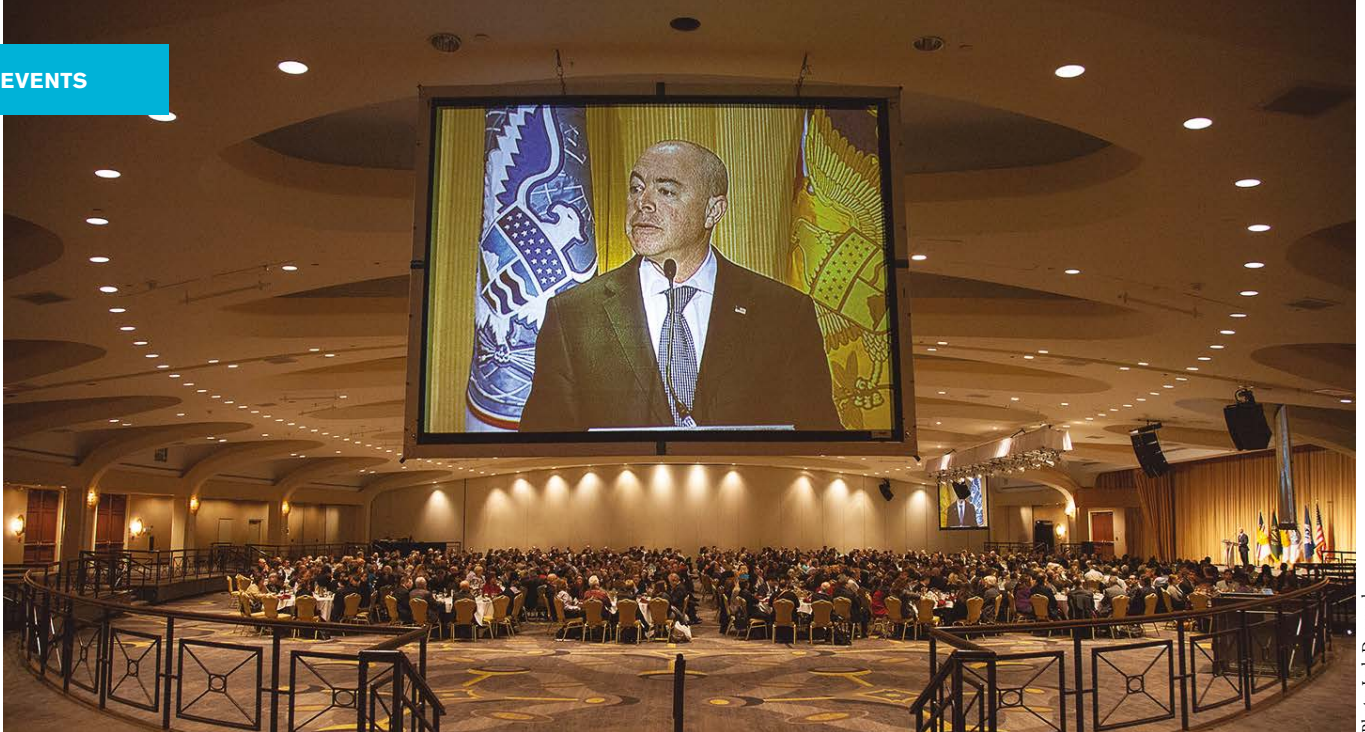
The second was that the Customs officers also gained a great deal from the way that the researchers working on the project approached the subject of borders. These approaches generated questions about technical applications which could potentially provide very accurate data, the role of cutting-edge technologies at borders, the sharing of such technologies and their ethical implications, and the quantification of spaces and public policies in which the officers are both actors and subjects.

Customs officers were finally also invited to view representations of borders created by artists to provide a different perspective on public security policies using their choice of media, which can sometimes deliver a more immediate and expressive message than research studies. The officers were able not only to bring their technical understanding of the subject to these artistic performances, but also to view them in their capacity as citizens eager to understand what is happening at the borders of their country.

On a broader note, it can be said that every professional is also an individual engaged in a constant endeavour to gain a better understanding of the challenges facing him or her on a daily basis and to relate to them in intellectual terms while, at the same time, influencing developments in his or her working environment, and this is definitely something we found to be true of Customs officers.

AntiAtlas appeals to the intellectual autonomy implied in the actions of every individual; this was the hypothesis we put forward when we launched the project, and its validity has become rapidly apparent. The positive feedback from Customs officers is also in no small part responsible for encouraging us to continue our work.

More information
www.antiAtlas.net



Dept. of Homeland Security Deputy Secretary Alejandro Mayorkas addressing attendees

Photo: Josh Denmark

Highlights from the 2014 East Coast Trade Symposium in the United States

By Marcy Mason

A WRITER WHO COVERS TRADE FOR US CUSTOMS AND BORDER PROTECTION

ONLY DAYS AFTER celebrating its 11th anniversary, US Customs and Border Protection (CBP) welcomed more than 800 members of the trade community to the agency's 2014 East Coast Trade Symposium on 6 and 7 March in Washington, D.C. "While it's comforting to pat ourselves on the back for all we've accomplished in these 11 short years, now is the time to plan for the changes and challenges we will face in the future," said CBP's Acting Commissioner Thomas S. Winkowski.

The Symposium, which focused on 'Increasing Economic Competitiveness through Global Partnerships and Innovation', emphasized CBP's trade transformation efforts. "I believe we are on the cusp of changes that will make trade safer, faster, cheaper, and more transparent," said Winkowski. "We are at a critical time in history when we are already influencing conditions that lead to a critical mass or a tipping point," he said. "Every day we are achieving small victories through our transformation efforts and they are adding up to big, dynamic changes – and those changes are making a difference."

"Over the past two years, CBP has instituted forward looking programmes that fundamentally change the way we do

business within the US and in the world, and also the way we work with our trade constituents. The CBP we are building is an agency more suited for the challenges of the 21st Century and one whose processes are more aligned with modern business practices," said Winkowski.

The Acting Commissioner identified three concepts – partnership, predictability and prosperity – that outlined the agency's vision. "We want to make sure that our vision addresses the trade community's challenges as you continue to play a major role in the prosperity of this country," he said.

While noting some of the innovative initiatives CBP has undertaken to make the supply chain more predictable and efficient, Winkowski highlighted the Centers of Excellence and Expertise. "These Centers are moving us toward the future of trade processing by lowering the cost of doing business, providing tailored support to each unique trading environment, and improving our enforcement efforts," he said.

Winkowski then announced that three of the 10 Centers – the centers for electronics; pharmaceuticals, health and chemicals; and petroleum and natural gas – are ready to transition to their next phase. "These

Centers will be assuming trade processing for all transactions associated with their respective industries," he said. "The next phase for these Centers will allow CBP to fully examine concepts, procedures and practices with the trade that we've not yet tested."

The Acting Commissioner also underscored the importance of the Executive Order signed in February 2014 by President Obama to streamline the US export/import process. The directive, which aims to reduce processing and approval times from days to minutes for small businesses that export American-made goods and services, calls for the completion of the International Trade Data System by December 2016.

When the new information system is complete, businesses will be able to electronically transmit, through a Single Window, the data required by the US government to import or export cargo. CBP's cargo processing system, the Automated Commercial Environment (ACE), is the technology backbone for the International Trade Data System.

"I'm proud to say we are on target to complete ACE, and achieve the International Trade Data System to meet the President's deadline," said Winkowski. "This will

complete a modern, flexible, automated foundation for the efficient transmission of data to all US government agencies with responsibilities at the border.”

The Symposium’s agenda also featured notable speakers such as the US Trade Representative, Ambassador Michael Froman, who gave the opening day keynote address that kicked off the event. “Our ability to grow our economy, to create more jobs here, and to promote growth is critically dependent on our ability to increase exports,” said Froman. “We need to make sure that the message that trade is good for jobs, good for growth, and good for the country is shared and understood across the US.”

Partnerships with governments, other government agencies, and the private sector were highlighted in the Symposium’s general sessions. One session on North American Competitiveness marked the 20th anniversary of the North American Free Trade Agreement (NAFTA).

“NAFTA was a game changer for Mexico,” said Alejandro Chacón Dominguez, Mexico’s Administrator General of Customs. “For historical reasons, we were used to having trade and investment relations with some European countries, especially Spain. But after 20 years of NAFTA, we are now closer to the Americans and the Canadians,” Chacón said. “Trilateral trade for Canada, and coincidentally Mexico, accounts for nearly 70% of our total trade. For the US, it’s a smaller figure, around 30%,” he said.

Another general session featured Sergio Mujica, the Deputy Secretary General of the WCO. Mujica had two main messages for those attending: first, “the necessity of creating good partnerships between Customs and the private sector,” he said, while emphasizing that CBP has been a great leader in this area, and second, “the key role that the WCO can play in the implementation of the World Trade Organization’s Trade Facilitation Agreement (TFA).”

The TFA was signed in Bali, Indonesia on 7 December 2013, and is aimed at lowering trade barriers. “This Agreement is really the cornerstone of the new global trade facilitation agenda, but we don’t want various countries implementing the TFA

in different ways,” said Mujica. “We want them to use international standards to implement the TFA and those international standards are provided by the WCO.”

One of the Symposium’s breakout sessions focused on partnerships in trade enforcement. “The unpleasant realities that we’re facing today in the consumer goods industry are organized retail crime, commercial fraud, counterfeit products, coupon scams, and piracy,” said DJ Smith, Procter & Gamble’s Brand Protection Manager for North America and Latin America, who was one of the panellists. “It’s important for us that we partner with CBP and Homeland Security Investigations.”

Many who attended the Symposium said they found it worthwhile. “We need to know what’s happening in the industry so that we can plan for the future,” said Sandra McCarthy, the Director of International Operations for Sears Holdings based in Illinois, who has attended the event several times. “Even though there’s a lot of information that’s available in the press, when you’re here, you still get a greater understanding of what the priorities are going to be and what will be targeted during the next year,” she said.

For first time attendee, Diana Hohmann, an Import Specialist Analyst at Freescale, a semiconductor chip manufacturer in Texas, the Symposium was extremely helpful. “I got a tremendous amount of information that I needed,” said Hohmann. “I was interested in the trusted trader programme because Freescale is certified for both the Customs-Trade Partnership Against Terrorism (C-TPAT) and Importer Self-Assessment (ISA) programs, so we wanted to understand how the trusted trader programme could help us,” she said.

“I also wanted information about ACE and the Single Window, to get up to speed on them,” said Hohmann. “When you do your day-to-day work, you can’t dedicate yourself to really understanding the information that’s being pushed out,” she said. “When you get out of the office and come here, you can concentrate on what the future holds.”

Editor’s note: Richard Gil Kerlikowske was sworn in as the new CBP Commissioner on 7 March 2014.

More information
www.cbp.org



CBP Acting Commissioner Thomas S. Winkowski welcomes participants

Photo: Josh Denmark

Customs celebrate International Customs Day

A pictorial celebration of WCO Members' activities around the world commemorating this special day on the Customs calendar



Madagascar



Australia



New Zealand



Lithuania



South Africa



Hong Kong, China



Mozambique



Spain



Australia



Australia



Portugal



Austria



Italy



Tunisia



Australia



Tunisia



Australia



Zimbabwe



Afghanistan



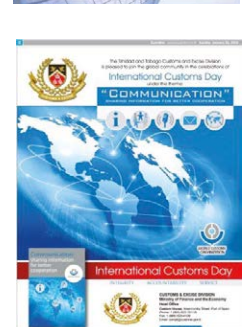
Australia



Jamaica



Sudan



Trinidad and Tobago



United Arab Emirates (Ras Al Khaima)



Italy



Jordan



Afghanistan



Thailand



Hungary



Fiji



Korea



Lithuania



New Zealand



Germany



Switzerland



The Netherlands



Germany

Calendar of Events

July

- 30 June -1 July Revenue Conference
- 2-10 Knowledge Academy for Customs and Trade

September

- 15-17 Harmonized System Committee, Working Party
- 18-26 Harmonized System Committee, 54th Session
- 16-18 PICARD Conference (Mexico)
- 29-30 Trade Facilitation Agreement Working Group, 2nd Meeting
- 29 Sept. - 3 Oct. Data Model Project Team

October

- 8 API Workshop
- 9-10 WCO/IATA/ICAO API Contact Committee, 8th Meeting
- 13-14 Private Sector Consultative Group
- 14 SAFE Members Only Meeting
- 15-17 SAFE Working Group, 13th Meeting
- 14-16 Global Shield Seminar
- 21-24 Technical Committee on Customs Valuation, 39th Session
- 27-31 Permanent Technical Committee, 205th/206th Sessions

November

- 4-5 WCO Counterfeiting and Piracy (CAP) Group, 11th Meeting
- 6-7 Revised Kyoto Convention Management Committee, 13th Meeting
- 10-11 Finance Committee, 96th Session
- 17-21 Harmonized System Review Sub-Committee, 47th Session
- 25-26 WCO/UPU Contact Committee, 34th Meeting

December

- 1-3 Working Group on Commercial Fraud, 10th Meeting
- 7-8 Private Sector Consultative Group
- 8-10 Policy Commission, 72nd 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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