

An aerial photograph of a port area. In the foreground, a large red ship's deck is visible, densely packed with hundreds of silver-colored metal oil barrels. To the right of the barrels, there is a large bundle of pipes or cables covered in a dark tarp. Above the ship's deck, on a barge or another part of the port, two yellow trucks are parked. The truck in the middle has four white oil barrels on its flatbed. The truck below it is also carrying several white barrels. A large red crane structure is visible in the upper right corner. The background shows a body of water and some industrial structures.

WCOnews

n°93 | October 2020

CUSTOMS VALUATION History, challenges and opportunities



World Customs Organization

mag.wcoomd.org



Empowering You!



Trade Hub

The next generation IT solutions for trade

Products



Duty Calculator (ABACUS)

Obtain your shipment's estimated clearance cost (Customs duty, Taxes and Levies) before arrival of your cargo in destination country.



Classification Tool (SWITCH)

Obtain the regulatory requirements (Import, Export and Transit), Trade statistics and HS code of your goods/items in line with the national Customs tariff.



Electronic Certificate of Origin (CUBE)

Obtain your preferential and non-preferential electronic Certificate of origin from Chamber of commerce to accelerate your import and export trade process.



Trader Register System (AXIS)

Manage trader (Customs Agents/Brokers, Exporters etc.) registration and renewal online to ensure the effective profiling of traders in compliance with the relevant regulatory requirements.



Risk Management

Customs and Cross-border agencies can easily identify, assess, manage and mitigate in advance trade related risk before the arrival of shipments in destination country.



Air Manifest

Airlines/Agents can easily register, submit and modify their electronic manifest in line with IATA Cargo XML standards to Customs, Security agencies, Airport authority and Terminal operators before the arrival of consignments in destination country.

40 DOSSIER How the United States implements advance rulings on valuation



48 PANORAMA E-tariff platforms gather momentum in Africa



72 FOCUS Adapting to the 'New Normal': pioneering remote Mercator scoping missions



78 FOCUS Using Customs data to follow crisis trends in Niger



84 FOCUS Seeing deeper into supply chains to overcome disruptions such as COVID-19



TABLE OF CONTENTS

5 FLASH INFO

- 5 WCO Cargo Targeting system gets upgraded
- 7 WCO Secretariat launches the COVID-19 Project
- 8 Certification of origin: latest trends
- 9 WCO applies new approaches to measuring corruption and integrity

14 DOSSIER: CUSTOMS VALUATION

- 16 Shedding light on a technical but critical topic for Customs
- 22 WTO Customs Valuation Agreement: objectives, requirements and challenges
- 26 The dynamic dual role of tariffs: insight into specific and ad valorem rates
- 30 Transfer pricing: understanding multinational firms' practices
- 36 "Valuing" our involvement – private sector engagement and views on Customs valuation
- 40 Advance rulings: facilitating trade while promoting compliance
- 44 Overview of simplification on Customs valuation in the European Union

48 PANORAMA

- 48 Implementation of e-tariff platforms gathers momentum in Africa
- 52 Mapping of Customs Nomenclature with food safety standards in India: a far-sighted strategy to streamline clearance of food products
- 54 Some thoughts on current important issues
- 58 Maqta Gateway: Digitizing and transforming trade
- 61 Working together: Australia and Korea fostering collaboration through officer placement

64 POINT OF VIEW

- 64 Smart and seamless Customs control to serve and protect global travel

68 FOCUS: COVID-19

- 70 WCO adopts new procedures and tools to ensure business continuity
- 72 Adapting to the 'New Normal': pioneering remote Mercator scoping missions
- 78 Using Customs data to follow crisis trends: the experience of Niger Customs
- 84 Seeing deeper into supply chains is key to overcoming disruptions such as COVID-19
- 87 Training in the time of COVID-19: Ukraine's experience
- 90 How Peru boosted its modernization process during the crisis
- 94 COVID 19: Saudi Customs' experience

Editor / Writer Laure Tempier

Publication Assistant Sylvie Degryse

Online subscriptions

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

Advertising



Bernard Bessis bernard.bessis@bb-communication.com

Publisher

World Customs Organization

Rue du Marché, 30, B-1210 Brussels, Belgium

Tel.: +32 (0)2 209 94 41 - Fax: +32 (0)2 209 92 62

communication@wcoomd.org

www.wcoomd.org

Editorial note

WCO News is distributed free of charge in English and in French to Customs administrations, international organizations, non-governmental organizations, the business community, and other interested readers. Opinions expressed in WCO News are those of the contributors and do not necessarily reflect the official views of the World Customs Organization. Contributions in English or French are welcome, but should be submitted no later than **15 December 2020** for consideration. The WCO reserves the right to publish, not to publish, or to edit articles to ensure their conformity with the magazine's editorial policy and style. The WCO Communications Service is available to answer all requests for submission of contributions, subscriptions, and any other enquiries relating to WCO News. Please email communication@wcoomd.org.

Copyright © World Customs Organization

All rights reserved. Requests and enquiries concerning translation, reproduction and adaptation rights should be addressed to copyright@wcoomd.org.

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

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

Photo cover © Liu Kun / XINHUA / Xinhua via AFP

Design www.inextremis.be





© Fiji Revenue and Customs Service

WCO Cargo Targeting system gets upgraded

The WCO has released an upgraded version of its Cargo Targeting System (WCO CTS). This enhancement has been made possible thanks to financial support provided by the U.S. Department of State Bureau of International Security and Nonproliferation, and assistance from U.S. Customs and Border Protection.

Whilst the software retains the same features, it presents them in a new and intuitive way that enhances the user experience. This new version also future-proofs the System for the coming years by strengthening its security and making it easy to adapt to the evolving needs of Customs administrations.

For those not familiar with the WCO CTS, it may be worth highlighting that the tool:

- makes it possible to gather and store electronic cargo manifest, bill of lading and air waybill data from container shipping lines, airlines, Non Vessel Operating Common Carriers and freight forwarders for imports, transshipments, transit and exports;
- provides users with an interface which allows them to search and analyse manifests by applying consistent risk indicators, generated from risk profiles and watch lists, to all cargo consignment records;
- allows indicators to be systematically applied to all data received, and alerts users when cargo consignments match the indicators; for inbound cargo, the WCO CTS can alert Customs administrations to high-risk consignments before the vessel arrives;
- provides for the creation of watch lists and their management;

- makes it possible to give users different roles and permissions;
- includes a workflow management system;
- facilitates management oversight and reporting.

The software has been designed by the WCO, based on the best practice and expertise of Customs, shipping and the airline industry, and takes into account the Customs operational environment and the needs of Customs Officers in performing their daily tasks. It is owned by the WCO and is available exclusively to WCO Members without purchase or licence fees. Operating and implementation costs are very low.

It has already been implemented by many Customs administrations which have different IT and risk assessment capabilities, and which are located in countries that vary widely in terms of size, level of economic development and cargo volumes. The new version is progressively being deployed in those administrations.

When canvassed for feedback on the system in early 2020, all users agreed that the tool enables systematic, effective and timely risk assessment, thus facilitating the clearance of cargo not deemed to be high-risk.

For example, the Jamaica Customs Agency reported that alerts received from the CTS currently account for 40% of all seizures made. These include a total of 109.2kg of cocaine valued at approximately 1.1 million US dollars, IPR-infringing clothing and footwear valued at approximately 330,000 euros, as well as several weapons and over 70 rounds of ammunition.

The Philippines Bureau of Customs explained that the tool contributed to a 10.68% increase in positive identification (hits) in the last semester of 2019 compared to the first semester of 2019, and that its day-to-day use is enabling analysts to assess risks with increasing accuracy.

In addition, Sri Lanka Customs reported that the performance of its risk department has increased rapidly with implementation of the tool: among other things, the CTS enabled officers to uncover 16 revenue cases in 2019, recovering approximately 350,000 euros.

Finally, the Georgia Revenue Service highlighted that, by enhancing Customs targeting capacities, the tool has also benefited legal and compliant business actors, who do not have to undergo unnecessary controls.

More information

cargotargetingsystem@wcoomd.org



Efficient centralization and standardization of your entire customs tariff and export control classification – globally

Correct customs tariff & export control classification of parts

is a crucial yet often very difficult task in international trade. It is an essential part of corporate compliance and the key factor in the calculation of customs duties and the correct application of rules of origin.

One of the most common errors found in a customs audit is the use of inconsistent classifications for the same part – an easy win for the authorities, and an often expensive black mark for the company involved.

MIC's Central Classification System CCS helps companies

precisely classify parts to conform to multi-national customs tariff schedules as well as export control lists while reducing costs and workload. Our software permits clear and easy control of the entire product classification process e.g. via a full workflow management with the ability to manage multiple teams on a global basis. You want to know more about MIC CCS? Please contact us:

MIC

Tel.: +43(0)732-778496
sales@mic-cust.com

www.mic-cust.com

mic managing
 international
 customs & trade compliance

WCO Secretariat launches the COVID-19 Project

WCO Secretariat has launched a COVID-19 Project to assist Customs administrations in dealing with unpredictable and disruptive events such as the COVID-19 pandemic. Thanks to the Government of Japan, which is providing financial support for the project, the Secretariat aims to develop guidelines, based on various scenarios, which Customs should follow to ensure effective and efficient disaster management and supply chain continuity.

A preliminary draft of the Guidelines was developed based on best practices received from Customs administrations and other stakeholders such as the WCO Private Sector Consultative Group (PSCG). The draft was discussed at the Permanent Technical Committee's 229/230th sessions in September and October 2020. It was decided to set up a virtual working group to allow interested administrations to provide inputs to the Secretariat. Moreover, to stimulate discussions and collect more information, three regional workshops (virtual or physical) will be organized from November 2020 to February 2021.

The guidelines are expected to be completed by March 2021 and submitted to the PTC at its 231st/232nd sessions for endorsement. If the PTC endorse the guidelines, they will be submitted for adoption by the WCO Council at its June 2021 Sessions.

Customs administrations in developing countries will be able to request tailor-made assistance for implementing the guidelines with priority being given to least developed countries (LDCs) expressing an urgent need. Either virtual or in-person training will be rolled out based on each country's situation and specific requirements. When delivering assistance at national levels, the WCO will collaborate closely with partner organizations



© Hungary Customs

such as the United Nations (UN) agencies involved in the field of humanitarian aid and disaster relief.

More information

Covid19BCProject@wcoomd.org

Certification of origin: latest trends

The WCO Secretariat has published an update of the *Comparative Study on certification of origin*, the previous version of which was issued in 2014, in order to take into consideration new trends both on non-preferential and preferential origin.

With regard to non-preferential rules of origin, the increasing use or acceptance of electronic certificates of origin (e-CO) is highlighted. The countries issuing the most e-COs are China, the United Kingdom, the Netherlands, Belgium, the Republic of Korea and Spain. Among these, China and the Republic of Korea offer the certificate only in this format. Properly designed e-COs can effectively reduce the risk of having certificates forged. In addition, in the context of the current COVID-19 pandemic, the dematerialization of certificates of origin makes it possible to limit the physical interaction between the exporter and the issuing authority, and between the importer and Customs.

With regard to preferential rules of origin, the Study compares the certification provisions found in 209 Free Trade Agreements (FTAs), as against 149 in 2014.

As was the case in 2014, more than half of the FTAs studied include some form of self-certification of origin, i.e. approved exporter, fully exporter-based certification or importer-based system. The authorized/approved exporter system is used mainly in FTAs involving one or more European countries, while the fully exporter-based certification system and the importer-based certification system are typically utilized in FTAs involving countries in the Americas. Intra-African

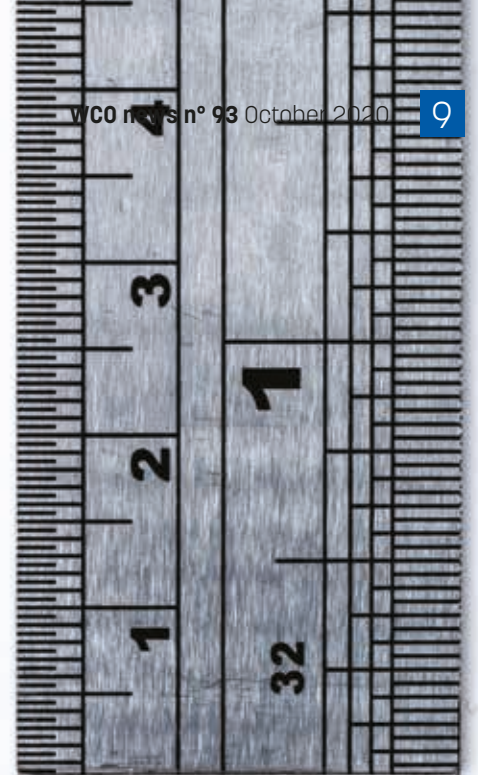
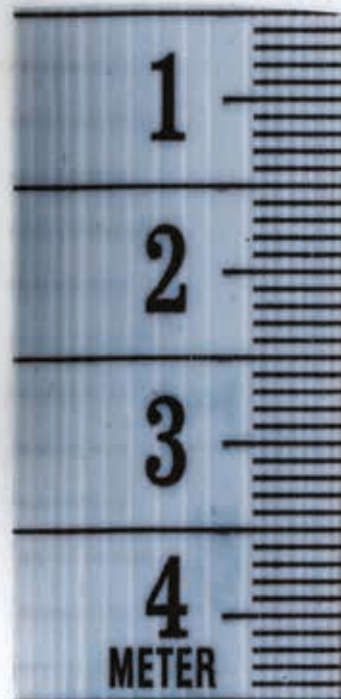
and intra-Asian agreements appear to favour the certification of origin by competent authorities.

One of the new findings of the Study is that recently-concluded agreements appear to prefer the self-certification of origin, particularly the fully exporter-based certification system and the importer-based certification system with less - or no - involvement of the competent authority of the exporting country. More than half of the FTAs provide several different certification procedures which allow traders to choose the appropriate option. This kind of flexibility leads to increased user-friendliness and trade facilitation in the utilization of each FTA.

The study also highlights the impact that blockchain-based information systems could have on the certification process. Used to issue and exchange electronic certificates, the technology would be limited to proving that the certificate is authentic – i.e. that it has been delivered by the competent authority – and has not been tampered with. However, if it becomes more widely implemented by parties to a transaction to exchange data from the moment that the goods are produced or harvested through all subsequent stages of the process of treatment until the arrival at the final consumer, certification of origin could rely on blockchain data to be determined directly at the border, without the need for a certifying authority. This could be a tremendous progress towards not only facilitation of legitimate trade but also increased compliance.

More information

<http://www.wcoomd.org/en/topics/origin/instrument-and-tools/origin-certification-tools.aspx>



WCO applies new approaches to measuring corruption and integrity

by the team in charge of the Anti-Corruption and Integrity Promotion Programme, WCO Secretariat

The WCO has taken several steps to strengthen performance measurement culture among Customs administrations. These have included looking at how performance measurement can be applied to fighting corruption. This article looks at the new approaches to measuring corruption and integrity which have been adopted by the WCO Secretariat team in charge of the Anti-Corruption and Integrity Promotion (A-CIP) Programme, and what lessons can be learned from their experience so far.

Launched in January 2019 with funding from the Norwegian Agency for Development Cooperation (Norad), the WCO Anti-Corruption and Integrity Promotion (A-CIP) Programme is aimed at improving the business environment for cross-border trade in some countries by making changes to the operational and administrative context that facilitates corrupt behaviour and hinders good governance in Customs operations and

administration.¹ The initiative is guided by the ten key factors of the WCO Revised Arusha Declaration concerning Good Governance and Integrity in Customs. The Programme team employs results-based management and has therefore developed a performance measurement system making use of different methods and tools, both in terms in data collection and data analysis.

1 <http://www.wcoomd.org/en/topics/capacity-building/activities-and-programmes/cooperation-programmes/acip-programme.aspx>

Not an entirely new area of work

Performance measurement in the area of integrity is not an entirely new area of work for the WCO. The qualitative diagnostics undertaken as early as 2005 based on the WCO's *Customs Capacity Building Diagnostic Framework* included over 90 questions in the area of good governance and integrity.

Moreover, in 2010, working jointly with the World Bank, the WCO assisted Cameroon Customs to introduce a system of performance contracts for appraising its staff, using statistical data together with various indicators. Findings from this exercise were incorporated in a new guidance tool for WCO Members: *The Why and How of Performance Measurement Contracts*. Performance indicators identified at that time were also incorporated in UNCTAD's ASYCUDA SYstem for Performance Measurement (ASYPM), which automatically draws performance data from the Customs management system.²

Lastly, the WCO's *Integrity Development Guide* (IDG), revised in 2014, expands on the Diagnostic Framework and includes a self-assessment tool comprised of over 245 questions aimed at assessing the current integrity situation in a Customs administration.

New responses to measuring integrity

Despite not being an entirely new area of work, measuring corruption and integrity has remained a challenge. As noted in the publication of the World Bank's *Enhancing Government Effectiveness and Transparency: The Fight Against Corruption*, information and data analytics for assessing integrity problems in Customs and monitoring progress of anti-corruption reforms are generally weak.³

Corruption is difficult to measure. In its *User's Guide to Measuring Corruption and Anti-Corruption*, the United Nations Development Programme (UNDP) pointed out that: "The fact that corruption takes

various forms – ranging from embezzlement, fraud, nepotism, bribery, extortion and money laundering – makes it impossible to capture corrupt practices in a single indicator." Furthermore, assessing the effectiveness or impact of anti-corruption initiatives is hard due to the non-linear and complex environment that enables corruption.⁴ Finally, the development of corruption indicators is more often than not "a dynamic process".⁵

Despite these challenges, measurement remains critical in order to reveal the nature, scope and impact of corruption, as well as develop effective anti-corruption responses. It is also necessary in order to focus and prioritize efforts in the face of limited resources. This has prompted the international community to look deeper into more effective ways of measuring integrity. The most recent common consensus is that, rather than focusing on a one-size-fits all approach, it is necessary to combine several different methods of measurement, or hybrid approaches, in order to establish a more thorough understanding of the norms, incentives and environment that shape corruption or integrity.

UNODC, for example, combines two types of monitoring and evaluation for national anti-corruption strategies: "one that assesses implementation and a second that reviews impact."⁶ This echoes Transparency International's new approach to evaluating the impact of anti-corruption advocacy campaigns, that includes looking both at policy changes in the public, private and civil society sector, and at behavioural changes in individual people and institutions.⁷

Indeed, the literature available on the topic of measuring corruption reflects the vast range of different approaches, including but not limited to: static versus dynamic analysis, direct versus indirect methods, experience versus perception, and quantitative versus qualitative indicators. Each of these approaches comes with its own set of pros and cons, benefits and disadvantages.

The most recent common consensus is that, rather than focusing on a one-size-fits all approach, it is necessary to combine several different methods of measurement, or hybrid approaches, in order to establish a more thorough understanding of the norms, incentives and environment that shape corruption or integrity.

2 UNCTAD ASYCUDA SYstem for Performance Measurement (ASYPM): https://unctad.org/en/PublicationsLibrary/webdtlasycuda2014d2_en.pdf

3 "Corruption in Customs: How can it be Tackled?", Odd-Helge Fjeldstad, Ermani Checucci Filho and Gaël Raballand Chapter 4 in Bernard Myers & Rajni Bajpai (Eds.), *Global Report on Anti-Corruption 2020*, World Bank.

4 UNDP Stephanie E. Trapnell (2015) *User's Guide to Measuring Corruption and Anti-Corruption*: <http://www.undp.org/content/dam/undp/library/Democratic%20Governance/Anti-corruption/Users-Guide-Measuring-Corruption-Anticorruption.pdf>

5 "Measuring Corruption Indicators and Indices", Article in SSRN Electronic Journal - January 2014, Debora Valentina Malito (2014). *Measuring Corruption Indicators and Indices*. SSRN Electronic Journal. 10.2139/ssrn.2393335.

6 UNODC (2015) *The United Nations Convention against Corruption - National Anti-Corruption Strategies - A Practical Guide for Development and Implementation - Chapter V "Monitoring, evaluating and reporting"* https://www.unodc.org/documents/corruption/Publications/2015/National_Anti-Corruption_Strategies_-_A_Practical_Guide_for_Development_and_Implementation_E.pdf

7 Transparency International (2015) *Monitoring Guide*: https://www.transparency.org/files/content/ouraccountability/2015_TIMonitoringGuide_EN.pdf

This need for a diversity of approaches is reflected in UNDP's *User's Guide to Measuring Corruption and Anti-Corruption*, which offers a range of tools as well as general principles to consider when designing sound anti-corruption assessments or evaluations, reflecting a shift "from a focus on objectively and precisely measuring corruption to a focus on measuring "around" corruption for good-enough data."

A new hybrid approach

Following these international practices, the WCO A-CIP Programme team utilises a number of different methods in order to assess the impact of measures which have been implemented and build a thorough enough picture of corruption in Customs.

These methods include:

- Output/Implementation measurement: the extent to which measures recommended by the A-CIP team are implemented, including those adopted as a result of new policies developed within the scope of WCO technical assistance.
- Outcome/Impact: behavioural changes are observed and measured, for example the extent of compliance with new policies, or the application of new knowledge learned.
- Static: the WCO diagnostic tools, including the *Integrity Development Guide* (IDG) self-assessment tool, are used to analyse the static elements of integrity systems (for example, policy frameworks, institutions) and identify problems and areas of risk which the A-CIP Programme team will need to address.
- Dynamic: working with A-CIP partner administrations, dynamic environmental drivers of corruption are identified, along with opportunities and constraints for addressing them.⁸
- Experience: individual experiences and knowledge relating to corruption are gathered.
- Perception: individuals' opinions are collected.

Data is collected in both quantitative and qualitative forms, via three main methods:

- Document and material review: administrations share strategic documents, policies, and any other relevant materials to provide a picture of the integrity systems in place.
- Facilitated assessments: using the WCO *Integrity Development Guide*'s self-assessment tool, WCO experts and administration staff work together to bring to light the current state of integrity within each administration.
- Survey: a Customs Integrity Perception Survey (CIPS) has been developed and piloted under the WCO A-CIP Programme to provide insights into the perceived success rates of each Customs administration in promoting integrity and combating corruption, and collect experience and data on existing behaviours.

The survey has been conducted in ten of the participating countries so far. In total, 2,793 private sector representatives and 3,019 Customs officials have been interviewed. In order to overcome some of the problems with existing corruption measurement surveys, the design of the CIPS questionnaire was based on two important principles:

- each question was designed to collect information that a Head of Customs can act or make a decision on. The objective was to avoid the issue of aggregate data not providing sufficiently specific information, or providing information irrelevant to the realm of Customs administration and operations, such that it becomes impossible to act upon.
- the questions were grouped around each of the 10 key factors of the WCO Revised Arusha Declaration, to help identify priorities for each respective administration and thus optimise the use of limited resources.

It is worth noting that the CIPS is not intended to be used for cross-country comparison or analysis. Most CIPS result variables are ordinal, and a 4-point scale has been applied in order to conduct a quantitative performance analysis. The results form a baseline and the survey will be conducted again, across the lifetime of the A-CIP Programme, in order to enable administrations to measure change and performance.

⁸ For more examples of drivers of corruption observed under the WCO A-CIP Programme, see WCO News 91, February 2020, "WCO Revised Arusha Declaration – Putting Integrity Back in the Spotlight": <https://mag.wcoomd.org/magazine/wco-news-91-february-2020/wco-revised-arusha-declaration-putting-integrity-back-in-the-spotlight/>

Model and lessons

Along with the general consensus that a 'hybrid' approach is necessary, a model to measure integrity has emerged based on the principles of ownership and stakeholder participation, which all WCO Members can refer to.

Several lessons can be drawn here. Firstly, implementing the hybrid model takes time: a certain amount of time and capacity is needed in order to deploy the various methods of measuring integrity (material review, facilitated assessment, and survey). The A-CIP Programme team dedicated its entire first year of work to this process, otherwise known as the "Scoping Phase". In just the same way that WCO Members should not expect to find one-size-fits-all indicators for integrity, they should also not expect to gather all the necessary information overnight.

Secondly, ownership is key: there are many reasons why international initiatives and indices of corruption tend to have limited impact or utility for national policymakers and implementers. One of them is lack of national ownership. Ownership by the administration offers a greater chance that corruption measurements will be utilized to inform actions and decisions. When entering the WCO A-CIP Programme, administrations become partners and sign Letters of Intent that specify the administration's role in the collection and utilization of integrity measurement data. Administrations have a clear role in shaping their individual results framework under the Programme, as well as in the deployment of each of the phases (material reviews, facilitated assessments, and CIPS).

Lastly, stakeholder participation in the measurement process – most notably by the private sector – is important. The WCO has always advocated partnerships to combat corruption and

enhance integrity, particularly with the private sector, as set out in Principle 10 of the Revised Arusha Declaration. The WCO has outlined the case for Customs administrations to use "Collective Action", which demands an active and participatory approach by the participants⁹. The A-CIP Programme team promotes the collective action approach and involves the private sector as well as other government agencies and civil society actors, where appropriate, in all methods of data collection. This not only strengthens ownership and credibility, but also aligns with the WCO's general finding that increased engagement with stakeholders by Customs can greatly facilitate reform initiatives.

Lessons learned will be used to review the *Integrity Development Guide* (IDG), enabling all administrations wishing to enhance their assessment process to benefit from the experience gained from the deployment of the Programme. Moreover, the survey methodology, questionnaire, implementation process and analysis will be revised as well, as conducting the first surveys has shed some light on ways in which they can be improved. The new survey guidance and methodology will be made available to all WCO Members on request.

In particular, adjustments to the survey implementation process may be necessary to reduce social contact in light of COVID-19. It is worth noting that the A-CIP Programme team has been working remotely with beneficiary administrations since the pandemic, adapting training and capacity development formats in order to ensure continuing assistance. The Programme is on-going and all WCO Members can already benefit from lessons learned on the measurement of integrity in the Customs environment.

More information

capacitybuilding@wcoomd.org

⁹ See WCO News, edition 83 <https://mag.wcoomd.org/magazine/wco-news-83>



ODASCE

www.odasce.asso.fr

CUSTOMS EXPERT
SINCE 1972

INFORMATION

TRAINING

EVENTS

TAXES

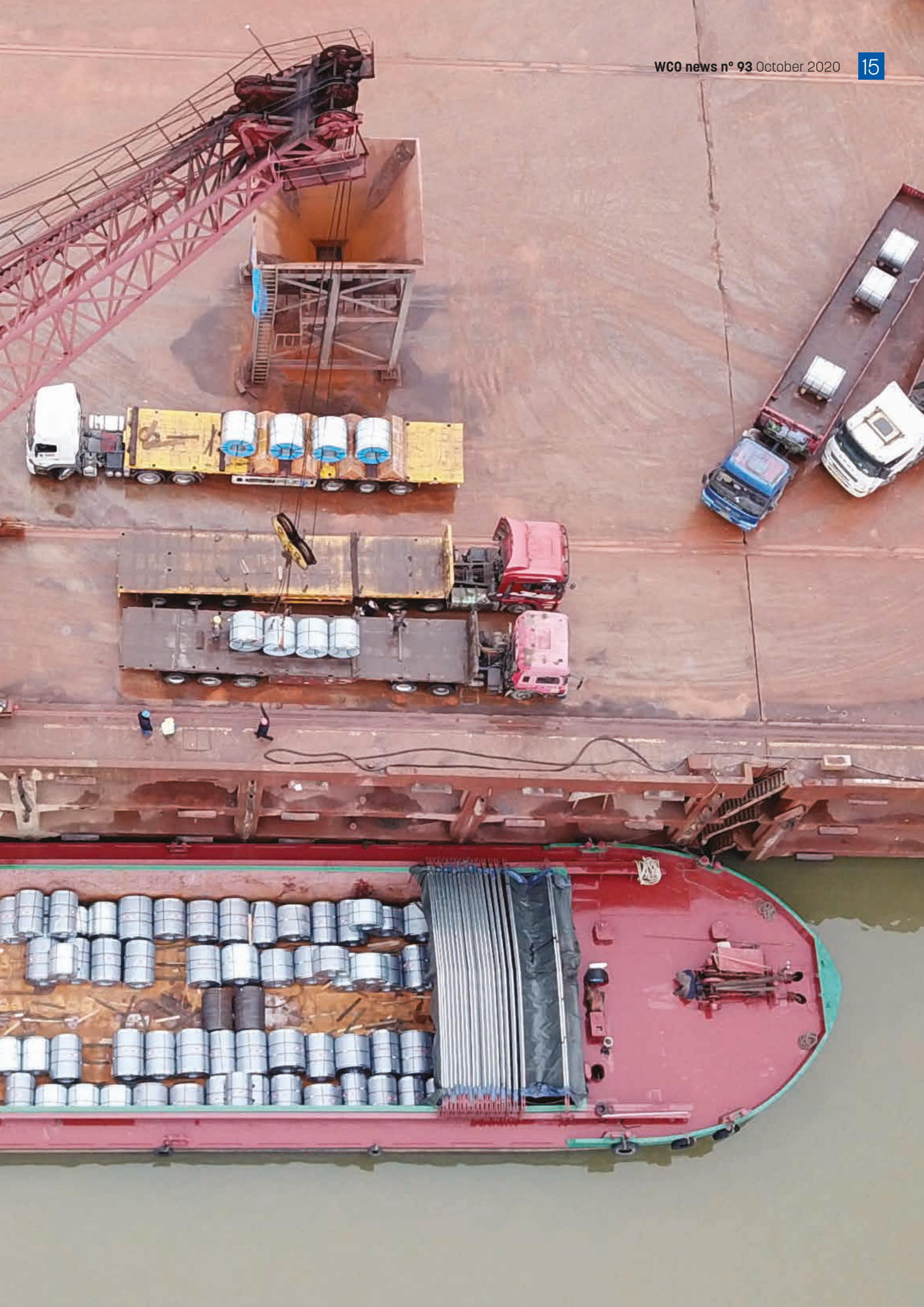
CUSTOMS

**EXCISE
DUTY**

**EXPORT
CONTROL**

Customs Valuation: History, challenges and opportunities





Shedding light on a technical but critical topic for Customs

By Kunio Mikuriya, WCO Secretary General

Adam Smith, author of *The Wealth of Nations*, wrote that Customs duties have been “in use for time immemorial”. To a large extent, this assertion is correct. The practice of taxing commerce is as old as commerce itself. And where a tax must be collected, there will be disputes over rates and methods.

Imported products were easier to tax than domestic output, and so import duties were among the earliest taxes. The two most prominent types of duties that developed over the course of world history were the “specific” Customs duty and the “ad valorem” Customs duty. With the former, the state levied a tax per unit of goods – something which was relatively easy to apply. With the latter, the state levied a tax based on the value of the goods, and this required the establishment and enforcement of rules governing their valuation. In other words, Customs valuation becomes an issue where duties are calculated on an “ad valorem” basis.

Today, the rules for valuing imports for the purposes of assessing these Customs duties are defined in the WTO Customs Valuation Agreement (known formally as the Agreement on Implementation of Article VII of the GATT). The Agreement is a result of the 1986-1994 Uruguay Round negotiations, but its terms largely repeat the 1979 GATT Valuation Code. Pre-1979, WTO Members were concerned that non-tariff measures could potentially offset the gains that had been made over the years by the GATT tariff reductions. Customs valuation practices figured prominently in their inventory of non-tariff barriers and they believed it was important to review existing valuations systems and establish more harmonized and comprehensive rules for the valuation of imported goods.

The Agreement aims to provide a single international system that is fair, uniform and neutral for the valuation of imported goods for Customs purposes, and prohibits the use of arbitrary or fictitious Customs values. It provides a Customs valuation system that primarily bases the Customs value on the transaction value of the imported goods, i.e. the price actually paid or payable for

the goods when sold for export to the country of importation (with certain adjustments).

Although today’s import duties have been reduced to trivial levels in many developed countries, or have even disappeared altogether, the rules that are used for their calculation are still relevant. Indeed, a number of countries use value added tax (VAT), excise, or sales taxes on imported products, and Customs authorities commonly apply the Customs valuation rules to calculate these kinds of taxes on imports. Moreover, the rules are used by Customs authorities to administer non-revenue measures, such as import quotas based on Customs value, rules of origin and the collection of trade statistics. Meanwhile, valuation still represents one of the most important issues for Customs and the private sector in developing countries where contribution of Customs duties and taxes to government revenue is significant.

Technical Committee

A Technical Committee on Customs Valuation was established under the auspices of the WCO to ensure uniform interpretation and application of the Agreement at the technical level. Its role is to examine specific technical problems arising in the day-to-day administration of the Customs valuation system of WTO Members and to give advisory opinions based upon the facts presented.

It is worth noting that, since its creation, the WCO has been closely linked to the various multilateral systems for valuing imported goods. Indeed, the Customs Co-operation Council (now the WCO) was given responsibility for administering the 1950 Convention on the Valuation of Goods for Customs Purposes, commonly known as the Brussels Definition of Value (BDV). The latter was drafted by the European Customs Union Study Group, and as many as one hundred countries applied the BDV.

Adoption of the GATT Valuation Code, negotiated in the 1979 Tokyo Round, saw the establishment of a GATT Committee on Customs Valuation and a Technical Committee on Customs Valuation. The





Although today's import duties have been reduced to trivial levels in many developed countries, or have even disappeared altogether, the rules that are used for their calculation are still relevant.

Code mandated the WCO to assist the Technical Committee in its activities and to help it achieve its objectives. When the WTO Customs Valuation Agreement which replaced the Code was adopted, that arrangement was maintained.

Evolution of the questions addressed at the TCCV

Technically, we speak of two Technical Committees on Customs Valuation (TCCV): the Tokyo Round Technical Committee (1981-1995) and the Uruguay Round Technical Committee (1995-present). During the first Session of the Uruguay Round TCCV, delegates agreed to adopt all the instruments which had been adopted by the Tokyo Round TCCV.

From 1981 to 1995, 74 instruments were adopted to assist Members in the uniform interpretation and application of the Agreement. Of these instruments, 36 took the form of Advisory Opinions, 20 the form of Commentaries, and the remainder the form of Explanatory Notes, Case Studies and Studies. Under the Uruguay Round Technical Committee, 21 instruments have been adopted to date, and 59 specific technical questions examined. A total of 24 Questions have been put in Part III of the Conspectus of Technical Valuation Questions, pending provision of new information.

The fact that a high number of questions was addressed when the Customs Valuation Code came into effect is not surprising: this was a new valuation system, based on the transaction value, and very

different from the BDV. The latter was based on the use of a "normal" price¹ as determined by Customs administrations, and had been in operation for nearly 28 years. New terms introduced in the Valuation Code had to be explained. There also had to be a change in mindset. In particular, Customs had to accept the fact that the importer's declared transaction price could be lower than the prevailing market price.

The type of questions submitted by Customs administrations to the TCCV changed over time, as international trade practices evolved, and trade in goods and services between and among multinationals grew.

The fact that the Tokyo Round Technical Committee adopted 13 Advisory Opinions and one Commentary related to Article 8.1(c) (Royalties and Licence Fees) is testimony to the difficulty Customs faced in interpreting this part of the GATT Valuation Code. The issue continued to be a major concern for administrations after 1995, and further instruments were adopted thereafter, dealing with complex scenarios involving third party royalties in situations where the seller is related to the licensor, or the buyer is related to the licensor. It took the Technical Committee seven years (from April 2004 to April 2011) over 13 sessions (from the 20th Session to the 32nd Session) to adopt one of the major guidance instrument (Commentary 25.1).

Other aspects presenting a tremendous challenge include the Agreement's provisions on related party transactions, in particular, transfer pricing, as well as special discounts given to sole agents and distributors. In fact, this edition of the magazine includes a very detailed article on transfer pricing, which I encourage you to read.

The TCCV recently issued instruments relating to Customs valuation and transfer pricing in the context of Article 1.2 (a) (examination of the circumstances surrounding the sale in related party transactions). The founding instrument is Commentary 23.1, which highlights that transfer pricing documentation may be used when examining the circumstances surrounding the sale on a case-by-case basis. Two case studies, based on the OECD Transactional Net Margin and Resale Price methods, were used by way of illustration

¹ The price which the imported goods would fetch at the time when the duty becomes payable on a sale in the open market between a buyer and seller independent of each other.

It is clear from the agenda for the 50th and 51st Sessions of the TCCV, which started on 31 August 2020, that the number of technical questions is still quite substantial. The work of TCCV delegates to ensure uniformity in the application of the Agreement at the technical level is still significant. I would urge all Customs administrations to participate in, or at least follow, the TCCV discussions to keep abreast of the latest issues on Customs valuation and benefit from the exchange of views taking place at the meeting.

Technical assistance

In contrast to the GATT Code, the WTO Valuation Agreement is compulsory, and a clear priority from the start has been to support new signatories with its implementation. On 1 January 1995, when the Agreement entered into force, about 65 developing countries undertook to apply it, but almost all of them entered a specific reservation to postpone application for a period of five years. During this period, they were required to make preparations, and this was identified as a key activity in the WCO's Strategic Plan for the years 1997 to 1999.

In order to monitor progress, the TCCV instituted a reporting mechanism aimed at collecting information from Customs administrations. This allowed the sharing of experience and work methods regarding implementation, as well as made it possible to quickly identify any special requirements for technical assistance which could arise.

Today, nearly 40 years since the Agreement came into existence, some administrations in developing countries still need capacity building to develop an effective valuation control programme and implement the valuation system put in place by the Code and the Agreement. There are many reasons why implementation can be a challenge. The WTO, in the article which follows this one, explains them in detail.

Some of these challenges are related to a lack of capacity and resources within an administration. Some are related to the environments in which some countries operate, which are very different to those that the Agreement presupposes.

In addition, some governments in developing countries believe that they have to make a choice between revenue collection and trade facilitation. Although there has been no empirical evidence to indicate loss of revenue as a direct result of

implementing the Agreement, concerns persist among many developing countries and have been expressed in the WCO. Such concerns are understandable, as developing countries often significantly depend on Customs revenues to finance their public expenditure. Furthermore, since their Customs duties are relatively high, there are strong incentives for fraud.

In one of the articles in this Dossier, Leonardo Macedo, who works for the Brazilian Government and worked in the WCO Valuation team some years ago, reminds us of the differences between “specific” and “ad valorem” tariffs in terms of function and benefits. He also highlights the need to examine the type of tariff that should be used, depending on a country's level of development, administrative capacities, and objectives.

Recent Secretariat activities

While several countries point to the fiscal neutrality of the effects of implementation, it is widely acknowledged that successful application of the Agreement requires effective valuation control systems, including intelligence-based risk management and post-clearance audit (PCA). This necessitates a holistic approach to reform and modernization of Customs procedures and management, involving changes in thinking, both at the Customs management and Customs operational level.

During the past three years alone, the WCO Secretariat has delivered 36 missions in the field of Customs valuation, including considerable training and diagnostics. Over the years, it has developed guidance material, such as the *Practical Guidelines for Valuation Control*, and helped administrations develop and implement appropriate training programmes.

In recent years, the tools related to PCA have all been updated, and capacity building activities have focused on hands-on training regarding system-based audits. An advanced PCA Package has been developed for auditors who already have a basic knowledge of the PCA concept. The Package contains exercises on audit planning, analysis of Customs data, review of business information, the use of audit templates (such as a systems questionnaire), audit reports and other exercises. The Package also includes case studies on irregularities, such as undervaluation, misclassification, origin fraud, and industry-specific issues. Officers not acquainted with auditing

practices can refer to the e-learning modules available on the CLiKC! Platform, look through the WCO PCA *Guidelines*, or attend an introductory workshop on PCA.

Data analysis and technology

The WCO is also closely following developments in data analytical tools which support Customs in analysing datasets in order to identify trade transactions involving abnormal unit prices or relationships between trading parties.

It is widely accepted that the two most effective methods of valuation involve comparing the shipment in question (if the transaction value is in dispute) to the transaction value of identical or similar goods entering the same economy. The traditional way to ascertain a declared item's likely valuation compared to the average declared value of identical or similar goods has been to construct a database. Most Customs automated clearance systems incorporate a valuation database functionality which allows for the automatic and post-clearance control of values during declaration processing.

There are numerous administrative and technical complexities with respect to administering and applying a valuation database, and this issue was addressed in WCO News 79². Both the International Chamber of Commerce (ICC) and the WCO have developed guidance on this topic. The first point of reference for an administration considering the development of a valuation database should be the WCO *Guidelines on the Development and Use of a National Valuation Database as a Risk Assessment Tool*. In addition, the WCO Revenue Package's *Practical Guidelines for Valuation Control* also offer examples of WCO Members' best practices.

Very sophisticated tools are now on the market, using machine learning, i.e. the process of teaching a computer system how to make accurate predictions when fed data (see WCO News 91³). The WCO has also undertaken various initiatives to help Customs administrations embrace analytical tools and methodologies. Under the WCO BACUDA Project, experts have developed basic methods and algorithms, as well as a neural network model to help Customs detect potential fraudulent transactions. The "DATE model"⁴ is an open source programming language and is based on the concept



© Ghana Customs



© Japanese Customs

of predictive analytics, a statistical method aimed at making predictions about Customs fraud and undervaluation by importers. The process involves screening a series of historical data extracted from the IT Customs Management System, and using cutting-edge analytics techniques, such as statistical modelling and machine learning.

Private databases and analytical tools can also be used to identify company relationships and transactions between related parties disguised as non-related exporters and importers. Some technology providers are also looking at how to combine valuation controls with scanned image detection algorithms to determine if the relative volumes of the commodities declared approximate those shown in the scanned image.

2 <https://mag.wcoomd.org/magazine/wco-news-79/>

3 <https://mag.wcoomd.org/magazine/wco-news-91-february-2020/how-machine-learning-can-automate-the-determination-of-the-valuation-of-goods/>

4 <http://www.wcoomd.org/en/topics/research/data-analytics.aspx>

Cooperation

I would also like to say a few words about cooperation, which is at the heart of the resolution of many issues, and not just in the valuation area. Business should be the driving force behind the political will in realigning the resources necessary to pursue modernization of Customs. However, the reality is often different. The major constraint identified in implementing the Agreement for developing countries is the lack of necessary information for valuation purposes. In many countries, the level of record keeping by importers is not appropriate. We need both good governance of Customs, and corporate governance of business, to properly apply the Agreement. Dialogue between Customs and business is therefore necessary for greater cooperation and the building of mutual trust.

This Dossier includes an article by the International Chamber of Commerce (ICC), an Observer in the meetings of the TCCV since 1979, in which it shares its views on the challenges which persist and on the new ones which are constantly emerging as a direct result of newly developed commercial practices.

The challenges faced by the private sector must be acknowledged and addressed. These include disparate levels of knowledge and technical capacities on the part of Customs authorities; disparate levels of cooperation between Members' authorities and the private sector; the refusal by Customs to use valid data provided by economic operators; misuse of valuation databases; the need for adaptation of rules to better match the evolving patterns of e-commerce; a lack of relevant mechanisms for dispute resolution in the field of Customs law; and a lack of enhanced and regular communication between Customs and the private sector before the importation process.

A related matter is the need for information exchange on valuation to fill the gap between the requirement of the Agreement and the unavailability of information from importers. The TCCV has produced a *Guide for the Exchange of Valuation Information*, the structure and content of which were also referred to during the negotiations of Article 12 on Custom Cooperation of the WTO Trade Facilitation Agreement. However, many administrations continue to struggle in this area because of the administrative burden and cost implications, lack of electronic data transmission, and lack of appropriate domestic laws (among other reasons).

Facilitation tools

This Dossier also includes two articles which set out mechanisms aimed at providing traders with clarity on how to assess the value of their goods. In the first article, U.S. Customs and Border Protection describes its advance rulings system in the field of Customs valuation and explains that such rulings do not determine or confirm the actual Customs value of a particular consignment, but indicate the treatment to apply to certain elements of the Customs value. In the second article, the European Commission's Directorate-General for Taxation and Customs Union explains the simplification in place to enable economic operators to determine elements of the Customs value which are not quantifiable at the time of importation, on the basis of appropriate and specific criteria. Such simplifications are becoming increasingly relevant, given the growing number of value elements, such as royalties or commissions, which cannot be quantified at the time of importation.

Conclusions

Let me conclude by reiterating that, whilst technical assistance plays an important role in developing a strong valuation system, it should be viewed in the wider context of a sustainable developmental approach to modern Customs procedures and administration. The involvement of local stakeholders, including the private sector, and the realignment of resources, including appropriate equipment, will be necessary to continue and improve the reform process that technical assistance has helped to initiate. In many countries, addressing issues related to integrity and corruption, as well as the practices of the informal sector, will also be an important part of the comprehensive package which needs to be developed to find a solution.

Last but not least, I also believe that we need to ponder what the future holds for the TCCV and the WTO Customs Valuation Agreement (CVA) and how to continue answering, collectively and in a timely manner, questions raised by Customs administrations which were not foreseen by the CVA. Such questions mirror the development of global value chains, emerging new business models, especially in the e-commerce sector, and rapid technological changes. The TCCV still has a lot of work ahead of it to support Customs administrations and traders in a swiftly developing business environment!

THE NEXT GENERATION OF CARGO INSPECTION

- **Passive** – naturally occurring particles
- **No radiation** – no safety exclusion zone required
- **Provides a 3D image similar to MRI**
- **Excellent material discrimination enabling contraband detection**
- **Exceptional system reliability with low cost maintenance**
- **High throughput with a low operating cost**
- **Over 1000 mm of steel penetration**
- **Low total cost of ownership over lifetime**

Discovery is the only passive security scanning system available that uses safe, radiation-free technology to efficiently detect threats to global security and trade. Unlike harmful x-ray and gamma-ray scanners, Discovery is a safe solution that produces no active ionising radiation of any kind. Discovery can penetrate substances that x-ray cannot and can detect anomalies using highly detailed 3-dimensional cargo imaging. Visit our website for more information and to find your nearest agent.

DECISIONSCIENCES.COM

WTO Customs Valuation Agreement: objectives, requirements and challenges

By the World Trade Organization

This year marks the 25th anniversary of the entry into force of the WTO Customs Valuation Agreement (CVA). The Agreement seeks to tackle Customs clearance delays resulting from valuation verification and to ensure that the Customs value of goods entering a market are properly assessed to reflect the actual price of the goods as agreed between the buyer and seller.

Beginnings

It is not the first multilateral regulation in the area of valuation. The first attempt took place under Article VII of the General Agreement on Tariffs and Trade (GATT) which entered into force in 1948. As negotiations were leading to the lowering of tariffs, negotiators wanted to address the existing Customs practice of assigning arbitrary or fictitious values to merchandise which could have wiped out the tariff benefits.

Article VII of the GATT introduced the notion that the value of imported merchandise for Customs purposes should be based on the actual value of the imported merchandise. However, it did not include a definition of Customs valuation, nor did it provide details on how to calculate the “true” value of a product. This left Customs administrations with considerable discretion when it came to valuation.

In an attempt to improve regulation, Members negotiated a second, separate Customs agreement, entitled the “GATT Valuation Code” during the Tokyo Round of Negotiations (1973-1979). This agreement, which was in reality a Customs code under the GATT, introduced new disciplines to valuation. It aimed to establish a predictable system that would reflect the true value of merchandise and eliminate arbitrary or fictitious valuation. The result was the first detailed regulation of Customs valuation. However, as a Code under the GATT, it was adopted by only a number of GATT signatories.

Eventually, it was superseded by the current Customs Valuation Agreement which was negotiated under the Uruguay Round (1986-1994) and entered into force for all WTO Members in 1995.

Objective

The objective of the CVA is to provide a fair, uniform and neutral system for the Customs valuation of goods that eliminates the use of arbitrary or fictitious Customs values. At the same time, it aims to address under-invoicing.

The CVA identifies the primary basis, in fact the default mechanism, that must be used for valuation as the “transaction value”, which it defines as “the price actually paid or payable for the goods when sold for export to the country of importation” (Article 1). Consequently, the value should be based on the selling price agreed between the buyer and seller, which is represented on the invoice. The Agreement also includes in the transaction value other elements impacting on the value of the merchandise that are not included on the invoice (Article 8).

Deviations are allowed only when it is not possible to use the transaction value (e.g. related parties impacting the price, cases where there is no sale, unreliable supporting documentation) and, even then, in accordance with a hierarchical series of five alternative methods of valuation for those cases. Any deviation from the use of the transaction value increases the extent of discretion that can be exercised by Customs authorities, and each subsequent alternative method further increases that level of discretion. The hierarchical structure of the Agreement aims to restrict those opportunities, reflecting the objective to eliminate the use of arbitrary or fictitious Customs values.

According to a WCO survey conducted in the 1990s, more than 90% of goods were valued on the basis of the transaction value method.



The five alternative methods

Transaction value: the value is determined on the basis of the price actually paid or payable for the goods when sold for export to the country of importation plus adjustments for other cost elements not included on the invoice price. (Articles 1 and 8)

Transaction value of similar goods: the value is determined on the basis of the transaction of similar goods produced by the same producer, under the same conditions as for identical goods. (Article 3)

Deductive method: the value is determined on the basis of the sale price of the goods in the country of importation minus deductions for certain costs (e.g. an amount for profit and expenses). (Article 5)

Computed method: the value is determined on the basis of the costs of materials and production in the country of export plus certain other costs, for example, packing, engineering, development work, an amount for profit, general expenses, transport and insurance. (Article 6)

Fall-back method: Customs authorities can devise their own procedure based on any of the previous methods as long as it is reasonable and consistent with the principles of Article VII of the GATT and the CVA. (Article 7)

Infrastructure changes

Implementation of the Agreement requires a shift from focusing on intervention at the clearance stage and requires modernization of both processes and systems. The modernizing measures required for the implementation of the CVA are those that are included in the WCO Revised Kyoto Convention: simplification of procedures, computerization, strengthening of internal controls and management systems, provision of advance rulings on valuation, implementation of risk assessment management and strengthening of post-clearance audit capacities; as well as implementation of Authorized Economic Operator (AEO) programmes.

Moreover, the establishment of Customs cooperation and mutual administrative assistance agreements, whether on a multilateral, regional or bilateral basis, is necessary, particularly where Customs has doubts about the veracity of invoices but has no means of obtaining the data required within its own administration. Computerization to support real-time data exchange would make such cooperation more effective.

Administrations should also have the appropriate infrastructure in place. The establishment of separate Customs units set up for the purpose of dealing with valuation issues is beneficial for the development of Customs infrastructure, as is the

establishment of national committees on technical issues and committees on Customs valuation policy to deal with legislation and regulation. These committees play a role in strengthening capacity and expertise on valuation and ensuring national uniform interpretation and application of valuation laws and regulations.

In addition to the need to reform their Customs administrations, many developing and least developed countries are also faced with the challenge of encouraging widespread informal traders to comply with the CVA. Many informal traders do not have the appropriate infrastructure, knowledge and skills and this often translates into a lack of reliable import and export documentation. Customs requires dedicated programmes and infrastructure to bring these traders into compliance.

Other elements for effective implementation

The requirements for effective implementation of the CVA permeate the political, legislative and technical spheres. There is an overarching need for political will to carry out the steps necessary to achieve the required level of capacity. There is also a need for an understanding within government and Customs administration of the extent of administrative, legislative and managerial changes that are to happen.

The CVA is indeed a highly technical, complex agreement which requires expertise in technical valuation rules, ranging from the basic requirements for implementation of the transaction value to complex issues such as transfer pricing, royalties and license fees, and e-commerce business models. There is therefore a need for a sustained mechanism to ensure continual capacity building, for both Customs and the private sector, including through the development of university courses.

Valuation rules and related issues must be not only understood but also applied consistently and in a standardized manner. This will imbue traders with the confidence that they will be treated properly and fairly, and, as a result, they will be more inclined to respect the rules. The adoption of measures aimed at developing an informed and engaged private sector is also essential, as this will facilitate and encourage voluntary compliance with the valuation rules. Regular dialogue with representatives of trader and industry associations, in particular, is important, as it will enable them to be

in a better position to help improve the compliance level of their members. This would also be beneficial to Customs, as regular and open communication enhances its understanding of the challenges faced by the private sector regarding certain aspects of valuation.

In terms of transparency, it is also important to note that WTO Members are required to notify their Customs legislation to the WTO Committee on Customs Valuation. This is regarded as an important building block for implementation of the CVA. It allows the Committee to review the legislation to ensure that the laws and regulations in force meet the terms of the Agreement. In particular, it looks at whether the laws are being implemented in a way that ensures predictability and consistency for trading across national borders. In addition to the legislative reviews, the Committee provides a forum for Members to raise questions and discuss the functioning of the Agreement across the entire WTO Membership.

Factors hindering its implementation

There are a number of significant factors that prevent Customs administrations from fully implementing the CVA. There can be resistance to the changes required in Customs administrations in order to implement the Agreement. This may be because such changes can involve significant costs for a developing country, and some countries may have more pressing priorities. Others that are still heavily reliant on Customs duties can have concerns that the proper application of the valuation concept, in particular the transaction value, will have an adverse effect on the collection of duties.

Other challenges are posed by the fact that many Customs administrations are small and suffer from a lack of resources, which means that no part of their organization is specifically set up to deal with valuation issues. There is often a lack of knowledge within Customs administrations of the contents of the CVA, as well as difficulties to understand it. The resource challenge is reinforced by the high turnover of trained Customs personnel and insufficient regular training on the CVA. The result is a disparity in the levels of knowledge and technical capacities among and between Customs authorities.

Some developing countries also lack the necessary supporting legal framework and administrative capacity to implement the Agreement. Inadequate information technology and computerized

There is a need for an understanding within government and Customs administration of the extent of administrative, legislative and managerial changes that are to happen.

processes, including for the management of valuation risk, are additional hindering factors. As a result, the private sector can face the overuse of the fall-back method with over-utilization of reference prices and valuation databases.

In addition, there are disparate levels of cooperation between Members' authorities and the private sector. These circumstances lead to a great deal of misinformation regarding the effectiveness of the Agreement within both Customs and the private sector.

Last but not least, the existence of a significant informal sector creates serious verification problems and imposes heavy administrative burdens on Customs administrations. It is often impossible for them to apply the transaction value method, or indeed any of the alternative methods of valuation. The situation is further compounded by the fact that, in most countries with a large informal sector, there are no mechanisms to allow for the exchange of information across importing and exporting countries.

Lessons learned from years of implementation

It is clear that, after 25 years, the CVA makes trade more predictable and equitable. It facilitates a secure business environment for economic development, retains the benefits of low tariffs and reduces trade costs. The CVA is of particular benefit to small and medium-sized enterprises, as they are disproportionately impacted by clearance delays and high trade costs.

It is also the case that some countries still continue to face implementation challenges such as those referred to above. However, the most recent WTO agreement, the Trade Facilitation Agreement, offers a significant opportunity for WTO Members to strengthen their implementation of the CVA. Both agreements are closely linked. The TFA includes provisions on all the Customs modernization elements that are required for effective implementation of the CVA: publication of Customs laws and regulations, requirement for consultations with the private sector, implementation of advance rulings (encouraged for valuation), risk management, including value of goods, procedures for appeal or review, release of goods upon guarantee, post-clearance audit and Customs cooperation. In order to be able to implement the TFA, a country must be able to implement the CVA.

Technical assistance and capacity-building support is available to developing and least developed countries unable to implement the TFA. This also represents a practical means of accessing the required support for valuation purposes. In the light of the crossover between both agreements, WTO Members, when identifying and planning their capacity needs to implement the TFA, can include their capacity needs to implement the CVA.

Twenty-five years on, the Customs Valuation Agreement has received a shot in the arm from a more recent trade facilitation agreement. It offers an opportunity to reinforce the CVA for the next 25 years and beyond.

More information

<https://www.wto.org>

The dynamic dual role of tariffs: insight into specific and ad valorem rates

By Leonardo Macedo, Judge, Administrative Tax and Customs Court (CARF), Brazil



Following World War II, like-minded nations sought to create a global trading system that could help foster peace and prosperity through greater economic integration. This effort spawned the General Agreement on Tariffs and Trade (GATT), which required its members to bind their tariffs at lower levels and apply them in a non-discriminatory way (meaning if you give a concession to one country, you give it to them all).

Policy makers argued that decreasing tariffs would foster predictability in global trading, reduce prices for consumers and help businesses make long-term decisions about how to invest and operate abroad. In 1995, following the GATT Uruguay Round, the World Trade Organization (WTO) was established to monitor tariff bindings and operate a global system of trade rules.

But today, tariffs are at the centre of trade disputes that risk damaging the global economy. The US is complaining that it is treated unfairly because it is bound by higher tariffs, and its trading partners are unwilling to reduce them. In 2019, the average US bound rate was 3.4%, among the lowest for major developed countries and virtually unchanged for more than a decade.

The US decided to increase import tariffs against China, Canada, Mexico and the European Union, to name a few, and this aggressive tactic is changing the international trade landscape. In defence of the US trade policy, Robert E. Lighthizer, the US trade representative, said that tariffs are “outdated” and that the US “must ensure that tariffs reflect current economic realities to protect our exporters and workers”.

While recognizing that the return of tariffs is not a good omen, it is essential to acknowledge that the debate about tariffs is on the table. Unfortunately, right now, most media coverage lacks depth. The prevalent narrative is characterized by villains and heroes and a poor screenplay.

It should be noted that, by triggering Article XXVIII of the GATT, a nation can select products whose tariff rates it wants to lift above the levels it agreed to upon joining the WTO. It must notify WTO members that it intends to raise specific bound tariff rates, provide three years’ worth of trade statistics for each renegotiated tariff line and encourage any nation with a substantial trading interest to begin negotiations to obtain trade concessions in return. Any member affected can ask for compensation

to address the loss of trade concessions, which are not limited to tariffs and can include non-tariff barriers such as rules covering food or animal safety and other technical regulations. Any agreed upon concessions would be granted to all other WTO members on a non-discriminatory basis. If members fail to reach an agreement on compensation, the country can unilaterally set its new bound tariff levels. Any aggrieved nations have the right to retaliate by imposing tariffs or other trade restrictions on that country.

In such a context, I believe that more in-depth research and investigation need to be undertaken to discover whether the applied tariffs achieve their functions. Areas that should be considered include the dynamic nature of tariffs and the existence of different tariff types which must be used appropriately depending on the trade circumstances, ultimately to establish what might be seen as fair tariffs conducive to trade liberalization. In short, we must go beyond discussions about high and low tariff percentages.

This brief article argues that tariffs must be used as dynamic tools that need periodic assessment. It goes on to discuss the two most known types of tariff: ad rem and ad valorem. Finally, it reflects on the use of each of these tariff types.

Tariff function – dynamic dual role

Economic analysts often distinguish two tariff functions and refer to revenue tariffs and protective tariffs. In simple terms, revenue tariffs are designed primarily to raise money for the government, while protective tariffs are intended to inflate the prices of imported goods and protect domestic industries from foreign competition. This is a very simplified explanation for a complex topic, and it might therefore give rise to misleading conclusions.

Indeed, these two functions are not mutually exclusive, and the purpose of a tariff may change in line with an industry’s evolving economic landscape. Professor Hinorori Asakura, in his book *World History of [the] Customs and Tariffs*, remarked that economic analysts are often unsure about the exact function of tariffs.

As such, it is vital to understand that tariffs are dynamic by nature and are in a permanent state of flux. For instance, a tariff intended to provide a steady revenue stream from a commodity extracted or produced abroad exclusively can act as a protective instrument a decade later when the

While recognizing that the return of tariffs is not a good omen, it is essential to acknowledge that the debate about tariffs is on the table. Unfortunately, right now, most media coverage lacks depth. The prevalent narrative is characterized by villains and heroes and a poor screenplay.

commodity becomes available nationally owing to technological progress or industrial transformation. A crop or a mineral that was not cultivated or mined in a country at the time when the tariff was created can indeed, years later, be successfully harvested or extracted domestically as a result of the emergence of new techniques or services. Technology, communications, transport and finance are just a few of the production factors that can help change a country's economic landscape.

These economic transformations affect the proportion of revenue/protection in each tariff line. Whereas it used to take several years for this proportion to change, it now happens at a faster pace given the speed at which resources can be mobilized, technological developments occur, and supply chains evolve.

As a result, the tariff concessions negotiated during the GATT rounds from 1947 to 1994 may no longer serve their original function today. The primary purpose of the GATT rounds was to reduce tariffs, not to rebalance them periodically. However, every country should have a dynamic industrial strategy and should, at all times, aim to provide selective support to certain industries, while reducing or eliminating support for other industries that use this initiative for their profitability rather than to improve their competitiveness against global competitors.

Tariff types

Besides tariff functions, it is essential to understand tariff types. These two aspects are connected, and any preference for a tariff type will influence the tariff function. In this article, I will briefly touch on the two most common tariff types: ad rem and ad valorem.

Ad rem or specific

An "ad rem" or "specific" tariff is calculated as a fixed amount of money per unit of a good. The unit of measurement can be the weight, volume, surface area or other quantifiable unit of measurement for goods. Ad rem tariffs stipulate how many units of currency are to be levied per measurable unit (litres, gallons, kg, tonnes, m³).

The advantage is that such tariffs are extremely easy to apply. The Customs value of the good does not need to be determined, as the duty is not based on the value of the good but on other criteria. No rules on Customs valuation are needed, and the WTO Valuation Agreement does not apply. Such

tariffs are very appealing for countries that have difficulties in enforcing complex valuation rules and in dealing with issues such as multinationals' transfer pricing strategies.

Two countries have opted to use ad rem tariffs exclusively: Liechtenstein and Switzerland. Most countries use ad rem tariffs only for certain items specified in their national schedules, particularly in the agriculture sector.

The main disadvantages of ad rem tariffs are that the degree of protection they provide to domestic producers varies inversely with changes in import prices and that they are affected by inflation. Countries should therefore assess, for each tariff line in the national schedule covered by an ad rem tariff, whether the protection role is being fulfilled and, if not, consider changing to another type of tariff.

Ad valorem

An ad valorem tariff is a set percentage of the monetary value of the goods to be taxed. Ad valorem means "according to value". It is, by and large, the preferred tariff type in the world and the main tariff type used when setting out tariff concessions.

Its most significant advantage is transparency. Countries negotiated ad valorem rates during the GATT rounds which are registered in the WTO schedules of concessions as the maximum rates that can be applied. Another notable advantage is that such tariffs impact goods with the same HS code differently. In the same tariff line, cheaper goods are less impacted than expensive ones.

Its main disadvantage is that it involves determining the Customs value of a good. Not only will the price of goods fall and rise according to market conditions, but, in line with the provisions of Article 8 of the WTO Customs Valuation Agreement, obligatory adjustments must be added in order to establish the Customs value. These adjustments are related to royalties, services and other intangibles which are challenging to assess in ordinary circumstances. The ad valorem tariff type may also be affected by transfer pricing strategies, as these often have an impact on the transactional value and Article 8 adjustments.

When using the tariff primarily to protect domestic industry, the ad valorem type is typically preferred, as it keeps the level of protection constant

regardless of any changes in the price of a good. As prices go up and down, so too does the level of ad valorem protection afforded by the tariff.

Conclusion

The international trading system was built with the objective of substantially reducing tariffs and eliminating preferences. Although tariff concessions delivered positive results, some countries have expressed a need to review tariff rates in order to protect domestic manufacturing.

Such a policy is complicated by the presence of globally interconnected supply chains. Two studies from the National Bureau of Economic Research (NBER) indicate that US tariffs are paid almost entirely by American consumers, while illustrating how they also act as a drag on US exports.

Tariffs were a popular discussion topic before the GATT, and a renewal of some of these technical discussions is essential. I believe that one topic that should be addressed is the types of tariff that should be used depending on the level of development, administrative capacities, and objectives of a country.

Tariff policy must be devised very carefully and must respond to a number of basic questions, for example: Is the country also a producer of these goods, and is protection therefore necessary? What impact will there be on importers and intermediaries? Can alternative methods of revenue generation replace tariffs? What about the revenue associated with each tariff line? Is inflation controlled?

Countries with weak institutional capacity should reflect carefully on this issue, especially the 40 or so nations identified by the IMF as suffering from conflict or any other crisis, using the World Bank's Country Policy and Institutional Assessment (CPIA), and which may be unable to raise public revenue if they fail to make the right choice.

It is worth noting that the World Health Organization (WHO) recently recommended the use of ad rem tariffs for tobacco goods, as it imposes a minimum tax floor. To simplify matters, I personally would recommend also considering the application of ad rem tariffs on goods transported by travellers across land borders or imported by post (Annex J of the Revised Kyoto Convention).

More information

Leonardo.Macedobr@gmail.com



Centre for Customs and Excise Studies | Charles Sturt University

Study online – we are now accepting enrolments for March 2021

BACHELOR DEGREES | POSTGRADUATE DEGREES | DOCTORATES

- [MASTER OF CUSTOMS ADMINISTRATION](#)
- [GRADUATE DIPLOMA OF CUSTOMS ADMINISTRATION](#)
- [GRADUATE CERTIFICATE IN CUSTOMS ADMINISTRATION](#)
- [BACHELOR OF BORDER MANAGEMENT](#)

customscentre.com | customs@csu.edu.au

Charles Sturt University – the world's largest provider of university education in law enforcement, counter-terrorism, emergency management, customs and border security.



Knowledge Beyond Borders

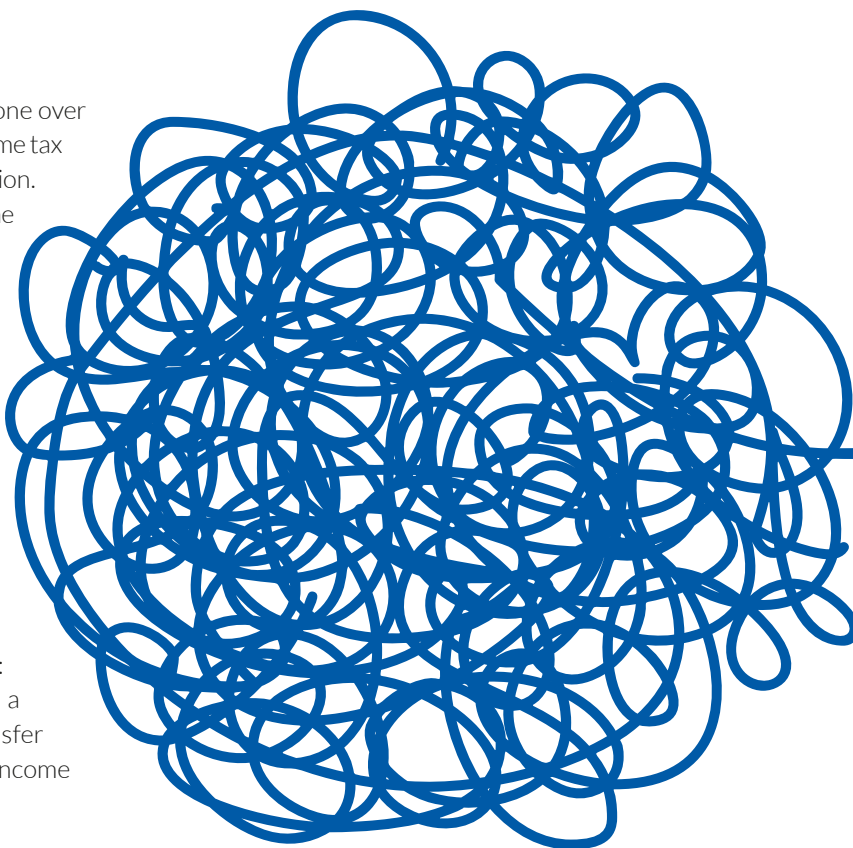


**Charles Sturt
University**

Transfer pricing: understanding multinational firms' practices

by William M. Methenitis

A significant amount of work has been done over the last 15 years on “convergence” of income tax transfer pricing (TP) and Customs valuation. Both income tax and Customs rules seek the same result, ensuring that prices between related parties are “at arm’s length,” set as if the parties were unrelated. But the rules are different. Income tax TP rules in the majority of countries are based on guidelines established by the Organisation for Economic Co-operation and Development, OECD.¹ Customs valuation principles are established in the WTO Valuation Agreement (Agreement).² Moreover, the revenue collection focal points of tax and Customs administrations are different: a high transfer price generally results in a high duty, but low income tax; a low transfer price results in lower duties and higher income taxes.



The objectives of convergence are to provide more certainty for a business that the approach it takes in establishing prices will satisfy both tax and Customs administrations, and more certainty for governments that there is consistency in approach leading to appropriate pricing, and tax collections, of both income tax and Customs duties. Global convergence efforts began with two conferences jointly sponsored by the WCO and the OECD in 2006 and 2007, followed by the establishment of a Focus Group including both public and private sector members to identify specific problems and suggest possible solutions. The Focus Group provided recommendations to the Technical Committee on Customs Valuation (TCCV)³, which has issued several instruments providing guidance

on using income tax TP materials to evaluate prices for Customs,⁴ and continues to work on further guidance with input from the OECD and the International Chamber of Commerce. In 2015 the WCO issued the *WCO Guide to Customs Valuation and Transfer Pricing*, which was updated in 2018.⁵

These convergence efforts have resulted in better appreciation of both disciplines by tax and Customs administrations and private sector professionals. There remains an information gap, however. Multinationals continue to set intercompany prices following OECD TP guidelines, and develop supporting material to meet income tax

1 The OECD is an intergovernmental organization comprised of 37 member countries accounting for over 80% of world trade. OECD Transfer Pricing Guidelines are available at: <https://www.oecd.org/tax/transfer-pricing/oecd-transfer-pricing-guidelines-for-multinational-enterprises-and-tax-administrations-20769717.htm>

2 Agreement on Implementation of Article VII of the General Agreement on Tariff and Trade 1994, available at <http://www.wcoomd.org/en/topics/valuation/overview/wto-valuation-agreement.aspx>

3 The TCCV is established by Article 18 of the Agreement and is charged with providing guidance on uniform interpretation and application of the Agreement.

4 Commentary 23.1, and Case Studies 14.1 and 14.2 are discussed later in this article. Each is available at available at: <http://www.wcoomd.org/en/topics/valuation/instruments-and-tools.aspx>

5 The WCO details the work on convergence and makes documents available at <http://www.wcoomd.org/en/topics/valuation/activities-and-programmes/Customs-valuation-and-transfer-pricing.aspx>

requirements. These materials can be helpful to Customs, but are often quite voluminous and are missing some important information to conclude a Customs assessment. This article reviews the most common approach for setting transfer prices, and the information that is often needed by Customs to close the gap.

Under this method, an evaluation is made of the business profile of the Importer, with a focus on the functions undertaken, business risks assumed, and assets deployed.⁷ Then, a search is conducted to find financial data on independent companies (those which conduct business with unrelated parties) which match the business profile of the Importer. Databases of publicly available information, for example from securities filings, are available on a subscription basis and are used by accounting firms which conduct TP studies.⁸ Database searches are generally conducted based on the Standard Industrial Classification (SIC) of the Importer, and results are further refined by reviewing the data compiled.

From these results a set of benchmarks is assembled representing the profits that are earned by these business profile “comparable” companies. If the Importer’s profits are within the range of the benchmarked profits, the Importer is considered to be conducting business with a related party at arm’s length - the Importer’s profits are the same as those of other parties who do conduct business at arm’s length with unrelated parties. If, however, the Importer’s profits are outside the benchmarked range, the Importer is required to adjust the price paid for imported goods to bring overall profits into the benchmarked range. So, if the Importer’s profits are too high - above the range - the Importer must make a supplemental payment to the related seller to reduce the profit to a point within the range. If the Importer’s profits are too low - below the range - the seller refunds money to the Importer, reducing the price paid by the Importer and thus increasing profit. Of course, the profits of the Importer and the comparable companies must be computed the same way; in TP this is referred to as the Profit Level Indicator, or PLI. For the Transactional Net Margin Method, the most frequent PLI is operating margin, the ratio of operating profits (profits before interest and taxes) to gross receipts, expressed as a percentage.

Setting prices - imports by distributors

Multinationals commonly establish a separate distribution entity in each country in which goods are sold. This distributor is the importer for goods sold in that market, and will be referred to as the Importer. Even when a multinational conducts multiple operations in a single country, for example, manufacturing, distribution, and R&D, the operations are generally segmented for accounting purposes, and TP is separately determined for each operation.

OECD Guidelines set forth five transfer pricing methods, and direct the taxpayer to look at each of them and assess which best fits the situation. In practice, the OECD method which best fits the import of products for distribution is the Transactional Net Margin Method, or TNMM.⁶

Customs valuation

Customs valuation rules are set forth in the Agreement, which serves as the basis for valuation in all WTO countries. While there are some language differences in local legislation, and interpretative

⁶ OECD TP Guidelines at Chapter II Part III B. The equivalent US method is the Comparable Profits Method, or CPM.

⁷ OECD Guidelines instruct that business profiles of both the buyer and the seller be reviewed to determine which party is less functionally complex, and therefore may be tested in the most reliable manner. This is almost always the Importer, and that is assumed here.

⁸ Databases include Amadeus, Orbis, Thomson-Reuters, Standard & Poor’s Compustat, and Oriana.

differences among Customs administrations, the fundamental rules are the same.

Although the Agreement and the OECD TP Guidelines were developed at about the same time, they were developed separately. The Agreement establishes transaction value (TV), the price paid or payable for an imported good, as the preferred method for establishing Customs value. The transaction value is acceptable for related party sales provided that the price was not influenced by the relationship of the parties. This may be established by a review of the circumstances surrounding the sale (COS), or by the importer providing evidence of test values. In practice, other than in some commodity sales, test values rarely exist. Consequently, in order for an importer to use a single approach for TP and Customs purposes, it becomes necessary for the importer to demonstrate that setting the price based on the TP approach meets the “circumstances surrounding the sale” test.

There is no prescribed approach to meet the “circumstances surrounding the sale” test. Interpretative Notes to the Agreement provide three illustrative examples of ways in which an importer may establish that the relationship of the parties did not influence the price:

- (1) if it can be shown that prices are settled in a manner consistent with the normal pricing practices of the industry;
- (2) if it can be shown that prices are settled in the same way the seller settles prices for sales to unrelated buyers; or
- (3) if it can be shown that the prices are adequate to ensure recovery of all costs plus a profit which is equivalent to the firm’s overall profit realized over a representative period of time in sales of merchandise of the same class or kind.⁹

Customs COS review

Practically speaking, looking at the big picture, a Customs administration which is evaluating the TP of an Importer, determined by the Transactional Net Margin Method, is generally in a position in which dutiable value is high. As a distributor, the Importer is normally taking only the risk of reselling products in the market. Most of the “entrepreneurial risk” of the enterprise - manufacturing, R&D, and supply

chain - is borne by others in the related group. As a result, the Importer is only entitled to a modest profit for its activity, as would be the case for other distributors who meet the business profile of the Importer. It is not uncommon, for example, to see a range of distributor profits in a TP benchmark study to be between 2 and 6 percent. This means that the import value must be high enough to allow this small profit - if the profit were any higher the Importer would be required to make a supplemental payment to the seller to reduce the profit. Practically, the import price is about as high as it can get without requiring the Importer to resell the products at a loss, which is clearly not a sales price that would be agreed between unrelated parties.

In general, Customs should see a satisfactory result from an Importer which uses the Transactional Net Margin Method. But, in order to properly examine the circumstances surrounding the sale to determine that the relationship of the parties did not influence the price, and the TP results in transaction value, the Importer must provide some information in addition to the TP supporting documentation. Four questions commonly arise. Prudent Importers will be prepared to answer these questions, and Customs should be prepared to review the responsive information. The four questions are:

- What is the basis for Customs to accept a transaction value which is not firmly established at the point of import?
- How can Customs link a TP method to a “circumstances surrounding the sale” evaluation?
- How can Customs confirm that the parties are actually following the Transactional Net Margin Method, and that the method results in transaction value?
- How can the Importer report TP adjustments made to bring profits back into the range?

Price review clause - formula based pricing

One of the early TCCV instruments is Commentary 4.1- Price review clauses. Commentary 4.1 deals with situations in which prices are provisional at the time of import, and may be finally determined after import by variables which are not known at import. Commentary 4.1 concludes that because the Agreement prefers transaction value, and as

It is not uncommon, for example, to see a range of distributor profits in a TP benchmark study to be between 2 and 6 percent. This means that the import value must be high enough to allow this small profit.

⁹ Interpretative Note 3 to Article 1, paragraph 2.

Article 13 provides that final value determination may be delayed with goods released to the importer by providing a bond or other security for payment, imports subject to a price determined after import can qualify for transaction value.

In effect, an Importer which sets prices using the Transactional Net Margin Method is importing pursuant to a formula which is established at the time of import, but with variables - the actual operating expenses of the Importer - unknown until the accounting period is complete.¹⁰ Only when the variables are known can the cost of goods purchased from related parties be calculated. The proper cost is that which would have had to be paid to the related seller in order for the Importer's profits to be within the benchmarked range of comparable company profits.

Many countries have been generally accepting of this approach, but it should be noted that a 2017 European Court of Justice Decision in *Hamamatsu* raises questions of how price review clauses should be evaluated in the EU. The Court stated:

*"Articles 28 and 31 of the Customs Code, in the version in force, must be interpreted as meaning that they do not permit an agreed transaction value, composed of an amount initially invoiced and declared and a flat-rate adjustment made after the end of the accounting period, to form the basis for the Customs value, without it being possible to know at the end of the accounting period whether that adjustment would be made up or down."*¹¹

Currently, EU Customs administrations do not have a common view of the impact of *Hamamatsu* on Transactional Net Margin Method pricing. Both business and Customs would benefit from additional guidance.

Linking TP to COS

As noted in the report of the Focus Group to the TCCV, and acknowledged in TCCV Commentary 23.1, the "circumstances surrounding the sale" framework is quite broad, and can include a review of TP documentation as support that the price is not influenced by the relationship of the parties. As noted above, the Interpretative Notes provide non-exclusive examples of ways in which an importer

may meet the "circumstances surrounding the sale" test; two of these are particularly relevant for the Transactional Net Margin Method:

- (1) if it can be shown that prices are settled in a manner consistent with the normal pricing practices of the industry; or
- (2) if it can be shown that the prices are adequate to ensure recovery of all costs plus a profit which is equivalent to the firm's overall profit realized over a representative period of time in sales of merchandise of the same class or kind.

While these are non-exclusive examples, because they have been in place since the adoption of the Agreement they often serve as a frame of reference for Customs administrations. TCCV Case Study 14.1 uses the first example as a frame of reference for examining the circumstances surrounding the sale. It reviews a Transactional Net Margin Method TP study in which the benchmarked comparable companies are in the same industry as the Importer, and concludes that the import price was settled in accord with normal industry practices.

The WCO *Guide on Customs Valuation and Transfer Pricing* contains a discussion of how Transactional Net Margin Method transfer pricing may be used to demonstrate the second example.¹² While noting that this example refers to the seller's profit, the Guide states: "information derived from the importer's profit can potentially give Customs assurance that the exporter/seller's profit is acceptable." The Guide goes on to illustrate the point with data.

As the "circumstances surrounding the sale" examples are non-exclusive, it may also be possible to review the Importer's financial data through the lens of another Customs valuation methodology. An Importer which sets prices under the Transactional Net Margin Method will be receiving a profit that is commensurate with that of other distributors possessing similar attributes. With the Importer earning a normal profit, the annual financial results can be rearranged in a format that aligns with deductive value as set forth in Article 5. While not an actual application of deductive value, which is applied to each importation individually, this

¹⁰ The accounting period is generally the Importer's fiscal year, but could be more frequent. For example, some Importers make adjustments monthly or quarterly.

¹¹ *Hamamatsu Photonics Deutschland GmbH v. Hauptzollamt München*, Case C529/16, December 20, 2017 (available at: <http://curia.europa.eu/juris/document/document.jsf?sessionId=865FF6223E45A78A70EE274A8E2250E7?text=&docid=198053&pageIndex=0&doclang=EN&m ode=lst&dir=&occ=first&part=1&cid=7482699>).

¹² Section 5.2.2, pp 65-67.

type of review can establish a “notional deductive value” for all products sold during the year. Using an Article 5 deductive value framework to evaluate the circumstances surrounding the sale is another way for Customs to use TP data.

Confirming that TNMM is followed, and transaction value results

TP studies tend to follow a common organization, some of which is relevant to a Customs assessment of the circumstances surrounding the sale, and some of which is not. Since TCCV TP instruments and the WCO Guide were issued, it has become more common for Importers to prepare a supplement to the TP study which explains how the TP documentation may be used by Customs in a “circumstances surrounding the sale” assessment.

Importantly, the Importer must also provide information that is not needed under income tax rules which will allow Customs to verify that the result will be transaction value. Following is commonly needed additional information:

- Were all imports covered by the transfer pricing policy?

Only imports that are subject to the TP methodology can utilize the TP documentation as supportive of transaction value.

- Did the adjustment impact the Importer’s cost of goods sold (COGS)?

The TP adjustment must change the price paid for goods to impact transaction value. This means that the adjustment must be booked by the Importer in a manner that directly impacts COGS in the financial statements. An adjustment that is made to a different account, or one that is made “for tax purposes only” and never impacts price paid cannot result in transaction value.¹³ Of course, as Case Study 14.2 makes clear, a required TP adjustment must actually be made in order for transaction value to result.

- Was the TP adjustment applied to all imports consistently for tax and Customs purposes?

TP only seeks to result in an arm’s length aggregate profit margin for the year. Because Customs duty rates vary by product, however, it would not be appropriate for an Importer to selectively decide which import prices to adjust. An Importer could manipulate the system by reducing the prices of high duty rate items and increasing the prices of low duty rate items, but still have an aggregate profit margin within an arm’s length range.

There is no single approach to testing Importer profits against the benchmarked range for TP, however. Some Importers, for example, will separate products into categories and test each category to be sure each category’s profits are in the range. Importers with multiple brands often test each brand separately. There is no single right or wrong way to do this. The important thing from a Customs standpoint is that the adjustment which results from whatever category of products is being tested for TP (e.g., all products, a product family, or a brand) is allocated equally across all products in that category. That way, there can be no inappropriate manipulation of profits for duties.

Reporting TP adjustments

A clear implication of TCCV Case Studies 14.1 and 14.2 is that the price as adjusted is transaction value - the adjusted price is actually paid for the merchandise. While the Agreement contemplates release of goods before a final determination of value, it does not provide a process for reporting price adjustments. That is left to national legislation. Some countries have formal processes for reporting adjustments, while others have developed informal approaches to declare provisional values and provide final values later.¹⁴ The WCO Guide notes several national initiatives,¹⁵ and the TCCV has reviewed a number of separate national approaches.

Anecdotal, businesses report that their ability to properly report adjustments is greater in countries which have formalized rules. Countries which adopt formal processes for reporting may well benefit from greater compliance and greater duty collections compared with those that do not. Further work in this area by the WCO and the TCCV would benefit both business and Customs.

¹³ Some tax authorities allow, as an option, a taxpayer to make a transfer pricing adjustment directly to taxable income on a tax return without any actual transfer of cash. This “tax only” adjustment does not change the price paid or payable, and consequently is not taken into account for transaction valueTV.

¹⁴ Countries with formal processes include Australia, Canada, Mexico and the United States. Countries with informal processes include the Netherlands, Singapore, and the United Kingdom.

¹⁵ Annex I, pp 75-80.

Conclusion

TP on its own is complex, and using TP to support Customs valuation adds another layer to the complexity. But as Customs better understands the most common TP approach for imported goods, and Importers better understand the additional information required for Customs to properly conclude a "circumstances surrounding the sale" assessment, the real benefits of convergence will positively impact both.

More information

william.methenitis@ey.com

About the Author

William Methenitis is a retired partner and former Global Leader of the Global Trade practice at EY. He continues to advise the EY practice, and is the International Trade Counsel at Charter Brokerage, LLC. He serves as an ICC observer to the Technical Committee on Customs Valuation, and on the WCO/OECD Focus Group on Transfer Pricing and Customs Valuation.

AKANEA CUSTOMS

Expert software for the management
of dematerialized customs procedures
Certified by the French Customs Authorities

**MAKE YOUR CUSTOMS
DECLARATIONS
SAFELY - 24/7**



www.akanea.com



BREXIT

Are
you
ready
?



“Valuing” our involvement – private sector engagement and views on Customs valuation

By Tom Voegelé, International Chamber of Commerce (ICC)

The International Chamber of Commerce (ICC) and the WCO have a history of long and close co-operation in the area of Customs valuation. As the institutional representative of more than 45 million businesses in over 100 countries, ICC has been participating as an Observer in the meetings of the Technical Committee on Customs Valuation since 1979. In that time, the ICC Observer delegation has had the opportunity to explain specific aspects of commercial practice in terms of their influence on Customs valuation, as well as to engage with Customs representatives on specific technical issues. In this article, ICC highlights some of the challenges and questions arising from implementation of valuation rules, highlighting the important work of the Technical Committee.

In this age of ever-increasing trade complexity and of new business models, traders are looking for a fair, uniform and neutral system for the valuation of imported goods. Companies across the spectrum, from the smallest “micro” trader to the greatest multinational enterprise, depend on certainty and predictability as fundamental conditions for international trade. Those conditions are best met when there is a clear understanding of Customs valuation and other rules – which in turn is linked to the guidance and clarification provided by Technical Committee instruments.

ICC recognizes that the burden of effective implementation of the WTO Valuation Agreement falls not only on Customs administrations, but also on private sector traders, who share with Customs officials the responsibility for shaping evolving guidance on emerging commercial practices. The objectives of the Agreement and commercial practices are usually aligned. This is consistent with the Preamble to the Agreement and its pledge that the Customs value of imported goods should be based on simple and equitable criteria consistent with commercial practices. There has been much progress in the effective and harmonized implementation of the Agreement. Nevertheless, many challenges remain, and new ones are constantly emerging as a direct result of newly developed commercial practices.

Transfer pricing

For the past 15 years, there has been a concerted effort by the private sector, the OECD, the TCCV and the Customs authorities of many Member countries to address the link between transfer pricing for income tax purposes and related party Customs valuation. We are proud to have participated at the Technical Committee by offering the private sector perspective in these ongoing discussions. One outcome of such efforts has been the adoption of Commentary 23.1 and Case Studies 14.1 and 14.2.

This issue of WCO News includes a companion article which covers this important topic in more depth. Here, we may point to continuing challenges such as:

- Reconciling post-entry price adjustments arising under an Advance Pricing Agreement¹ or a transfer pricing study to correctly report transaction value, and processing any

corresponding additional payment of duties or refund of duties.

- The difference in scope between transfer pricing analyses and the Customs valuation in an import transaction which is focused upon the price actually paid or payable (the PAPP) in a single sale for export.
- The extent to which transfer pricing studies should be useful in Customs valuation enquiries. For example, should the normal pricing practice in the industry Circumstances of Sale example be defined narrowly by product sector or reviewed on a functional similarity basis?

Article 8 adjustments

Accounting for adjustments to the PAPP which are permissible under Article 8 is an increasingly frequent task for traders and Customs authorities alike. One of the commercial trends that has emerged in the decades since the Valuation Agreement came into effect has been the increasing fragmentation of the different processes and functions involved in the development, production and sale of products. This trend has created circumstances far more likely to trigger complex questions relating to Article 8 adjustments.

Some companies continue to house all of these functions within one vertically integrated company structure. However, there is no denying the trend towards fragmentation into, and reliance upon, separate commercial entities to undertake one or more key “outsourced” functions as part of the process which culminates in the sale and importation of goods. These include:

- research and development;
- ownership of intellectual property, such as trademarks, trade names and patents;
- sourcing of materials and accompanying supervision of contract manufacturers;
- manufacturing;
- sales and marketing.

Some of these entities will be related companies, which can give rise to transfer pricing considerations. But outsourcing these specialized functions nearly always raises the potential for Article 8 concerns, even if third-party vendors are employed. For example, an intermediary party providing sourcing services could be a selling agent,

¹ An APA is an agreement between a taxpayer and tax authority, determining the transfer pricing methodology for pricing the taxpayer's international transactions for future years.

a buying agent, or an independent trader acting on its own behalf – each of which will have a different Customs valuation consequence.

The issue of dutiable assists² invariably arises when a contract manufacturer is tasked with production. Simply put, the question must be asked: “Has the buyer directly or indirectly provided any of the potential elements defined as a dutiable assist to the manufacturer on a free or below-market-value basis?”

Finally, despite the publication of Advisory Opinion 4.15 and Commentary 25.1, one of the most vexing current issues is the lack of a consensus and, indeed, an emerging split among countries on the meaning to be given to the “condition of sale” criterion for the dutiability of a royalty or licence fee. These issues often arise in the context of “third-party licence agreements,” in which the licensor is not the seller of the imported goods.

There appear to be jurisdictions where the reviewing courts interpret this key criterion as a narrow, legally enforceable right (e.g. United States, Canada and South Africa). Other jurisdictions (such as a few EU Member States and New Zealand) interpret “condition of sale” in a broader manner, in which a condition of sale can be implied by factors such as the relationship of the parties. In the latter view, the possibility that non-payment of the royalty or licence fee could result in the inability to purchase the imported goods, or even to have the goods manufactured by the seller, can be considered a “condition of sale”.

A complicating factor is the extent to which the common commercial practice of “brand protection” measures has involved licensors in the selection, approval and continued status of manufacturers. Some jurisdictions see a link between the licence and sales agreements where there is a provision for such measures, even if there is no contractual tie-in. Another approach taken by some jurisdictions is to redefine the royalty or the licence fee as an assist which does not have to meet this “condition of sale” criterion. Reconciling these opposing views is a special challenge.

Fees for management and other services

Given the expansion of business across borders, some business models are predicated on the notion

that the importer may be dependent upon the seller or on another party for support and advice. The importer could, for example, be a limited risk distributor or be a franchisee. In either case, it might rely on the seller or a party related to the seller to provide management and other support services. If centralized, such an outsourced arrangement is referred to as a “shared services” model.

The importer’s compensatory payment of fees could easily lead to Customs valuation questions. Such fees might be considered to be an integral part of the PAPP, or they might be considered to be dutiable under Article 8, whether as royalties or as the proceeds of subsequent resales. It was helpful that the Technical Committee issued Advisory Opinion 4.17, determining that franchise fees in the nature of royalties are not dutiable. Nevertheless, questions on the dutiable status of separate fees for management advice and other services will continue to arise.

Valuation databases and reference pricing

For over six years, ICC has had concerns about the extensive abuse of “Customs valuation databases”. These are external tables, ordinarily organized on a tariff classification basis, assigning a pre-fixed value to a given tariff provision. Customs authorities refer to that fixed value in appraising the imported goods. Under the TCCV Guidelines, valuation databases are meant to be used only in very limited circumstances as a risk assessment factor in examining imports for Customs fraud.

The reality is that these valuation databases are often used as the basis for reference or minimum prices, which is prohibited by the Valuation Agreement. Their use is not restricted to related party pricing, and applies to third-party sales, even though the latter are presumptively valid. Predictability and transparency of Customs procedures are vital for smooth cross-border trade flows and for investment. The inappropriate use of Customs valuation databases to set reference or minimum prices leads to delays in the clearance of goods, administratively burdensome procedures and unjustifiably higher trade costs.

Digital trade and e-commerce

The growth of digital trade and e-commerce has been the single most consequential change in international trade in the past thirty years. Advisory

ICC
enthusiastically supports the availability of post-clearance audits and advance rulings on all Customs matters, including Customs valuation. The lag in adoption of these practices is challenging.

2 An assist is an item of value provided to the foreign seller directly or indirectly without cost or at a reduced value, which is used to produce imported articles. Assists are a dutiable addition to the value of the imported articles.

Opinion 23.1 on Flash Sales owes its adoption to a question arising from internet-originated sales. Many of the vendors relying on e-commerce platforms will plan on importing the goods to build local inventory stocks in local markets, and if there is no sale for export, alternative methods of Customs valuation must be employed. This is a challenge for the traders and the Customs authorities. In addition, the continued uncertainty about the WTO Moratorium on digital trade³ is unsettling and adds to a lack of predictability.

Trade facilitation and administrative processes

ICC enthusiastically supports the availability of post-clearance audits and advance rulings on all Customs matters, including Customs valuation. The lag in adoption of these practices is challenging. The Trade Facilitation Agreement encourages the use of advance valuation rulings and ICC endorses their adoption. The availability of published rulings enriches the level of administrative guidance not only for the requesting importer, but for all traders whose imports raise a similar factual or legal profile.

Moreover, the rulings can be used internally within the Customs administration to disseminate a policy position. Suitable protection can be taken to ensure that confidential business information is effectively screened, in accordance with Article 10 of the Valuation Agreement, so that any publication of the ruling is not to the detriment of the requesting trader. ICC is concerned about the continuing lack of full transparency in some jurisdictions, where

there is no publicly available and comprehensive body of statutes, regulations and judicial decisions. This is in contravention of Article 12 of the Valuation Agreement and militates against the enhanced certainty which is essential for the private sector.

Finally, a “trusted trader” or “fast pass lane” is not open in all jurisdictions. Instead, some jurisdictions apply the same compliance approach to all traders, regardless of the traders’ risk profile or willingness to participate in voluntary, collaborative programmes. This “one size fits all” philosophy is contrary to good risk management principles and flies in the face of the fact that some traders have made significant investments precisely so that they can meet any and all reasonable care reviews. In fact, it is a philosophy which often has unintended, negative consequences for the jurisdictions concerned: many traders see this as a non-tariff barrier and are reluctant to make direct investments or expand an existing presence in those jurisdictions.

Conclusion

The challenges posed by these and other complex valuation questions highlight the importance of having the Technical Committee study specific issues – particularly as they arise from new commercial practices – and provide guidance on uniform application of the Agreement. ICC highly values its role in the process, and looks forward to the ongoing success of the Technical Committee’s work at the 50th and future Sessions.

More information

tom.voege@iccwbo.org

³ <https://iccwbo.org/publication/wto-moratorium-on-customs-duties-on-electronic-transmissions-a-primer-for-business/#:~:text=Since%201998%20World%20Trade%20Organization,customs%20duties%20on%20electronic%20transmissions.&text=The%20moratorium%20is%20not%20set,the%20biennial%20WTO%20Ministerial%20Conference.>

Advance rulings: facilitating trade while promoting compliance

By the United States Customs and Border Protection (CBP)

Advance rulings relating to the determination of tariff classification and origin of goods are already established in several countries, but few have implemented such a system in the field of Customs valuation. Such rulings do not determine or confirm the actual Customs value of a particular consignment but indicate the treatment to apply to certain elements of the Customs value. In this article, US Customs and Border Protection (CBP) explains the processes and procedures relating to this powerful trade facilitation tool which benefits both the administration and trade operators.

It has long been a hallmark of US trade policy that advance rulings facilitate trade and promote Customs compliance. This utility of advance rulings has also been recognized in the WTO Trade Facilitation Agreement, the Revised Kyoto Convention and many free trade agreements.

In the United States, advance rulings play a critical role in importers' business planning. For example, an advance ruling on classification or valuation can influence the price an importer is willing to pay a foreign supplier or the price at which the importer resells the goods. Advance rulings allow businesses to plan for the future effectively and proceed with certainty.

In addition to advance rulings, CBP also issues several other types of rulings. These include internal advice decisions on pending transactions, protest decisions on appeals of completed transactions and final determinations concerning the country of origin for purposes of government procurement.¹

More generally, CBP's rulings system creates legal precedent to guide the trade community and fosters openness, transparency and dialogue between CBP and traders. Since 1989 and as of 19 August 2020, over 206,000 advance rulings, internal advice decisions and protest decisions have been published on CBP's Customs Rulings Online

Search System ("CROSS"). The database behind CROSS has created a substantial body of legal precedent that importers turn to when compliance questions arise. The process of issuing a ruling also encourages communication with CBP and ensures the importer's rights are preserved. Finally, because the advance ruling number is noted on the entry documents, both the importer and CBP benefit from faster cargo processing and reduced delays at the port.

What is an advance ruling?

An advance ruling is a written decision in the form of a letter issued by CBP's Office of Trade, Regulations and Rulings that tells the requester how CBP will treat a good or conveyance when it is imported into, or arrives in, the United States. An advance ruling represents CBP's official position on the particular transaction or issue described and is legally binding on CBP until modified or revoked. As all CBP rulings, advance rulings have no expiration date and are issued free of charge.

As the name suggests, an advance ruling may be requested only for "prospective" Customs transactions. The CBP regulations define a "prospective" Customs transaction as "one that is contemplated or is currently being undertaken and has not resulted in any arrival or the filing of any entry or other document, or in any other act

¹ More information on all CBP rulings may be found in Part 177 of Title 19 of the Code of Federal Regulations.



© AdobeStock

to bring the transaction, or any part of it, under the jurisdiction of any Customs Service office.” Therefore, an advance ruling may not be requested for a pending or completed transaction.

Under US regulations, “Customs transactions” for which an advance ruling may be requested include any activity to which Customs and related laws apply. The most common issues for advance rulings in the United States are classification and origin. However, CBP regularly issues advance rulings on valuation, duty drawback, restricted merchandise, intellectual property, vessels and carriers, and entry procedures, among other subject matters.

Advance rulings process

The advance rulings process commences with a written request from an importer, exporter or a party who has an interest in the question presented, or by the authorized agent of such person. It requires a complete statement of all relevant facts relating to the transaction such as the names, addresses and other identifying information of all interested parties; the name of the port or place at which any article involved in the transaction will arrive or be entered; and a description of the transaction. If the request for a ruling asks that CBP reach a particular determination or conclusion, a statement must be included in the request setting forth the basis for that determination or conclusion, together with citations to the relevant supporting authority.

There are several instances in which no ruling will be issued. Any request for a ruling may be withdrawn by the person submitting it at any time before the ruling is issued. Additionally, CBP will not issue a ruling letter if the request fails to comply with the applicable provisions of its regulations in 19 CFR Part 177. For example, CBP will not issue a ruling letter relating to transactions or questions that are essentially hypothetical in nature or concerning any issue pending before the US Court of International Trade (“CIT”) or any of its appeals courts.

CBP endeavours to issue advance rulings within 30 days of receipt (for requests handled by our National Commodity Specialist Division in New York City) or 90 days of receipt (for requests handled at the Headquarters office). CBP rulings are issued on the assumption that all of the information furnished in connection with the ruling request and incorporated in the ruling letter is accurate and complete in every material respect. However, CBP reserves the right to verify whether an actual transaction conforms to the facts described in the ruling letter and whether any conditions in the ruling letter have been fulfilled. If there are substantial discrepancies, CBP may decline to apply the ruling letter.

Generally speaking, a ruling letter is effective on the date it is issued and may be applied to all entries which are unliquidated, or other transactions with

respect to which CBP has not taken final action on that date.

The advance ruling process emphasizes communication and collaboration between the trade community and CBP. As part of their written submission, requesters may ask for the opportunity to discuss the issues involved with the decision-makers at CBP. If CBP finds that a conference would be helpful in deciding the issue or issues involved, a conference call or in-person meeting may be scheduled. Similarly, when CBP contemplates a determination or conclusion contrary to that advocated in the ruling request, CBP will schedule a meeting to give the parties an opportunity to freely and openly discuss the matters set forth in the ruling request.

Valuation advance rulings

While most traders are familiar with advance rulings relating to classification, those relating to valuation are less widely understood. One challenge, both for Customs and for importers, is that the value of identical merchandise may vary for each importation based on contract terms, currency fluctuations, shipping or insurance costs, and the amount of required additions or deductions. As a result, an advance ruling that simply calculates the Customs value for a single shipment is of limited utility. This aspect distinguishes a valuation ruling from a classification ruling, which definitively instructs the importer on how to classify a particular product.

For these reasons, CBP's advance rulings on valuation answer specific questions about how to determine the Customs value and how to interpret US valuation law. For example, CBP's valuation advance rulings commonly address issues such as whether a sale for exportation occurs, whether a related-party price is an acceptable transaction value, and whether specific payments such as royalties and license fees must be added to the price actually paid or payable. If, for example, CBP issues a ruling indicating that transaction value is the proper method of valuation for a particular transaction, the importer must apply the transaction value method for determining Customs value. However, the importer ultimately remains responsible for reporting the correct transaction value to CBP. An advance ruling on valuation will be applied only to transactions involving the same merchandise and like facts.

In order to facilitate the issuance of valuation advance rulings, CBP regulations require the submission of additional information such as the nature of the transaction (whether FOB (Free on Board), EXW (Ex Works), CIP (Carriage and Insurance Paid To), or some other term of sale was agreed upon between the parties), the relationship (if any) of the parties, whether the transaction was at arm's-length, whether an agency relationship exists, or any other information relevant to a determination under CBP laws. If the question or questions presented in the ruling request directly relate to matters set forth in any invoice, contract, agreement or other document, a copy of the document must be submitted with the request. Since an advance ruling is issued for a prospective Customs transaction, documentation for a sample transaction for illustrative purposes may be submitted.

Publication: US approach to transparency

CBP advance rulings are published within 90 days after issuance on the CBP website and are available for free online. Specifically, they can be found on CROSS (<https://rulings.cbp.gov/home>), which is a searchable database of full-text CBP rulings. Relevant keywords can be used for targeted research, for example, "price actually paid or payable" when searching for valuation rulings.

In an effort to achieve transparency while protecting confidentiality, a ruling requester may request that CBP exclude sensitive commercial information from the published ruling. In considering these requests, CBP balances the requester's legitimate concerns about the disclosure of sensitive information with the trade community's interest in the publication of detailed and useful rulings. The requestor must designate the specific information involved and indicate why its disclosure would be harmful. For example, valuation ruling requests often contain sensitive commercial information such as pricing or other financial data. If the request is granted, the confidential information will be omitted from the published ruling; however, a confidential version of the ruling letter will be issued to the requester. If CBP does not agree that the identified information is exempt from disclosure, the requestor will be notified, and the requester has the option of withdrawing the ruling request. However, in most cases, the ruling can be drafted in a manner that omits the confidential information but still provides meaningful guidance.

The advance ruling process emphasizes communication and collaboration between the trade community and CBP. As part of their written submission, requesters may ask for the opportunity to discuss the issues involved with the decisionmakers at CBP.

Modifications, revocations and appeals

CBP will not modify or revoke a published ruling without notifying the public and providing an opportunity to comment. A ruling that would modify or revoke an existing ruling is first published as a “proposed” decision in the “Customs Bulletin” (<http://www.cbp.gov/trade/rulings/bulletin-decisions>). The public then has 30 days to submit written comments to CBP. Upon review of the submitted comments, CBP may publish a final decision to modify or revoke the ruling (effective 60 days after publication), withdraw the proposal or issue a modified proposal.

There are several options for recourse if the importer disagrees with the conclusion of a ruling or its application. In exceptional cases where the importer can demonstrate irreparable harm without pre-importation judicial review of the ruling, the importer may bypass CBP and appeal directly to the CIT. More commonly, however, the importer will seek reconsideration of the ruling or file a protest.

Reconsideration offers the importer an opportunity to provide additional information and arguments to CBP Headquarters. In cases where the original request was submitted without the assistance of

counsel and the ruling has a substantial commercial impact, the requester will often choose to engage a Customs attorney for the reconsideration request. If the reconsideration is unsuccessful, and the importer wishes to further challenge the conclusion of the ruling, it may file an administrative protest after liquidation of the entry. An unsuccessful protest may then be contested at the CIT. Alternatively, if the importer disagrees with the application of the ruling to the import transaction, rather than to the conclusion of the ruling, it may request internal advice from CBP Headquarters while the transaction is pending. In all cases, however, the importer must follow the ruling while any appeal or review is pending.

Year after year, the popularity of advance rulings as a mechanism for trade facilitation and Customs compliance in the United States continues to grow. In 2019 alone, CBP issued over 3,000 advance rulings on a wide variety of Customs matters. CBP continually refines and improves its processes and procedures relating to advance rulings and welcomes opportunities to assist other administrations in implementing this powerful and mutually beneficial tool.

More information

cbpwco@cbp.dhs.gov

Overview of simplification on Customs valuation in the European Union

By the European Commission's Directorate-General for Taxation and Customs Union (DG TAXUD)

In the EU, the "simplification for the determination of amounts being part of the Customs value of the goods" under the transaction value method allows operators to avoid the burden of a two-step declaration - i.e. a simplified declaration followed by a supplementary declaration - and to finalise Customs valuation declarations without delay in situations where there is no risk for the collection of import duties. Such simplifications are becoming increasingly relevant given the growing number of value elements, such as royalties or commissions, that cannot be quantified at the time of importation.

Since the entry into force of the Union Customs Code (UCC)¹ in the European Union on 1 May 2016, economic operators can determine elements of the Customs value which are not quantifiable at the time of importation, on the basis of appropriate and specific criteria². To request such a simplification, a trader must apply for authorization via the central Customs Decision System (CDS), the EU online portal for all applications for Customs decisions or authorizations. Upon consideration, Customs will then grant or refuse authorization for using special prerequisites in determining Customs value. The value obtained by applying the agreed methodology and elements is then considered definitive.

This possibility was first introduced in the EU Customs provisions in 1997³. However, the scope of the authorization was limited to additions and deductions related to the transaction value, and did not cover the price actually paid or payable for the

imported goods. It was also limited in terms of its territorial validity, as it was valid only in the Member State where it was issued.

The UCC increased significantly the benefits offered to economic operator by both extending the scope of the simplification to the price actually paid or payable, as well by widening its applicability throughout the entire Customs territory of the EU. The provisions are laid down in three legal acts: the UCC, the UCC Delegated Act (UCC DA)⁴ and the UCC Implementing Act (UCC IA)⁵.

Simplified declaration

Traditionally, importers that could not determine a value element at the time of importation would resort to a simplified declaration, which may omit certain particulars normally required. The regular use of such simplification is subject to a prior authorization, and a guarantee is generally required

1 Regulation (EU) No 952/2013 of the European Parliament and of the Council of 9 October 2013 laying down the Union Customs Code, OJ L 269, 10.10.2013, p. 1-101; consolidated version: document 02013R0952-20200101.

2 Article 73 of the UCC.

3 Article 156(a) of Commission Regulation (EEC) No 2454/93 of 2 July 1993 laying down provisions for the implementation of Council Regulation (EEC) No 2913/92 establishing the Community Customs Code.

4 Commission Delegated Regulation (EU) 2015/2446 of 28 July 2015 supplementing Regulation (EU) No 952/2013 of the European Parliament and of the Council as regards detailed rules concerning certain provisions of the Union Customs Code, OJ L 343, 29.12.2015, p. 1-557; consolidated version: document 02015R2446-20200716.

5 Commission Implementing Regulation (EU) 2015/2447 of 24 November 2015 laying down detailed rules for implementing certain provisions of Regulation (EU) No 952/2013 of the European Parliament and of the Council laying down the Union Customs Code, OJ L 343, 29.12.2015, p. 558-893; consolidated version: 02015R2447-20200720.

pending the submission of a supplementary declaration providing the missing particulars⁶.

Where Customs value is concerned, the EU simplified declaration reflects the spirit of Article 13 of the WTO Valuation Agreement. When particulars for the final determination of the Customs value of imported goods are not yet available at the time of declaring the goods to Customs, the goods may be released, subject to a guarantee that covers the amount of Customs duties due in connection to those imported goods.

The time limit for submitting the missing particulars to the Customs authorities may not exceed two years from the date of the release of the goods⁷.

Although the procedure is appropriate where a declarant faces delays in obtaining all the elements for determination of the Customs value, its administration might be burdensome and entail disproportionate administrative costs.

Additional simplification

This is why the EU introduced an additional simplification that allows Customs authorities to authorize an estimated value for value elements that are unknown at the time of importation. Accordingly, Article 73 UCC provides that Customs authorities may, upon application, grant authorization for amounts forming part of the price actually paid or payable for the imported goods, as well as additions and deductions to the price actually paid or payable, which are not quantifiable on the date on which the Customs declaration is accepted, to “be determined on the basis of specific criteria”.

In contrast to the simplified declaration, the estimated amounts are retained as part of the Customs declaration and do not need to be included afterwards in a supplementary declaration. The value obtained by applying the simplification is then considered definitive.

For instance, this would apply in cases where the exact amount of licence fees to be included in the Customs value of the licensed products is not known at the time of importation because the licence fee payments are expressed as a percentage of total sales of the licensed goods in the EU during the specified period. Another case might be when the inclusion of price review clauses in a sales contract postpones the final determination of the Customs value of the goods⁸.

Two categories of conditions

Article 71 UCC DA describes two categories of conditions which an economic operator must meet in order to be authorized to use this additional simplification.

The first category relates to the need and effect of the simplification for the goods being valued (Article 71(1) UCC DA):

- The use of a simplified declaration would represent disproportionate administrative costs. In other words, the burden imposed by doubling the number of declarations may justify the granting of the simplification.
- The resulting Customs value would not significantly differ from that determined in the absence of the authorization. Compliance with this condition may be examined on the basis of commercial documents relating to the planned importations (e.g. sales contracts, licence agreements, policy insurance). Compliance may also be examined on the basis of, for example, historical data on previously accepted transaction

In contrast to the simplified declaration, the estimated amounts are retained as part of the Customs declaration and do not need to be included afterwards in a supplementary declaration. The value obtained by applying the simplification is then considered definitive.

⁶ Articles 166 and 167 of the UCC.

⁷ Articles 146(3b) and 147 of the UCC DA.

⁸ See Commentary 4.1 Price review clauses issued by the WCO Technical Committee on Customs Valuation.

values for identical or similar goods to those to be imported by the applicant.

The second category of conditions concerns the applicant (Article 71(2) UCC DA). The authorization may be granted provided that the applicant:

- Has not committed any serious infringement or repeated infringements of Customs legislation and taxation rules and has had no record of serious criminal offences relating to his economic activity;
- Maintains an accounting system which is consistent with the generally accepted accounting principles applied in the Member State where the accounts are held and which will facilitate audit-based Customs control; and
- Has an administrative organization which corresponds to the type and size of business and which is suitable for the management of the flow of goods, and have internal controls capable of detecting illegal or irregular transactions.

It should be highlighted that, in the EU, economic operators need to fulfil these same conditions (among others) in order to enjoy the status of authorized economic operator for Customs simplifications⁹. Therefore, in accordance with Article 38(5) UCC, the conditions laid down in Article 71(2) UCC DA do not need to be re-examined if an authorized economic operator applies for the simplification of Customs valuation. The competent Customs authorities will nevertheless verify whether all the other conditions specified in Article 73 UCC and Article 71(1) UCC DA are met.

Competent authority

The applicant must supply all the information required by the competent Customs authorities

in order to enable them to take the decision. EU Customs legislation establishes common data requirements to this end, including the proposed formula to calculate the relevant value element unknown at the time of importation on the basis of specific criteria¹⁰.

In accordance with the UCC horizontal provisions, the application shall be submitted to the competent Customs authorities of the Member State where the applicant's main accounts for Customs purposes are held or accessible and where at least part of the activities to be covered by the authorization are to be carried out¹¹.

Scope

As a general rule: "Except where the effect of a decision is limited to one or several Member States, decisions relating to the application of the Customs legislation shall be valid throughout the Customs territory of the Union."¹² An exceptional limitation of the geographical validity of the simplification must be considered by the Customs authorities on a case-by-case basis, taking account of the individual set of facts on which the application is based and the specific element of the value for which the authorization is requested.

For instance, if the authorization concerns the determination of the amount of transport costs from a third country to a given point of entry in the European Union Customs territory, it is clear that the simplification granted is in principle valid only for the Member States concerned, and only for consignments destined for that given entry point. Where the authorization concerns elements of the value, such as the apportionment of an assist, whose determination is not conditional on geographical/national delimitations, then the general rule of EU-wide validity of all decisions applies.

⁹ Articles 38 and 39 of the UCC. Articles 24-27 of the UCC IA.

¹⁰ Article 22(1) subparagraph 1 UCC; Annex A to UCC DA, Common data requirements for applications and decisions, Title V Notes relating to the specific data requirements for the application and the authorization for the simplification of the determination of amounts being part of the Customs value of goods, Chapter 2, V/1. Subject and nature of the simplification.

¹¹ Article 22(1) subparagraph 3 of the UCC.

¹² Article 26 of the UCC.

Monitoring

The Customs authorities are required to monitor the conditions to be fulfilled by the holder of any decision, and compliance with the obligations resulting from that decision¹³. Simplifications of Customs valuation are therefore subject to such monitoring. When the holder of the simplification does not comply with the obligations resulting from the decision, or when the simplification was granted on the basis of incorrect or incomplete information, it may be necessary to suspend, annul or revoke the authorization. This might also result in the amendment of the affected Customs declarations.

More information

https://ec.europa.eu/taxation_customs/sites/taxation/files/resources/documents/customs/customs_code/guidance_general_cust_dec_en.pdf

https://ec.europa.eu/taxation_customs/business/customs-procedures/customs-decisions_en

¹³ Article 23(5) of the UCC.

¹⁴ Commission Implementing Decision (EU) 2019/2151 of 13 December 2019 establishing the work programme relating to the development and deployment of the electronic systems provided for in the Union Customs Code, C/2019/8803, OJ L 325, 16.12.2019, p. 168–182. Commission Implementing Regulation (EU) 2019/1026 of 21 June 2019 on technical arrangements for developing, maintaining and employing electronic systems for the exchange of information and for the storage of such information under the Union Customs Code, OJ L 167, 24.6.2019, p. 3.

The Customs Decision System

In order to support and facilitate the process of taking decisions relating to the application of the Customs legislation, a central Customs Decision System (CDS) has been created¹⁴. It is an IT platform and trader portal used for all applications and decisions which may have an impact in more than one Member State, and for any subsequent event which may affect the original application or decision. The CDS covers the authorizations on simplifications of Customs valuation, and operators must be able to access it to submit their requests.

Such simplifications are becoming increasingly relevant given the growing number of value elements, such as royalties or commissions, that cannot be quantified at the time of importation.



Implementation of e-tariff platforms gathers momentum in Africa

By the team in charge of the EU-WCO
Programme for the Harmonized System in Africa, WCO Secretariat

Lack of transparency on cross-border procedures has been identified as one of the first “choke points” in global supply chains. To provide economic operators with easy access to Customs tariffs as well as a clear view of measures to be taken when importing or exporting goods, many countries have developed electronic tariff (e-tariff) platforms. Recognizing the massive benefits such platforms offer to both Customs and trade, a number of African countries are jumping on the bandwagon.

When commodities are traded internationally, economic operators and Customs alike need exhaustive and up-to-date information with regard to all regulatory measures that apply to transactions. Apart from calculating the amount of import or export duty to be paid, parties involved in international trade need to be aware of measures such as tariff quotas and tariff suspensions, prohibitions, restrictions and trade defence instruments, to name but a few.

The need to provide information to traders and other stakeholders has long been recognized by the international Customs and trade community. A number of international instruments support this principle, requiring or recommending that information on a wide range of laws and regulations be made available to the public.

The latest global multilateral trade agreement, the Trade Facilitation Agreement (TFA) of the World Trade Organization (WTO), stipulates in its Article 1 (“Publication and availability of information”) that each WTO Member must promptly publish trade-related and Customs-related information in a non-discriminatory and easily accessible manner in order to enable governments, traders and other interested parties to become acquainted with them.

In particular, Members must publish information on the applied rates of duties and taxes of any kind imposed in connection with importation or exportation, as well as rules for the classification of products for Customs purposes.

These same measures are also required or recommended by other, sometimes older, international instruments, including the Revised Kyoto Convention (Chapter 9), the WCO Council Recommendation on the Improvement of Tariff Classification Work and Related Infrastructure (1998) and the African Continental Free Trade Agreement (Article 4 of Annex 4 of the Agreement).

With a view to adopting these standards, many administrations have taken a proactive approach by developing web-based tools in the form of electronic tariff support platforms. These range from comprehensive databases (such as TARIC, the integrated Tariff of the European Union) to websites providing a single access point to all documents (such as the Single Window for Trade operated by the Nigeria Customs Service). Some electronic tariff platforms also include information on advance rulings¹ and enable traders to apply for a ruling online (such as the platform of the Canada Border Services Agency).

¹ An advance ruling is a written decision issued by a Customs administration that tells the applicant how a good will be treated when it is imported into a country. An advance ruling represents the administration's official position and remains legally binding on Customs for a certain period of time, until amended or revoked.

Enhancing the HS update process

The advent of comprehensive electronic tariff platforms not only contributes to ensuring transparency and predictability, but also brings about significant positive changes in the way Members implement one of the most important global Customs standards: the WCO Harmonized System (HS). Indeed, such platforms help administrations to migrate to new versions of the HS in a timely manner, which is something that many administrations still see as a major challenge.

It is important to note that, in order to ensure the relevance of the HS, it has been updated regularly so as to take into account changes in technology and patterns of international trade. Every five years, each Contracting Party to the HS Convention must implement amendments to its own national nomenclature to align it on new versions of the HS. Not only do Customs tariffs themselves need to be updated, but many other tariff-based instruments likewise have to be brought into line with new versions of the Harmonized System. Stakeholders need to be consulted, various interests taken into account and official updates published. Many administrations find themselves mired in the complexities of the implementation process, ultimately missing the deadline by which amendments must enter into force.

Unlocking the full potential of electronic tariff platforms can be a major game changer here, in more ways than one. In the drafting of amendments, a greater level of inclusiveness of the process can already be achieved by making the proposed changes available for review and inviting input from all relevant stakeholders via an electronic platform. After the adoption of amendments, the new tariff can be implemented via the electronic platform too, without having to print hard copies of official

gazettes or tariff books. The whole process can be handled in an entirely digitized and paperless environment, and in an optimized and streamlined manner.

The case of Eswatini

The WCO Secretariat recently assisted the Customs Administration of Eswatini in developing an electronic tariff platform as part of a specific capacity building programme funded by the European Union (EU) named the EU-WCO Programme for the Harmonized System in Africa (HS-Africa Programme). Launched in 2019, the programme aims at delivering assistance to Regional Economic Communities (RECs) and Customs administrations in Africa in the implementation of the HS and modernization of tariff classification work.

As Dumisani E. Masilela, Commissioner General of the Eswatini Revenue Authority, explained, the “lack of information imposed significant costs on businesses in Eswatini, and the e-tariff platform plays a key role in removing the traditional barriers to access to information”.

The project was launched in June 2020, and the platform was inaugurated on 1 September 2020. The work was completed in a short period of time thanks to the strong support from the top management of the Eswatini Revenue Authority, local ownership of the project and sustained commitment of a multidisciplinary project management team.

The electronic tariff platform allows importers to determine which Customs duties, excise duties, anti-dumping duties and countervailing duties may apply to their goods, based on their tariff codes. Users can consult the electronic tariff by browsing it

Since there are myriad ways of designing an electronic tariff tool, proposing a one-size-fits-all approach is not an option. The design and functioning of such a platform must be determined by each country or REC based on the laws, regulations and procedures in place, and, in the case of RECs, on the levels of regional integration.



and searching it using specific keywords or generic product description. Once the tariff code and the country of origin of a good are fed into the system, it automatically generates the estimated amount of duties that will be payable. The search result can be downloaded and saved.

Soon after the inauguration, training sessions and awareness-raising activities were organized for various stakeholders, from both the public and the private sectors.

This is only the beginning for the Eswatini Customs Administration, for during the inauguration of the tool, Dumisani E. Masilela announced that “the e-tariff platform is just one example of the many IT-based solutions that the Customs Administration is planning to roll out in the short to medium term. Our goal is to embrace technology and leverage it in order to improve both Customs enforcement capacities and customer experience.”

EAC Common External Tariff digitization project

The East African Community (EAC) has also benefited from the support of the WCO Secretariat and has commenced the process of digitizing its Common External Tariff (CET). The ultimate objective here is similarly to facilitate international trade by means of giving the private sector easy access to trade information.

The platform will be accessible from both computers and mobile devices and will include features that are searchable by tariff code or generic product description. It will allow a seamless migration process of the EAC CET upon transposition of HS 2022. It will furthermore include a mechanism for administration and management of the Duty Remission Scheme² (submission of application, assessment and approval, etc.) and also provide information on other measures affecting the implementation of the CET such as Stays of Application (SoA)³ and on preferential tariff treatment for goods originating from Regional

Economic Communities to which EAC Partner States are members.

No one-size-fits-all approach

During a series of regional and national meetings organized under the EU-WCO Programme for the Harmonized System in Africa, a number of African countries and RECs have shown a keen interest in developing electronic tariff support tools of various kinds. Some have already started their own projects to establish an electronic tariff platform or trade portal, while others, such as the Customs Administrations of Liberia and Zambia, have confirmed their interest in launching such initiatives as soon as possible.

Since there are myriad ways of designing an electronic tariff tool, proposing a one-size-fits-all approach is not an option. The design and functioning of such a platform must be determined by each country or REC based on the laws, regulations and procedures in place, and, in the case of RECs, on the levels of regional integration.

Moreover, officers managing the project must coordinate with those developing other related IT tools, such as national trade facilitation portals or new websites and applications, in order to identify synergies and avoid any duplication of work. For instance, an electronic tariff tool can be integrated into existing and future trade portals in order to prevent fragmentation of information or duplication of services.

By providing information in a clear, comprehensive and timely manner, electronic tariff platforms can create a virtuous circle where easy access to information means increased trade flows and higher levels of compliance. It could also transform the classification of goods into a more automated, predictable, streamlined and meaningful process, further strengthening the global standard that is the Harmonized System.

More information

capacity.building@wcoomd.org.

² Under duty exemption schemes, exporters are allowed to import inputs duty-free that are to be used in the production of goods for export.

³ The practice of stays of application allows EAC countries to deviate from certain tariff lines set under the regional CET for up to a year at a time.



SMART BORDER DRIVEN BY SMART INSPECTION TECHNOLOGY



Mapping of Customs Nomenclature with food safety standards in India: a far-sighted strategy to streamline clearance of food products

By Shyam V.¹ Garg A.² Sharma, A.³, Food Safety and Standards Authority of India, Ministry of Health and Family Welfare, Government of India

Several government and private stakeholders are involved in the clearance of imported food products. To ensure a smooth process, close coordination and sharing of information backed by robust information technology (IT) processes are needed. With this in mind, India's food safety agency has mapped Customs Nomenclature codes with Food Safety and Standards Regulations, a move which has enabled further integration of IT systems and better risk management.

India is one of the fastest growing markets in the world. One of the sectors where demand is increasing rapidly is food, and especially "exotic" foodstuffs. Consumer preferences have undeniably changed and the taste for different cuisines is growing. This in turn translates into more imported food products.

The Indian authority in charge of laying down science-based standards for food products and for regulating their manufacture, storage, distribution, sale and import is the Food Safety and Standards Authority of India (FSSAI). To identify easily which standards apply to which products, food products are categorized within a four-level hierarchy and assigned category within that hierarchy, known as the Food Category System (FCS).

When applying for import clearance, an importer has to provide Customs with the Indian Customs Nomenclature of Goods Code (ITC HS Code) for tariff calculation purposes on the one hand, and provide the FSSAI with the relevant FCS on the other. However, many importers and brokers are not well versed in the latter and are consequently prone to making mistakes.

Mapping

As part of India's efforts to facilitate cross-border trade, the FSSAI has mapped ITC HS Codes relating to food products with the corresponding FCS and related Food Safety and Standards Regulations. Although a single ITC HS Code may cover more than one kind of food product, it is now easier for overseas exporters and for importers to find the regulatory requirements applicable to the food products listed in the 1,515 ITC HS.

Moreover, the FSSAI online portal - the Food Import Clearance System (FICS) - has been integrated into the Department of Customs portal (ICE-GATE) to enable effective risk analysis for food products and seamless message exchange between the two entities. Coupled with the integration of the two IT systems, it is expected that mapping the FCS and ITC HS Codes will contribute to reducing consignment clearance times and to simultaneously strengthening compliance and import controls at points of entry.

Risk management

Let us look at the way risk managed has been devised. The Food Safety and Standards (Import)

¹ Technical Officer, Science & Standards Division

² Deputy Director, Imports Division

³ Director, Import



Regulations, 2017 provide for selective sampling and testing of food products on the basis of risk profiles and parameters which are determined by the FSSAI and updated from time to time. In consultation with the FSSAI, Customs has developed algorithms based on these risk profiles and indicators and has integrated them into the ICE-GATE risk engine so as to screen import applications submitted through the Single Window Interface for Facilitating Trade (SWIFT). Risk indicators developed for each of the 1,515 ITCHS Codes for food products relate to the nature of the product, the compliance history of the importer or manufacturer, and the country of origin of the shipment.

If a consignment is flagged, the information is automatically transmitted for further examination to the FSSAI via the FICS. Documents relating to the shipment are then examined and the products may undergo visual inspection, sampling and testing in order to determine whether or not they are in conformity with the safety and quality standards established and laid down under various Food Safety and Standards Regulations. If a sample is found to be conforming then a No Objection Certificate (NOC) is generated. If it is found to be non-conforming, then Non-Conforming Report (NCR) is generated. The information is then sent to Customs for further action, as deemed fit.

Indian Food Laboratory Network

When implemented, testing of samples will be carried out by one of the laboratories forming the Indian Food Laboratory Network (InFoLNet), whose IT system will be integrated into the FICS to allow for easy monitoring of the sample's journey, from the location where the sample was taken to the laboratory which tested the sample and entered the test result.

Advantages

The mapping of the Customs Nomenclature codes relating to food products with their corresponding Indian Food Safety and Standards Regulation and the introduction of dedicated risk criteria for those codes marks a milestone in establishing a robust food import control system in India.

Some of the advantages of this endeavour have already been mentioned: effective integration of various online platforms for import clearance, enhanced monitoring of the control procedure, improved ease of doing business for the private sector, and implementation of a robust risk management system.

However, the initiative also supports:

- increased transparency: the clearance process can be monitored, audit trails can be created with the click of a mouse and exception reporting can be produced with ease. Since the physical interface has been reduced and the parameters under which a product within a specific HS Code has to be tested are set automatically, the chances of error will be reduced;
- implementation of a jointly defined, clear and digestible data-driven strategy which will undoubtedly support efforts to enhance ease of doing business;
- data collection to improve processes and build capacity: useful reference data can be generated for each item submitted for control to improve risk analysis and other processes. Such data include sample sizes, sampling method, required laboratory testing, time taken for testing, and photographic images for evidence purposes. Captured data, communication templates, alerts, approvals and rejections along with necessary updates to the risk profile of the product, importer, etc. are also captured;
- better all-round communication: mapping of ITC HS Codes for imported food products with the FSSR has been carried out with a view to highlighting all import requirements in a single and accessible reference data store. This will enable users and multiple government agencies to use this data effectively in a number of ways, thus ensuring consistency in policies to be implemented across the country regarding clearance of imported food products.

More information

<https://www.cbic.gov.in>

In consultation with the FSSAI, Customs has developed algorithms based on these risk profiles and indicators and has integrated them into the ICE-GATE risk engine so as to screen import applications.

Some thoughts on current important issues

By Enrika Naujokė, Director, UAB "Muita"

The Lithuanian Customs Practitioners Association (LCPA) is a very dynamic organization which publishes a journal called the *Customs Compliance & Risk Management Journal for Practitioners*. To stimulate the exchange of ideas between Journal contributors, the Association decided to create a writers' group which met online for the first time on 18 August 2020. Customs specialists from various backgrounds shared their perspectives on the issues they perceived to be important in their respective countries or areas of work. This article highlights some of these issues and invites you to read the Journal to learn more about the writers' views.

Ad rem versus ad valorem

Leonardo Macedo is a judge in the Administrative Tax-Customs Court in Brazil, as well as a former Customs officer, and is passionate about Customs valuation. Noting that tariff increases have lately been at the centre of international trade disputes, he highlighted the need to shift the focus on the negative effects of tariffs to the types of tariffs to be applied to each commodity (ad valorem, ad rem and composite). In his view, governments need to rethink the way they use tariff types.

Pointing out the fact that the importance of international trade instruments and standards has become even more obvious during the COVID-19 pandemic, he also stressed the need to harmonize penalties for Customs infringements in different jurisdictions, and to leverage technological progress, especially the opportunities offered by cloud computing which enables people to upload and share their digital resources, such as software, applications and files.

Enabling traders to learn from their mistakes

Dinesh Unadkat, Director of a consultancy firm called J. D. Consultants Ltd, explained that in the United Kingdom, Her Majesty's Revenue and Customs (HMRC) recognizes that some importers and exporters try to be compliant but do not necessarily always succeed in their endeavours. For these traders, education is seen as the most appropriate response and HMRC will issue a warning letter followed by a phone call or a visit to discuss the issues, get the trader to rectify the error(s) made and provide guidance so that similar errors can be avoided in the future.

According to Dinesh Unadkat, it would be good to see every country adopting such an approach, which enables traders to learn from their mistakes. Moreover, Customs officials should encourage traders to come forward with issues by ensuring that they will not be penalized and will not have to go through a lengthy legal process to deal with errors and offences that can be dealt with differently. In the UK, only a minority of offences are related to fraud committed intentionally, and these are prosecuted as criminal offences.

Roberto Raya da Silva, founding member of Raya Consult, agreed that the level of penalties should be discussed as they are sometimes inappropriate, especially when it comes to classification issues and it is the first time that the company concerned is at

fault. He explained that in Brazil the Administration can review a company's classification records over a period of five years, and if an importer has used the wrong classification for a long period the fine can reach absurd amounts.

He considers that where a problem exists a company should be alerted quickly by the Administration, and the rate of the fine incurred should be low. Moreover, although in Brazil an importer can consult Customs ahead of a transaction, the Administration usually takes around four months to reply and this is often too long for companies in rapidly-changing sectors such as technology. The fact that the decisions of the Administration are published online is, however, of great help.

Archipelagos face very specific challenges

Wisnu Nugrahini from the Indonesian Customs and Excise Education and Training Center indicated that her Administration has gone through several reforms and offers modern procedures to traders, as she explains in her article "Indonesia: Customs in the country of 17508 islands". However, although Indonesian Customs implements electronic systems these are still of limited use, and there is a need to connect the IT systems of various institutions. This will be beneficial both to enforcement authorities, as they will be able to enhance their data analysis capacities and fight undervaluation more effectively, and to traders as it will lower their administrative costs.

Wisnu Nagrahini also explained that another challenge was how to supervise borders and fight smuggling and illicit trade in a territory which consists of more than 17000 islands. Finally, she mentioned the focus on protecting SMEs by regulating imports of goods bought online and facilitating exports.

Modernization is ongoing in Ukraine

Dr. Borys Kormych, Professor at the Odessa Law Academy in Ukraine, explained that the separation of the Customs and Tax services in 2019 has been a positive development, because during the time when the two were merged too much emphasis was given to fiscal functions at the expense of trade security and facilitation.

The most remarkable recent achievement has been the introduction of the Single Window for International Trade in 2018. The system enables traders to submit the Customs declaration

and associated documents, as well as the data requirements linked to four types of regulations applicable at the border. It has also introduced the procedure of silent consent, which sets a 4-hour limit for each of four regulatory agencies to respond when a transaction is flagged by the risk engine. This system has reduced opportunities for corruption.

One area where businesses complain is Customs valuation. In Ukraine, Customs collects up to 45% of tax revenue and 30% of State revenue. This creates enormous pressure on the Administration and on businesses. Practices such as informal negotiations and a lack of transparency in the way the risk management system works, and risk profiles are designed, are among the issues repeatedly raised within the framework of the WTO Valuation Committee.

Customs procedures need to be harmonized over the territory, and some are outdated. For example, Customs officers at the seaports work on two different electronic systems - the Administration's own clearance system and the one operated by the port; these systems are not interconnected and therefore cannot allow for automated data exchange. The internal transit regime is still fully paper-based.

Managing post-Brexit in Ireland

Ciarán McConigley, Director of Across Borders Consulting, explained that the Irish authorities take a pro-business approach to ensure traders are aware of their obligations, by providing them with technical guidance and good electronic systems which facilitate Customs-related activities. Among other things, the system offers traders the possibility to access historic clearance data which can, if utilized in the correct way, assist them to identify risks and opportunities in their import and export activities.

The biggest challenge for all stakeholders in Ireland at present is getting prepared for the post-Brexit Transition Period. It is estimated that there will be a significant increase in administrative work, and the number of Customs declarations is expected to increase from 1.6 million to 20 million per year. This will mean more work for Customs intermediaries and Customs specialists.

Many traders are still not prepared for the impact of Brexit from a Customs perspective, due to the economic fallout of COVID-19. There is also a belief among some traders that a Free Trade Agreement

with the European Union will remove administrative barriers. However, to claim the benefits of any FTA, traders would have to comply with certain requirements which will entail the engagement of financial and human resources.

Penalty regime reform in France

Evguenia Dereviankine, Lawyer at PARADIGMES, indicated that French Customs has accomplished a great deal during the pandemic in terms of helping importers. However the Administration has recently lost a lot of its responsibilities, which have been transferred to the Tax Administration, and it must adapt its activities in order to preserve its independence.

The Administration is also considering reforming its penalty regime. France is one of the last countries in the EU that still treats all Customs infringements as criminal offences. The criminal approach has certain benefits (protection of the rights of defence; lack of automaticity in the application of penalties) and limitations (uncertainty as to the amount of the fine to be applied). Some changes have already been made, such as the adoption of different levels of punishments based on good or bad faith, and a cut in the interest payable for delay in case of disclosure, and discussions are ongoing to pursue reforms and align the Customs penalty regime on the Tax regime.

Customs as the “partner of commerce”: mere words and nice intentions?

Dr. Talke Ovie, a German attorney-at-law, pointed out that the Union Customs Code (UCC) states that Customs “is the partner of commerce”. This means that Customs should know trade operators and be able to understand the specific circumstances leading to a business decision in an individual case. This is the only way to achieve real compliance and ensure that omissions are punished, lessons are learned and processes between companies and Customs are coordinated in a way which satisfies the interests of both.

Talke Ovie explained that great efforts are made in Germany to facilitate and maintain the transfer of know-how and knowledge. Business associations and organizations in particular are offering companies networking opportunities. However, it is still challenging for companies to draw correct conclusions when it comes to compliance with the statutory criteria based on the knowledge they have acquired and the procedures they have put in place, and, when necessary, to put forward their views. It is often not possible to reach an agreement

Customs and trade law is becoming ever more complex and a way must be found to secure the transfer of know-how and knowledge in the current situation.

with Customs, which tends to use the courts as “decision-making bodies”. This costs economic operators money and, above all, time. In practice, therefore, the written law and the practical-minded entrepreneur (who is currently preoccupied with economic survival) are often at odds with each other.

Inconsistent and unpredictable decisions

Dr. Gediminas Valantiejus, a Lithuanian attorney-at-law, highlighted the fact that an important challenge facing the EU is ensuring consistency in the way that rules are applied in Member States. Rules set at the supranational level are not understood in the same way in each Member State. In Lithuania, the interpretation of these rules by the national Customs authorities and other national institutions (such as national courts) differs from the decisions taken at the supranational level (e.g. by the EU Court of Justice). Authorities also sometimes apply rules which are not aligned with the EU rules, for example specific national rules on estimating the value of imported used motor vehicles. Also, decisions as to who should take legal responsibility for Customs offences are inconsistent and unpredictable. There are no clear criteria for determining which person should be held responsible and bear administrative responsibility.

Jonas Sakalauskas, another attorney-at-law from Lithuania, also pointed out areas for improvement in the EU. He drew attention to inconsistencies in the tariff classification of goods; a disregard for international trade practices and the practices of other EU national Customs authorities; different requirements and procedures between national Customs offices; and limited opportunities for the amicable settlement of disputes.

I, Enrika Naujokė, Director of the Customs brokerage company UAB “Muita”, took the floor to give additional information on the situation in Lithuania. Lithuanian Customs quickly adopted new technologies to communicate with business during the pandemic, and online discussions

were organized to inform the public and obtain everyone’s feedback. Lithuanian Customs officials are in general very open to cooperation and the sharing of knowledge, and they participate in conferences and journals. However, there is a gap in Customs education in Lithuania, as no Customs study programme is acknowledged as meeting the standards set by EU Recognition of State-of-the-Art Customs Academic Programmes or the WCO Guidelines for the recognition of University Customs Curricula.

I also listed some current challenges in the EU. Further harmonization of rules is needed: for example, there are significant differences in the requirements for obtaining an EORI number (the number assigned to companies that import or export goods to or from the EU); there are no harmonized rules regarding Customs representation (Customs brokers need a licence in Lithuania, while in Germany they do not) and Customs infringements; and the administrative penalties imposed on private persons are too high in some countries.

Way forward

The group also identified issues to be discussed during future events. These include: what does it mean to “be compliant”? How to assess Customs knowledge and how to acquire a “sufficient” knowledge? Which aspects of Customs formalities should be harmonized on a regional or global scale?

As Dr. Talke Ovie said, “Customs and trade law is becoming ever more complex and a way must be found to secure the transfer of know-how and knowledge in the current situation.” Do not hesitate to contact me if you are interested in contributing to the *Customs Compliance & Risk Management Journal for Practitioners*, and joining our writers’ group meetings.

More information

info@lcpa.it

Maqta Gateway: Digitizing and transforming trade

By Abu Dhabi Ports

Abu Dhabi is leading the region's digital transformation drive with a view to moving all of the emirate's trade online during 2021

© Courtesy of Abu Dhabi Ports 2020

Although the maritime transport industry handles 90%¹ of global trade, the sector's administrative procedures are complex and time-consuming. Out of the USD 9 trillion² worth of goods shipped annually, the World Economic Forum estimates that a whopping 15%-20%³ of the cost of shipping these goods is spent on administration alone.

What really does raise eyebrows, however, is that, up until the announcement by the International Maritime Organization (IMO) of its 2025 digitization directives in 2016,⁴ paperwork remained de rigueur among maritime authorities and other stakeholders involved in international shipping.

Since then, the industry has worked hard to catch up. Many ports – both large and small – have taken steps to harmonize reporting and standardize electronic information flows by creating and investing in single entry point digital systems that are interoperative and fully compliant with the IMO FAL Convention.⁵

Five years on, and after spending so long behind the technology curve, many of the world's leading maritime players are now embracing a bold new era of digital innovation, and none more so than in the Arabian Peninsula, in the capital of the UAE, Abu Dhabi.

Back in 2014, its Government tapped Abu Dhabi Ports – the master developer, operator and manager of commercial and community ports within the Emirate of Abu Dhabi – to build what was to become the UAE's first dedicated Single Window Port Community System: Maqta PCS (M-PCS). The name is inspired by the Arabic word for crossing, Maqta, and is also the name of the first bridge built in the Emirate more than 50 years ago across the waterway that separated Abu Dhabi from the mainland. The objective was for M-PCS to act as the crossing point between all entities integrated in the process. Soon after the successful launch of the system, Abu Dhabi Ports created a subsidiary

- 1 <https://business.un.org/en/entities/13>
- 2 http://www3.weforum.org/docs/GETR/2012/GETR_Chapter1.8.pdf
- 3 <https://www.iotevolutionworld.com/smart-transport/articles/442702-how-industrial-iot-will-disrupt-shipping-industry.htm>
- 4 [http://www.imo.org/en/KnowledgeCentre/IndexofIMOResolutions/Facilitation-\(FAL\)/Documents/FAL.12\(40\).pdf](http://www.imo.org/en/KnowledgeCentre/IndexofIMOResolutions/Facilitation-(FAL)/Documents/FAL.12(40).pdf)
- 5 The Convention on Facilitation of International Maritime Traffic (FAL) consists of 16 articles and one annex. The annex contains the "Standards" and "Recommended Practices" on formalities, documentary requirements and procedures which should be applied on arrival, during their stay and on departure to the ships, their crews, passengers, baggage and cargo.

in 2016 called Maqta Gateway that is mandated to facilitate trade using advance digital solutions, including the M-PCS.

Since that time, Maqta Gateway has successfully completed more than 30 million online transactions, with 10% of that number having been reached during the current pandemic.

A Single Window serving every need

The introduction of the platform has had a tremendous impact on port and seaside operations. The digitization of core documentation and the integration of the multiple systems used by each participant in a transaction under a Single Window has helped dramatically reduce traditionally very paper-heavy, manual and frequently inaccurate processes governing the movement of vessels and cargo in ports, as well as the payment of port services.

Where once organizations had to invest significantly and employ an entire team to compile, exchange and track documentation accurately, the entire process is now digitized on a platform that can be accessed and managed by a single user. This, in turn, has freed up where these organizations allocate their resources and enabled them to focus solely on their core business.

Additionally, as part of the process in digitizing port services, Maqta Gateway spent considerable time reengineering trade processes. Working closely with all stakeholders involved to identify the various challenge points, the company was able to streamline the delivery of each service, eliminating much of the red tape that had hampered processes in the past.

Initially offering shippers and port users an ultra-modern digital Single Window interface, Maqta Gateway received, in May 2020, a new government mandate to develop the M-PCS into a fully integrated trade, Customs and logistics portal for those engaged in all trade by sea, land and air, facilitating electronic data flow between all the emirate's economic stakeholders, port authorities, Customs, and traders, terminals and industrial zones.

A few years from now, a new critical phase, aimed not only to promote paperless trade but also to entirely digitize trade and logistics processes across all areas of Abu Dhabi's future economic activity, will be completed: the launch of the Advanced Trade and Logistics Platform (ATLP).

Advanced Trade and Logistics Platform

Envisioned as a platform for unifying payments, permits, approvals and applications and helping stakeholders better manage resources, ATLP is being developed under the supervision of the Abu Dhabi Department of Economic Development and will serve as Abu Dhabi's Single Window trade platform for all economic operators via sea, land, air, industrial and free zones, in addition to enhancing the customer experience within the trade and logistics sectors.

Featuring electronic forms, machine learning, single sign-on and a host of value-added services that include trade finance and insurance, combined with the use of international Electronic Data Interchange (EDI) standards via modern Application Programming Interfaces⁶ and Robot Process Automation,⁷ Maqta Gateway's ATLP solution is truly a next-generation tool for global trade facilitation.

For instance, an end user managing a large-scale manufacturing operation can utilize the platform to track and trace a shipment of raw materials in real time. This means that they can have their teams ready on the factory floor to begin work at the precise moment of final delivery.

The solution would also provide the same user with the tools they need to plan more effectively and optimize their global supply chain – providing transparency and identifying bottlenecks – while also saving precious time and reducing costs.

But that is only the tip of the iceberg. As ATLP integrates, automates and harmonizes with all actors involved across a supply chain including Customs clearance, economic zone operators and government authorities, both service providers and service consumers will find themselves in a unique ecosystem that encapsulates all of their logistical needs through a Single Window interface.

The diffusion of single entry data portals for business-to-government and business-to-business messages is crucial to boosting efficiency by providing digital, real-time information to all players within the infrastructure of global commerce.

⁶ An API is a tool that specifies ways software can interact with an application such that the data from the latter is available in the former. APIs interact with the target application exclusively through the back end.

⁷ Robotic Process Automation (RPA) is a technology used to mimic human actions which aims to perform a specific task in an automated manner by following a sequence of steps to complete that task.

In addition, the involvement of so many actors at each link in the chain has also accelerated the amount of raw data collected along the way. Beyond monitoring progress in real time and optimizing processes, this collated data can also be utilized to identify trends and generate market forecasts, enabling users to make informed strategic decisions on their respective activities. It is hoped that, in time, as the platform matures, data reports can be generated and shared for the benefit of the whole community. The platform will provide dashboards for all stakeholders showing proper KPIs and data collected. The data will also be available to stakeholders at API level.

First steps towards global trade facilitation

Last June, in the midst of the COVID-19 pandemic, and a full year out from its official introduction, workshops and in-parallel planning and requirement-gathering sessions, involving more than 40 key public and private sector stakeholders, were held remotely to streamline the platform's performance and to ensure its successful launch.

Abu Dhabi's leadership is confident that, by locally advancing the construction of robust, innovative and leading-edge digital assets that enhance transparency, increase commercial activity and reduce costs, ATLP will set a benchmark within the region.

Nowadays, global trade demands digital connectivity and optimized ecosystems that combine physical assets with world-class information management. And thanks to the holistic view of Single Window digital trade and logistics platforms, such as Abu

Dhabi Ports' Maqta PCS, the depth and complexity of the world's supply chain is becoming less opaque and more manageable for all its stakeholders.

The diffusion of single entry data portals for business-to-government and business-to-business messages is crucial to boosting efficiency by providing digital, real-time information to all players within the infrastructure of global commerce.

In the Middle East, the decision by Abu Dhabi's Government to set up Maqta Gateway will benefit all local and international players engaged with the emirate's trade and logistics value chain, helping to drive inward direct foreign investment while supporting Abu Dhabi's transformation into a highly competitive global economic hub.

There is much work to be done in preparing new users to take on the full capabilities promised by the platform. As each organization will undoubtedly have its own set of systems, processes and policies to contend with, it will be necessary to work closely with each newcomer to ensure smooth adoption of the solution and guide them on their journey as they join ATLP's logistics ecosystem.

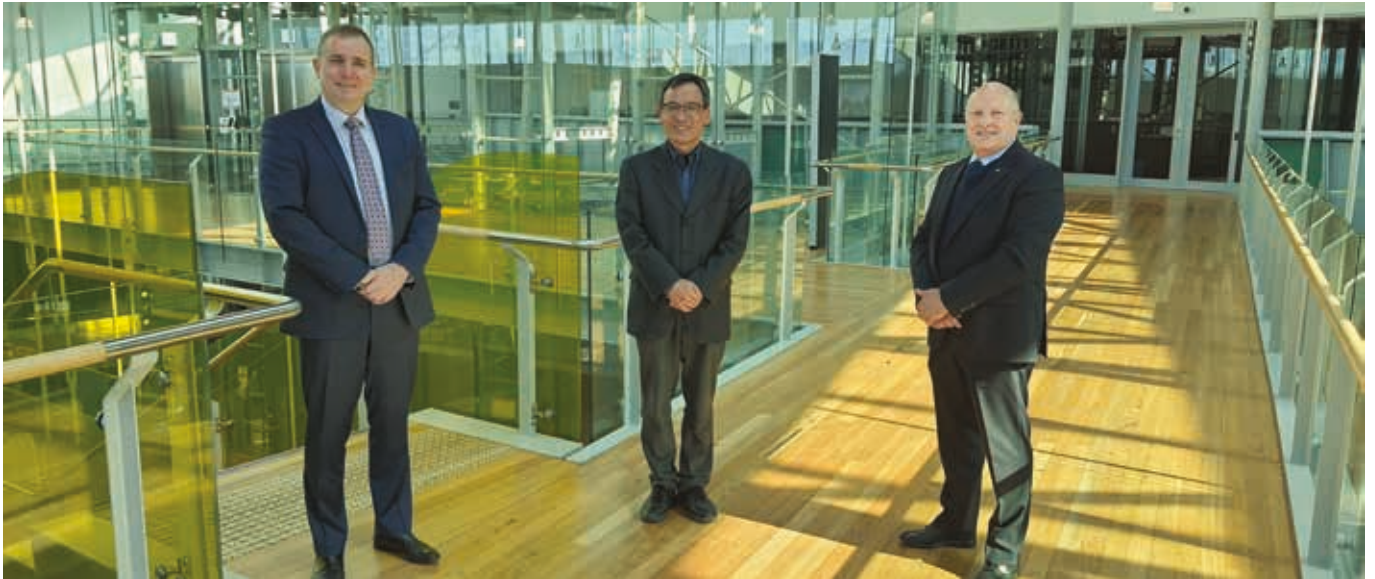
In the years ahead, few doubt that today's nascent technologies such as blockchain, machine learning and the Internet of Things (IoT) will take PCS platforms like Maqta Gateway ATLP a giant step further. And, although the dream of fully paperless trade is not yet a reality, ongoing digital transformation will ensure its inevitability.

More information

<http://www.maqta.ae>

MGService.Desk@maqta.ae





ABF Commissioner Michael Outram, Seunghwan (Daniel) Jeong and CCES CEO Professor David Widdowson observe social distancing at ABF headquarters

Working together: Australia and Korea fostering collaboration through officer placement

By the Australian Border Force

Cooperation between Customs agencies is crucial in order to address some of the collective risks and challenges faced at the border. The Australian Border Force regularly collaborates with foreign Customs and enforcement authorities in various ways, for example by setting up joint initiatives or organizing joint events. This article looks at another form of collaboration established with the Korea Customs Service: officer placement.

In July 2019, Seunghwan Jeong, a senior executive officer from the Korea Customs Service (KCS), arrived in Australia. During the 12 months that followed, he worked with the support of colleagues from the Australian Border Force (ABF) to build an understanding of the latest developments in the respective agencies and examine the technological initiatives being considered by Customs agencies in the field of ITCs.

His assignment is the latest display of the close collaboration established between the two agencies that spans border security, trade enforcement and trade facilitation – a collaboration that stretches back to the signing of a Memorandum of

Understanding on mutual assistance in 1988. The agencies cooperate regularly in order to investigate and disrupt the flow of illicit goods, to facilitate legal trade flows and the application of the Australia-Korea free trade agreement, and to implement the Mutual Recognition Agreement (MRA) that was established in June 2018, enabling companies certified under the Korean Authorized Economic Operator (AEO) scheme and the Australian Trusted Trader programme to have their certification recognized and to enjoy certain benefits.

As a result of Mr. Jeong's assignment to Australia, the ABF and the KCS now have a greater understanding of each other's plans in applying emerging

technologies to Customs and border processes that will open new avenues for collaboration. By harnessing technology and enabling data sharing, it will be possible to provide legitimate travellers and traders with a border experience that is seamless, while focusing regulatory attention and intervention efforts on those who represent a risk.

During his time in Australia, Mr. Jeong was based in Canberra at the Centre for Customs and Excise Studies (CCES) at Charles Sturt University where, in addition to liaising with the ABF, he took the opportunity to complete his Master of Customs Administration (MCA) degree. The MCA, which is formally recognized by the WCO as meeting its Professional Standards, requires the submission of a research project of relevance to the regulation of cross-border trade, and, not surprisingly, Mr. Jeong took the opportunity to focus his research on technological initiatives in the cross-border environment.

His Master's dissertation addressed the challenge of achieving appropriate levels of facilitation and effective control through the use of emerging technologies, including artificial intelligence, as well as the practical application of the WCO Cross-Border E-Commerce Framework of Standards. On the final day of his assignment, Mr. Jeong presented his findings to the Australian Border Force Commissioner, Michael Outram, and senior officials of the ABF, who commended his efforts and discussed the common issues being experienced by their respective administrations.

Co-locating officers at an educational institution such as CCES provides them with a unique opportunity to work alongside other researchers in the field of Customs and trade. The practice is growing and has become a model for other agencies to cooperate. The benefits of such arrangements also flow back to the CCES faculty, through the opportunity to discuss specific aspects of its visitors' policies, strategies and operational practices, and to incorporate such insights and case studies into its education and teaching materials.



CCES colleagues bid farewell to Mr. Jeong by presenting him with an iconic Australian Akubra hat

Despite Mr. Jeong's busy work schedule, his Australian hosts made sure that he found time to enjoy the social side of his assignment, which provided them with an opportunity to showcase Australian culture and life. This included celebrating an Australian Christmas, visiting sites of historical significance, enjoying the picturesque countryside, and engaging in uniquely Australian experiences such as a swim at Bondi Beach and a typical Aussie barbeque.

However, no one could have anticipated the other unique experiences that were to be encountered, including bushfires, hailstorms and a pandemic! While such events required constant changes to schedules, Mr. Jeong showed remarkable resilience, once again demonstrating the valuable benefits that can be gained from programmes of this kind.

We are living in the technological age, which is continually changing the way in which goods are traded and the way in which such trade should be regulated. Further advances bring with them new opportunities, and the ABF looks forward to collaborating further with our Korean colleagues and other international partners to realize those opportunities in the years to come.

More information

International.Engagement@abf.gov.au



Elevate the productivity of your entire trade ecosystem

70%

of data is duplicated
in the whole supply chain

80%

of data required
resides outside
of a company's system

~3 days

Data preparation for
filing declarations
(invoice containing 800 items)

Empower your trade community with A.I. powered trade document submission capabilities



Enhanced accuracy
with machine learning



Easy and economical
to adopt



Concurrently prepare several
shipping documents



Smart and seamless Customs control to serve and protect global travel

By Professor Zhiqiang CHEN, Chairman, President & CEO of NUCTECH

Statistics have shown that criminals are increasingly active in seeking out and exploiting the vulnerabilities of air travel to illegally smuggle dangerous, prohibited and restricted items by air. The WCO Illicit Trade Report 2019 reveals that “in 2018, 126 countries submitted 45,497 drug trafficking cases to the WCO...trafficking through the mail and by air were the second and third most prevalent means of conveyance”.

With the unprecedented COVID-19 pandemic, social distancing is required and manual inspections by Customs officials may be not only undesirable but also unacceptable, posing a great danger of infection to travellers and officials alike. In this context Customs should, more than ever, leverage non-intrusive inspection equipment and automatic detection.

One area where processes need to be improved is baggage inspection on arrival. Indeed, in many countries baggage does not systematically undergo much-needed scanning on arrival. Some countries lacking the requisite equipment rely solely on physical inspection. As a result, only a small fraction of baggage on arrival can be inspected and, depending on the personal judgement of the onsite officers, inspections may at times be random and inconsistent.

In countries where scanning equipment is available, one solution would be for Customs authorities to increase the inspection ratio for inbound travellers and their belongings. However, frequent screening with traditional standalone X-ray scanners can sometimes be inconvenient, stressful and even upsetting for travellers, especially for people with special needs such as senior citizens, disabled travellers or families. Long queues for clearance create bottlenecks in the journey, posing operational challenges while straining Customs' human resources at peak hours. Last but not least, in the context of the unprecedented COVID-19 pandemic, the traditional way of screening can be harmful and risky when social distancing is difficult to observe and physical contacts are impossible to avoid.

Leveraging technologies at arrival

How to balance security control and facilitation in a restricted space is a vital question to be answered by airport Customs. In order to help them reinvent their control approach in such an environment, innovative technologies need to be utilized. Recently the world has witnessed a rapid change in technology advances with the emergence of high-speed 3D computer tomography (CT) scanners, big data analytic tools, connected objects able to collect and transfer data over a network (IoT), automated devices, artificial intelligence systems, etc., offering new possibilities to address and overcome the challenges in a proactive manner.

The game-changer here will be developments in scanning technology and automated detection. Some pioneer Customs in Asia have adopted a 100% screening solution to creatively redesign and renovate the current baggage control process at airports. They have integrated the X-ray or CT scanners into the conveyor system, enabling 100% of baggage to be screened “backstage” during the baggage moving process. Given that time is a major constraint in the airport environment, the scanner results need to be analysed rapidly, which might be a challenge without the use of automatic detection. Scanners fitted with object recognition solutions can now be utilized to automatically detect contraband and illicit substances. In this way, scanning is shifted upstream from the exit gate to the baggage conveyance area and the process is fully automatic and consistent, as well as being invisible and non-intrusive for most compliant travellers.

For those with undeclared goods or suspicious concealment, CT scanners automatically send out alerts to trigger further action. Suspect bags are tagged with RFID labels or configured with an E-seal along the line for later interdiction. In the baggage reclaim area, the Customs officer can use a handheld tablet with a reader applet to pinpoint the suspicious bags to enable more targeted Customs control. By retrieving the associated screen images with the suspicious areas marked up, officers can

© Camilo Rueda López



locate and guide the suspicious baggage for further investigation at the exit. Alternatively, if there are no officers in attendance in the reclaim area, the bag concerned can also be interdicted at the exit by sensors detecting the E-seal or RFID label attached to it, prompting Customs officers to initiate further interrogation.

In a word, a significant step forward in technology lays the groundwork for a more balanced, risk-based airport Customs control solution. Detection capability, enabled by advanced screening technologies can speed up and reinforce Customs control, improving security, convenience and cost-effectiveness in border management.

Benefits

100% Customs control en-route delivers a variety of benefits. For Customs, it increases revenue collection by interdicting more taxable goods, as well as boosting security protection against

prohibited and restricted items in order to better serve and guard national borders. It also drives operational efficiency with the highly automated inline process, while helping Customs to better optimize their human resource allocation and providing added flexibility and adaptability at times of special need.

For airports, this hassle-free control process can also help deliver happy experiences to travellers and enhance the competitiveness of an airport to help it stay ahead of its peers. For most low-risk travellers, streamlined processing cuts out almost half the time required for Customs clearance, and improves the experience by eliminating the need to load and unload bags on the scanner belt.

A Case in Asia

In 2019, Thailand Customs adopted a powerful and scalable smart Customs control solution, made up of advanced technologies and a networking platform,



in order to renovate and modernize its inbound traveller controls at aviation gateways, including Suvarnabhumi international and other airports.

At Suvarnabhumi airport, 23 AI-powered X-ray scanners are integrated with legacy conveyor lanes in the baggage loading area. The scanning speed has been adapted to match the belt speed of 0.6m/s, which allows for 100% screening without compromising throughput, while minimizing changes to the existing infrastructure. Forty RFID tag printers work with X-ray scanners to attach tags to suspicious baggage.

After being unloaded from the airplane hold, inbound bags are placed on one of the baggage conveyor belts and go through one of the X-ray scanners before being routed to one of the reclaim carousels. The scanned images are sent to the next available Customs officer in a central processing room. If any suspicious items are detected on the image, an RFID tag will be attached to the bag; the tag can only be removed after officers confirm and clear it next to one of the airport exits. Messages are pushed to the Customs officers by the system, alerting them to the need for further inspection at the time when the baggage is labelled, is loaded onto the baggage carousel, or is approaching the Customs control lanes. The officers can then use more advanced CT technology to recheck bags that have RFID tags and further resolve alert cases by physical inspection if necessary.

Dozens of RFID sensors have been deployed in a distributed manner, spread around the toilet and baggage reclaim areas, as well as the Customs control lanes. It would be impossible for bags

which have been marked as suspicious to evade the scrutiny of Customs officials.

The smart Customs control solution enables 100% scanning of inbound travellers at Suvarnabhumi airport without causing any inconvenience to their journey, and sometimes even goes unnoticed by travellers.

On the Horizon

Looking into the future, it is possible that Customs could directly visualize, during a physical control, not only the image of the scanned baggage but also passenger specific information, through a data exchange mechanism with airlines. Customs could capture, for example, the information from the luggage tag, the Passenger Name Record, the ticket information and biographic details in travel documents.

They could visualize this information through Augmented Reality wearable glasses. The system would then alert onsite officers when a traveller carrying suspect baggage is approaching the Customs lanes. Officers would be able to access the traveller's information simultaneously, and make an informed decision efficiently.

The implementation of such processes and devices may present challenges, but technology advances in the modern world are leading Customs towards a future for the effective control of inbound travellers which will be fast, friendly and flexible.

More information

chenzhiqiang@nuctech.com
www.nuctech.com

The smart Customs control solution enables 100% scanning of inbound travellers at Suvarnabhumi airport without causing any inconvenience to their journey, and sometimes even goes unnoticed by travellers.

Rapiscan
systems

AS&E

Part of the OSI Systems family of security companies

CARGO SCANNING & SOLUTIONS

TO COMBAT TRADE FRAUD, SMUGGLING, & TERRORISM

Secure your port of entry and enhance operational efficiencies. Our industry-leading cargo inspection technology helps to uncover threats and contraband while our data integration platform collects and combines information from your operation to automate processes, control workflows, and deliver actionable intelligence. With decades of experience in cargo scanning and solutions, we can define and deliver the ideal screening program for your mission.



EAGLE

rapiscan-ase.com/eagle

Focus: COVID-19

© Czech Republic Customs





WCO adopts new procedures and tools to ensure business continuity

The WCO has taken measures and developed tools to ensure business continuity within its working bodies during the current exceptional circumstances caused by the COVID-19 pandemic. In consultation with the Council Chairperson and Vice-Chairpersons, as well as the Chairpersons and Vice-Chairpersons of WCO working bodies, new working methods and procedures have been identified which can be adapted to meet the specific requirements of the working bodies scheduled according to the calendar of meetings approved by the Council.

Document-based approach

The 227th/228th Sessions of the Permanent Technical Committee (PTC), held from 15 May

to 3 July 2020, served as a pilot test for future meetings. The meeting was held following a purely document-based approach through the use of the WCO CLiKC! platform. The meeting took place in two phases: during the first phase, participants were asked to consult the meeting Agenda and to provide comments and views on each Agenda item via the CLiKC! platform discussion forum; during the second phase, the PTC Chairperson, assisted by the Secretariat, worked towards achieving a consensus and reaching a decision on any outstanding issues or concerns. This consultation process was conducted through the discussion forum as well as via online conferencing tools. Updated documents were then published, and participants were once again given an opportunity to raise any final concerns.



Some 140 delegates, representing Customs administrations, international organizations and the private sector, participated in the meeting. Over the seven-week period of the meeting, more than 390 contributions and comments were submitted by 32 administrations, seven observers and the Secretariat. All nine Agenda items were successfully addressed with discussions revolving around 21 different topics, including the role of Customs in mitigating the effects of the COVID-19 pandemic, e-commerce, strategic foresight, and passenger control and facilitation.

During the meeting, it was decided to establish an ad-hoc mini group responsible for drafting new PTC Rules of Procedure (RoP) to be applied in case of extraordinary circumstances. The draft document was submitted to the 229th/230th Sessions of the PTC which are being held at the time of writing.¹

The same meeting format was used for the 57th Session of the Harmonized System Review Sub-Committee (RSC) held from 3 to 24 July 2020 with 124 Customs representatives and six observers

attending. The Committee provided the Secretariat with an opportunity to test the feasibility of holding highly technical discussions using a document-based approach. The Agenda was reduced to 22 items essential to the timely implementation of the HS 2022 Edition and focused on the sets of amendments to the Explanatory Notes. The move to a document-based meeting in no way impeded the substantial progress being made and, while the meeting presented significant workload challenges for all involved, the results proved that technical drafting was not only possible in such a setting, but that it could be carried out to a very high standard.

New platform

In the meantime, the Secretariat has been working on the development of a more advanced interface that offers web conferencing with live interpretation, including the extremely challenging task of providing interpretation in several languages. The new tool has made it possible to transition to a blended meeting format, combining a document-based phase (submission of comments) with online video-conferencing sessions.

During the latest session of the Harmonized System Committee (HSC) being held in October 2020, an online voting procedure is being tested using both the CliKC! and web-conferencing platforms. Such a procedure will enable the Secretariat to deal effectively with all the items usually on the Agenda of HSC meetings should virtual meetings still have to be held into 2021.

From early September until December 2020, when the Council will meet again and decide on the way forward for the organization of meetings in 2021, over 20 committees, working groups and other bodies will have been held virtually.

Drawing on the experience gained, the Secretariat team is now confident in its capacity to hold large-scale virtual meetings and events that are both productive and engaging. It will continue to develop more advanced and value-added features as part of its commitment to provide a positive experience to all meeting participants.

More information

www.wcoomd.org

The move to a document-based meeting in no way impeded the substantial progress being made and, while the meeting presented significant workload challenges for all involved, the results proved that technical drafting was not only possible in such a setting, but that it could be carried out to a very high standard.



© AdobeStock

¹ From 28 September to 29 October 2020.



Adapting to the ‘New Normal’: pioneering remote Mercator scoping missions

By Donia Hammami, Executive in Charge of HMRC-WCO-UNCTAD partnership, WCO Secretariat

The COVID-19 pandemic has caused a major shift in how we work, live and engage with each other – both on a personal and a professional level. After the initial shockwave, and following an adjustment period, we now find ourselves in a situation that is commonly referred to as ‘the new normal’.

The WCO Secretariat has adapted its working methods to these unprecedented times and is now supporting Customs administrations requesting its assistance on a remote basis, the main condition being the administration’s willingness and ability to engage in such a way.

This article looks at one particular example: the remote delivery of Mercator Programme Stocktaking & Forward Planning missions by the WCO team overseeing the HMRC-WCO-UNCTAD Programme.

Financially supported by the Government of the United Kingdom through Her Majesty’s Revenue and Customs (HMRC), the HMRC-WCO-UNCTAD Programme aims to support developing countries to effectively implement the provisions of the World Trade Organization (WTO) Trade Facilitation

Agreement (TFA) under the auspices of the Mercator Programme, the WCO umbrella programme for all activities related to trade facilitation.

The missions referred to involved the Customs administrations of Eswatini and Zambia, and took place during July-September 2020. What are the practical experiences drawn from these? This article zooms in on the perspectives of the leadership of the respective administrations and of the accredited Mercator Programme Advisors (MPAs) leading the missions, while also addressing programme management considerations.

The context: providing support despite COVID-19 travel constraints

Capacity building and technical assistance-related activities have traditionally primarily been delivered face-to-face. When it became evident that travel restrictions were likely to remain in place for months, the team in charge of the HMRC-WCO-UNCTAD Programme quickly reached out to Customs administrations to assess their willingness and ability to identify potential areas for collaboration and work remotely on achieving the identified objectives.

About the Mercator Programme, MPAs, and the Mercator Implementation Plan

Launched in 2014 and designed to assist governments in implementing the Customs trade facilitation measures outlined in the WTO's Trade Facilitation Agreement (TFA), the Mercator Programme provides capacity building for WCO Members on the basis of a comprehensive needs assessment and development plan – i.e. the Mercator Implementation Plan. This ensures a more strategic, orderly, consistent and higher tempo delivery of capacity building support.

The Customs-to-Customs approach, through the WCO accredited Mercator Programme Advisors (MPAs), is at the base of the Mercator Programme. MPAs are experienced Customs managers who play a key role in supporting administrations with implementing the TFA provisions on the basis of international best practices and standards, and by leveraging the WCO's extensive range of instruments and tools.

About the HMRC-WCO-UNCTAD Trade Facilitation Capacity Building Programme

Supported by the UK Government's Foreign, Commonwealth & Development Office (FCDO) through HMRC, the Programme provides technical assistance and capacity-building to developing countries and most particularly lower-income countries. Working in close synergy with the United Nations Conference on Trade and Development (UNCTAD), the GBP 1.4 million WCO programme is a continuation of the successful collaboration with HMRC, which began in 2015, to support efforts to implement trade facilitation reforms effectively through the WCO Mercator Programme. The renewed HMRC-WCO-UNCTAD partnership will run until April 2022. The Programme team is currently working with Eswatini, Lesotho, Liberia and Zambia to explore where technical support can be provided, for example in response to the challenges posed by COVID-19.

To ensure synergy, the HMRC Programme shares its programme office with the Trade Facilitation Programme in Middle Income Countries (TFMICs) Programme which is also funded by the United Kingdom. The latter Programme currently provides tailor-made support to several Customs administrations, including Brazil, India, Philippines and South Africa, on a range of topics such as gender and inclusivity, Customs law review, risk management, Time Release Study, and streamlining of air cargo clearance processes.

The Eswatini Revenue Authority (SRA) and Zambia Revenue Authority (ZRA), whose Mercator Implementation Plans were developed in 2018, both responded positively. The Programme team started working in close consultation with the SRA and ZRA Mercator Focal Points in drafting an agenda that would take into account the limitations and constraints of the mission's remote nature – i.e. online meetings had to be more focused and shorter than face-to-face meetings, with more preparatory work in between. The existing Mercator Implementation Plans provided the basis for these deliberations. Moreover, the three Mercator Programme Advisors (MPAs), assigned to oversee the delivery of the revised multi-year development plan, were also involved. The objective was to take stock of what had already been done and identify possible areas for improvements while also keeping in mind the need to identify activities suitable for remote support.

Using a very popular communication and collaboration software, each stocktaking mission took place over 7 days. It included both information-gathering sessions and forward-planning sessions of up to a maximum three hours. Given that it is not possible to knock on someone's door for last-minute inquiries or agenda adjustments during a remote mission, each day was concluded with a wrap-up between the MPAs, the Mercator Focal Point and the WCO Secretariat representatives to allow for reflection on the discussions that had been carried out, as well as preparation of upcoming sessions. Moreover, a kick-off session and a closing session with the administrations' executives were also planned in order to set the scene and articulate mutual expectations.

– ensuring a conducive environment with the buy-in of all participants.

Alongside the MPAs, the WCO delegation also included experts from the WCO Secretariat working on risk management, Time Release Studies, gender and diversity, and Human Resource Management. Moreover, prior to the missions, development partners such as the World Bank and UNCTAD had been consulted to obtain an understanding of their ongoing in-country engagements.

The Members' perspective

The WCO being a membership-driven organization, its support is only as good as the Members perceive it to be. In this light, the officer in charge of overseeing the delivery of the HMRC-WCO-UNCTAD Programme liaised with the Customs Heads within the ZRA and the SRA, together with their respective Mercator Focal Points, to seek the administrations' feedback on the remote Mercator Stocktaking & Forward Planning mission. The question they were asked was: what impressions have the colleagues from Eswatini and Zambia taken away from the virtual working sessions, and what conclusions would they like to share with their colleagues from other countries?

Zambia

Sydney Chibbabbuka, ZRA Commissioner of Customs Services, explained that the news that ZRA staff had been infected by COVID-19 came as a shock to him. The pandemic disrupted the workflow and impacted the administration's performance, which is partially measured in terms of how much revenue is collected against the set targets. However, the Commissioner said that he drew some inspiration from Zambia's President who, in his address to the nation, had underlined that this was the 'new normal' to deal with.

"As Customs officers, we are considered essential workers and we had to continue to fulfil our duties. So when we received the WCO Secretariat's proposal to work together remotely, we thought, why not?, because at the rate that things were evolving, we might not be able to meet within the next year," declared Commissioner Chibbabbuka. "We also wanted to show our commitment to the WCO Mercator Programme and our willingness to facilitate trade flows in the region. We wanted to do our best to thrive under these circumstances."

Once it had been agreed to go ahead with the mission, the next step was to have the ZRA Project

Manager and the Mercator Focal Point coordinate with the Programme team and start preparations. "During the Executive Kick-Off meeting, we agreed that the various experts who were to be consulted had to be fully ready for each meeting and discussion. Each participant needed to come to the office to ensure access to the IT facilities, to fully engage and be available in good time for discussions, and to prepare adequately for each meeting," the Commissioner noted.

ZRA was not only the first Customs administration to receive a Mercator Stocktaking and Forward Planning mission, but also the first to receive it on a remote basis. According to the representatives of the administration who participated in the mission, it was very fruitful. They even believe that, in future, a "blended approach" should be recommended when delivering such assistance. Although, evidently, field observation and other tasks require a physical presence, this experience has shown that some aspects can and should be conducted virtually, especially those related to the preparatory phase of the mission, including when it came to setting the expectations.

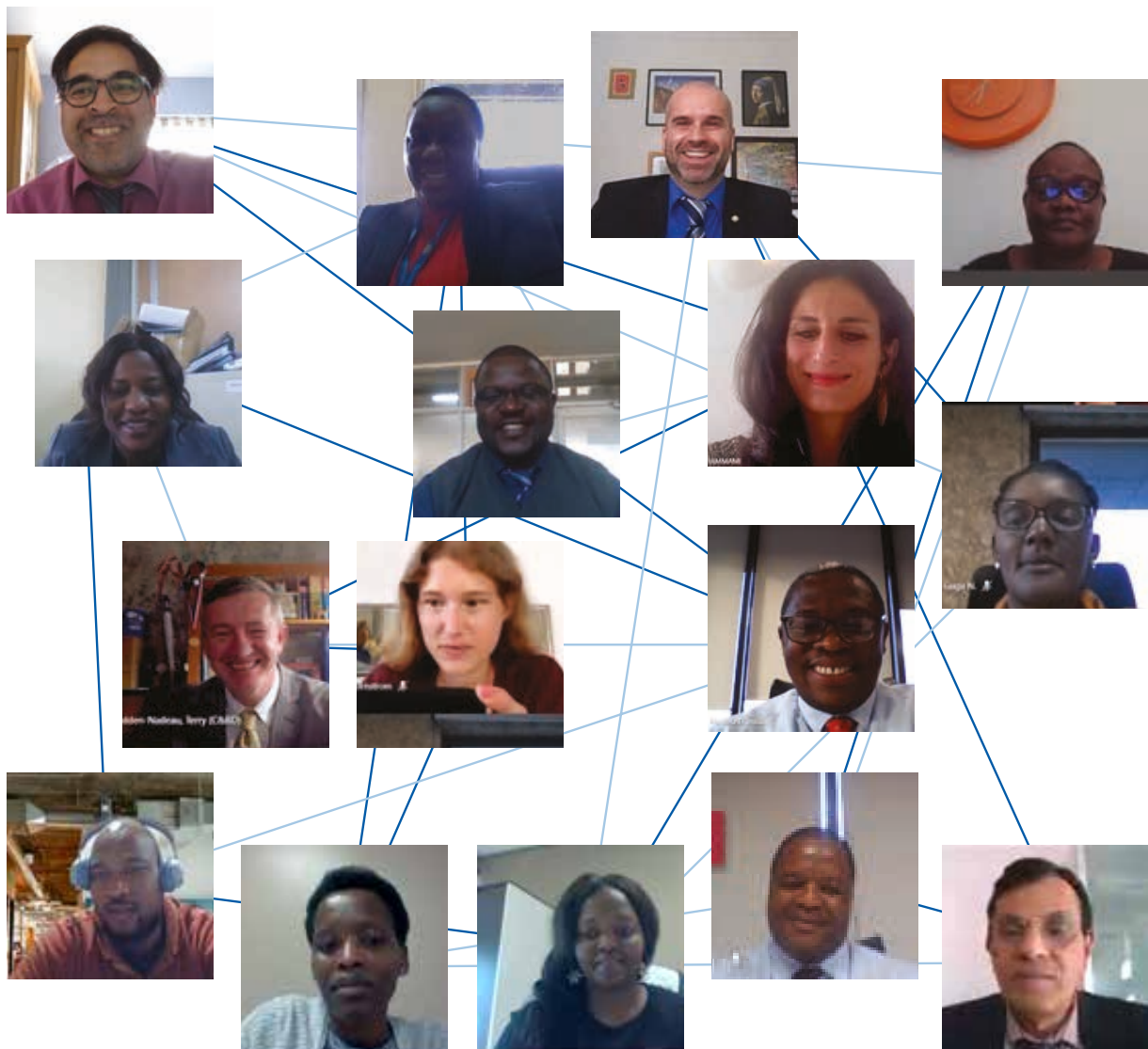
To those administrations that were still somewhat reluctant to engage with the WCO Secretariat on a remote basis in capacity building activities, Commissioner Chibbabbuka conveyed the following message: "Customs have to be dynamic organizations and consider learning as a continuous exercise. We cannot stay static."

Just a few weeks after the mission ended, the Secretariat started working with the ZRA on the implementation of Article 7.8 of the WTO Trade Facilitation Agreement on expedited shipments. The objective is to help the ZRA to leverage the WCO Immediate Release Guidelines and streamline the air cargo clearance processes. "As health experts focus on finding a cure for the pandemic, we, as Customs, one of the many actors responsible for the continuity of the supply chain, must focus on keeping trade flowing," concluded Commissioner Chibbabbuka.

Eswatini

At the time of the meeting with SRA Commissioner-General Dumisani Masilela, 27 Customs officers had tested positive to COVID-19 within the administration. However, transmission seemed to have taken place outside of the office environment, and the strict measures adopted by the administration seemed to be working.

"You start to wonder why we did not use these kind of conference platforms before COVID-19. As the situation normalizes, we have to find a balance between the two and combine the physical with the virtual."



“When we were approached by the WCO Secretariat, we had already switched to remote meetings and knew that this could be done,” Commissioner Masilela explained. While recognizing that some activities could not be carried out remotely, he also agreed that some work did not require physical site visits. It was noted that the WCO team had been very pro-active in pursuing this particular remote engagement – more than other international organizations as they ended up postponing missions and being less engaged. “Going forward, there might in fact be a temptation to keep things virtual. A lot of missions would be more effective this way and it also allows for a broader scope of experts to engage,” he added. It is worth noting that more than 84 SRA staff participated in the mission’s sessions.

SRA Mercator Focal Point and a MPA in her own right, Ms Gugu Dlamini-Zwane, underlined that “during a scoping mission, it is usually a challenge to get the right people to attend. By this I mean decision-makers and officers working at the appropriate strategic level. As most of them were working from home, it was easier to get them all together.” Remote meetings were also very convenient to private sector representatives with whom a special session was organized together with the WCO MPAs, without SRA officers present. For private sector representatives, time is money, and they need to feel that their voice is heard. “The business representatives who participated in the meeting really appreciated the opportunity to share their thoughts and observations. They were members of the Eswatini Customs Business Forum and the meeting also enabled them to identify

agenda items for the Forum's next meetings," Ms. Gugu Dlamini-Zwane said.

When asked to share key take-aways from the remote mission experience, the Commissioner-General stated: "I really believe that this is the way of doing things in the future. Many people join physical meetings late, for example because they need to come from a different place. Now there is no reason to be late. It generates a lot of efficiency. You start to wonder why we did not use these kind of conference platforms before COVID-19. As the situation normalizes, we have to find a balance between the two and combine the physical with the virtual."

Maintaining a positive outlook, the Commissioner-General reflected that, to an extent, the crisis generated by the pandemic had been a "blessing in disguise" at many levels as it had pushed the SRA to explore new solutions. For example, the administration had been battling for years to persuade taxpayers to make payments electronically, which was something they were reluctant to do. Now, they were actually excited about being able to do this.

The Mercator Programme Advisors' (MPAs) perspective

The success or failure of any Mercator scoping mission stands or falls with the expertise and people skills of the MPAs. Their experience, knowledge, preparation and overall commitment is critical to successful outcomes. The Zambia and Eswatini missions were led by three experienced accredited MPAs from HMRC: Terry Madden-Nadeau, Elliot Gough and Syed Moinuddin. Having previously conducted physical in-country missions, how do they look back at their first virtual assessments?

Articulating the three MPAs' joint view, Mr Gough declared that "while the administration's colleagues on the ground can serve as our eyes and ears – and while sometimes Google maps or other tools can even provide further insights and overall a good feel for the situation at a port, for example – virtual assessments will never fully match the experience of being on the ground and seeing the , volume of lorries, traffic management, actual border stations and interactions with other border agencies. That is to say, seeing the infrastructure in person."

In light of the above, in their mission reports the MPAs therefore also identified those particular areas that would remain subject to in-country

validation once travel was possible again. That said, they all felt that it was quite an exciting time to serve as an MPA. "This remote delivery is new and novel – we are edging forward in a new era. Together we can learn and improve as we go forward," said Mr Madden-Nadeau. "Both the MPAs and the administrations have to maintain an agile and flexible approach. Responding to challenges is what Customs does best," added Mr Moinuddin.

They also agreed with the administrations' view that remote engagement should be an important part of the working approach for scoping missions in the future. Even if it were possible to go back to the "old normal," a higher level of interaction prior to a mission would have to be embraced – meeting the key people virtually before a mission and establishing a conducive working relationship and trust base.

Furthermore, all three MPAs applauded the level of engagement of the administration staff and of external stakeholders as reflected by the high number of participants in the respective sessions. Some joined from the comfort of their own office, home or even car. The remote nature of the mission allowed also for the participation of a broader WCO delegation, including WCO Secretariat technical experts and the HMRC-WCO-UNCTAD programme team. Moreover, representatives from the United Nations Conference on Trade and Development (UNCTAD), a partner within the Programme, participated in the mission session organized with Eswatini's National Committee on Trade Facilitation.

The MPAs also considered it a remarkable benefit that the turn-around time of remote missions could be so much quicker. The mission preparations could be completed within a shorter run-up time as no travel had to be planned. Likewise, the first capacity building activities identified could already start immediately after the end of the missions, even before finalization of the mission report, as the Programme team could engage with the heads of the administration during the closing session and follow up accordingly.

Key take-aways from a Programme management perspective

While it is evident that in-country missions serve a unique purpose in obtaining on-the-ground insights, the first remote Mercator Stocktaking and Forward Planning missions highlighted above have proven to be very positive and illustrate that it can be done.

Both the Customs administrations as well as the MPAs expressed their hope that they might also inspire other administrations to embrace remote engagement with the WCO Secretariat and fellow Customs administrations to the extent possible.

Even though the Customs community faces many challenges due to COVID-19, its work was, and remains, more important than ever – protecting our societies while keeping trade flows going and ensuring prompt access to essential goods. Therefore, waiting until the pandemic is under control and we can travel again is simply not an option. For the team in charge of the HMRC-WCO-UNCTAD programme, it would also have meant missing the opportunity to provide various administrations with valuable and timely capacity building and technical assistance, as the Programme has only a two-year timeframe (2020-2022).

Many lessons have been learned that will serve to further improve remote missions going forward. In particular:

- top-level support, and a positive and pragmatic approach by all parties involved, together with a commitment to make the virtual mission a success, is of vital importance. The executive-level kick-off meetings play an instrumental role in this regard as also emphasized above;
- the role of the Mercator Focal Points is essential, as they have project management skills and

conveying power within their administration to drive the work forward and ensure the right people with the required mandates participate in the meetings in a timely and well-prepared fashion;

- once in-country missions are possible again, it would be appropriate to adopt a blended approach combining virtual and in-person meetings. Virtual missions allow for enhanced stakeholder engagement and efficiency gains. In the same light, they enable the Programme Team to participate directly and contribute to the deliberations, and to conduct multiple missions in parallel;
- from a logistical perspective, virtual missions allow for a shorter run-up time and smoother release of MPAs as no travel is involved. However, they do require more time from the Programme team in terms of coordination;
- remote missions allow for quick follow-up action: a virtual assistance activity can start directly after the mission is closed, as soon as the need or a request for assistance of the administration has been identified ;
- having the right IT and good internet connection speed or bandwidth is essential.

More information

capacity.building@wcoomd.org



Using Customs data to follow crisis trends: the experience of Niger Customs

By Mahamat Akanja, Thomas Cantens, Mahamane El Hadj Ousmane, Hassane Moumouni and Ibrahim Souley

To date, African countries have been only moderately affected by the COVID19 pandemic.¹ Governments took measures promptly: as early as March 2020, borders were closed except for goods, large gatherings were banned, curfews imposed and capital cities locked down, teleworking was introduced in education and public services, and social measures were adopted to compensate households for loss of income (in Niger, water and electricity were supplied free of charge to the poorest households for three months). These measures were gradually eased from the start of June onwards.

Customs in Niger kept up the same level of presence and activities as before the crisis, while complying with health precautions (social distancing, including,

in particular, new vehicle search procedures, the wearing of masks and gloves and the availability of hand gel and soap). Measures common to most Customs² were also adopted:

- imports of equipment and products used to tackle the epidemic were exempted from duties and taxes; they were selected in line with the list of products recommended by the WCO;
- the Customs bond was extended by 15 days to 90 days;
- current investigations were suspended;
- a crisis unit was set up for the purpose of coordinating activities.

¹ Approximately 1,000 cases and 69 deaths in Niger for a population of 21 million.

² WCO web page devoted to Customs responses to the COVID-19 crisis: <http://www.wcoomd.org/en/topics/facilitation/activities-and-programmes/natural-disaster/coronavirus.aspx>.

World Bank: <https://www.worldbank.org/en/topic/trade/brief/trade-and-covid-19> and <https://documents.worldbank.org/curated/en/415841588657355986/Logistics-and-Freight-Services-Policies-to-Facilitate-Trade>.

The purpose of this article is to examine a specific aspect of Niger Customs' response: the use of Customs data to follow the trends in the crisis and support the Government in the almost daily preparation of responses to health and social concerns.

The specific features of the COVID19 crisis and Customs involvement

The consequences of this crisis and the counter-measures taken by governments, such as lockdown and the closure of borders, were difficult to predict. At the start of the crisis, analyses indicated dramatic effects on economic cycles: a drop in imports of consumer products (rice, pasta, cooking oil, sugar, cereals); disruption of the flow of pharmaceutical products from Asia; a fall in exports of mineral resources as a result of the drop in demand in high-income countries and difficulties in delivering mineral exploitation equipment; a drop in exports of agricultural and animal products, ultimately leading to higher prices or even shortages; food insecurity; and a drastic drop in tax revenue at a time when the Government might most need it.

Although the negative effects of the crisis are undeniable, it is worth considering how to "follow" a crisis as unprecedented as COVID-19 more closely, so that counter-measures can be regularly adapted. Governments are managing to produce figures on a daily basis on the health situation of the country (numbers of tests, patients treated and deaths), but gaining access to figures on the economic situation in short timescales is a complicated matter, particularly during an extraordinary event which, by definition, has inevitably disrupted forecasting.

In this context, Customs data are particularly useful to the Government of Niger. On the one hand, they show trends in imports of staple goods and exports of raw materials. On the other hand, they demonstrate the almost immediate effects of the lockdown measures and restrictions on transport and border crossings on the production and flow of material goods. Unlike the crisis of 2008, which was primarily financial, the effects of which spread with a time lag, the COVID19 crisis is a material crisis. Customs data therefore became critical information for the Government. In practice, they were the only "instant" economic data on the crisis to which the Government could have regular access.

Customs in Niger therefore had to adapt its method of reporting to the Government, moving from monthly reporting to daily and weekly reporting. Two Customs officials attended the meetings of the statistician-led national crisis unit. Their role was to share Customs data and take part in the regular review of forecasting models for revenue and economic activity. Internally, weekly monitoring was introduced for import and export flows according to the exporting regions and national Customs offices, and for exemptions applied to products used in tackling the pandemic.

What does "following" crisis trends mean?

Following the crisis is mainly about comparing data for the crisis period with those for the preceding months and years: comparing the trend in variables, such as revenue and volumes imported by region, by type of operator and by trade route. This process of monitoring raises two technical issues, and solving them was, in itself, an interesting lesson for Customs.

The first issue was how to reveal the crisis while the crisis was in progress. Customs and tax administrations are accustomed to producing and analysing data aggregated on a monthly and annual basis. At a time of crisis, these aggregated data are not enough.³ They are drawn up retrospectively, and with too great a time lag to allow the government and the administrations to react in time. Customs in Niger chose a daily timescale, using moving averages⁴ and comparison with the average for dates in 2019 and 2018 to smooth out the sharp daily variations and reveal the weekly trends.

The second technical issue involves distinguishing between what is a result of the crisis and what is caused by other factors. A robust estimate of a causal inference between the crisis and variations in revenue or volumes can be made from retrospective analysis. During the crisis, the approach was aimed at swift quantitative documenting of trends in the situation and of what was and what was not attributable to the crisis. Rather than estimating the effects of various factors on revenues and volumes, known variation factors needed to be removed from the comparison over time. Two variation factors were identified in Niger. The first was the closure of the border with Nigeria

³ See Diego A. Cerdeira; Andras Komaromi; Yang Liu; Mamoon Saeed, 2020, *World Seaborne Trade in Real Time: A Proof of Concept for Building AIS-based Nowcasts from Scratch*, IMF Working Paper 20/57, and Gallego, Inmaculada and Font, Xavier, 2020, "Changes in air passenger demand as a result of the COVID-19 crisis: using Big Data to inform tourism policy", *Journal of Sustainable Tourism*, 2020, pp. 1-20.

⁴ The moving average or rolling average is a type of average used, in particular, for time series analysis: trends can be reported with variations smoothed over short timescales.

since September 2019. Some of the declarations relating to trade with Nigeria were excluded from the data.⁵ The second variation factor for revenue was structural: imports generally tend to rise as the period of Ramadan approaches, with the dates varying from year to year. It was a few weeks before the start of Ramadan when the health crisis began in sub-Saharan Africa. Variations in revenue and volumes therefore needed to be adjusted for the seasonal factor of Ramadan. The method used was to change the daily timescale, taking the date of

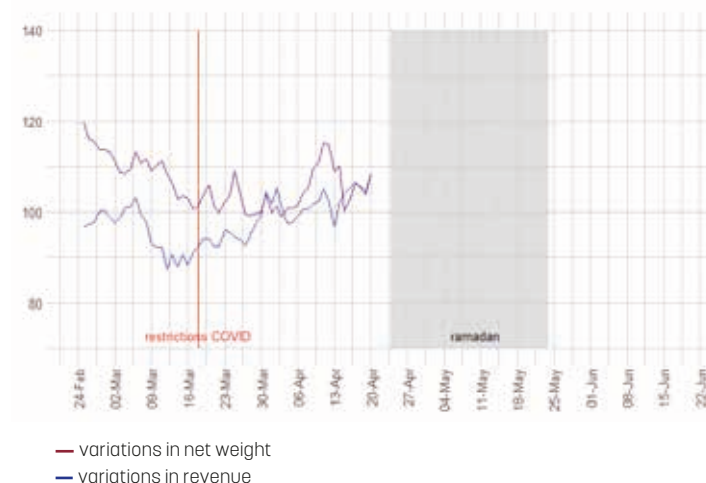
the start of Ramadan for each year as day zero. On the new scale, the dates in 2020, 2019 and 2018 are comparable for the first half-year – they are equivalent in respect of the start of Ramadan.

Examples of how Niger's data were used

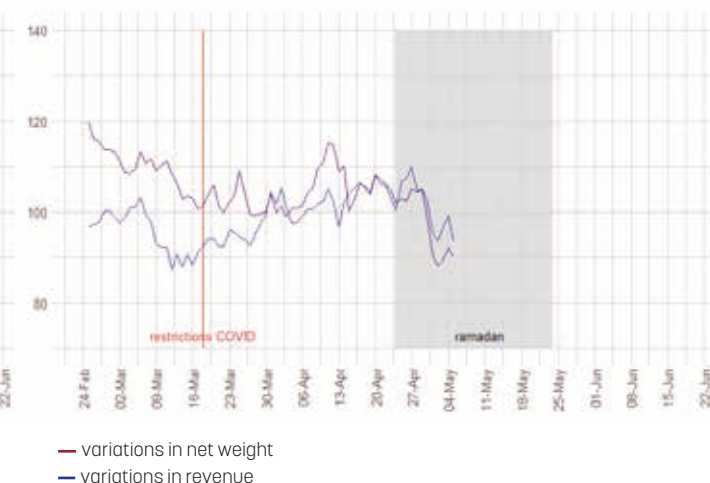
The following graphs illustrate how Customs reported on the crisis at the end of each week at different points in the crisis.

Figure 1. Daily variations in revenue and import volumes based on the date on which the situation was recorded

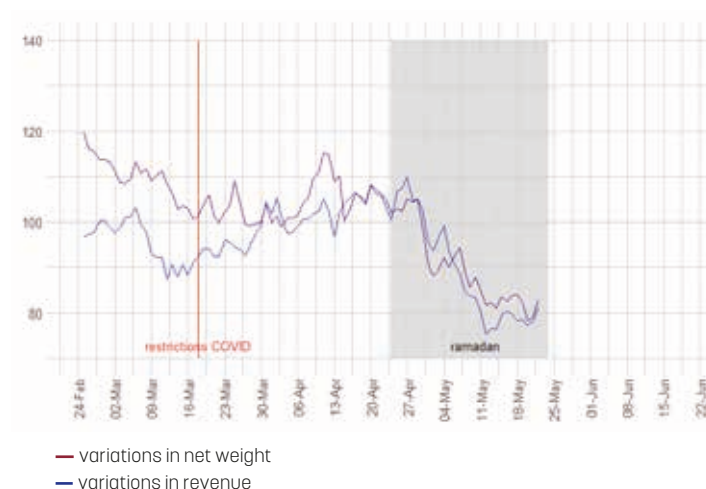
Niger - 2020 imports - situation as at 2020-04-11
comparison between 2020 and the average for 2018 et 2019 (=100)



Niger - 2020 imports - situation as at 2020-03-18
comparison between 2020 and the average for 2018 et 2019 (=100)



Niger - 2020 imports - situation as at 2020-05-18
comparison between 2020 and the average for 2018 et 2019 (=100)



Niger - 2020 imports - situation as at 2020-06-11
comparison between 2020 and the average for 2018 et 2019 (=100)



Notes: imports for home use only, excluding budgetary operations, 21-day moving averages, comparisons adjusted for Ramadan (dates recalculated with the start of Ramadan as reference date 0 each year)

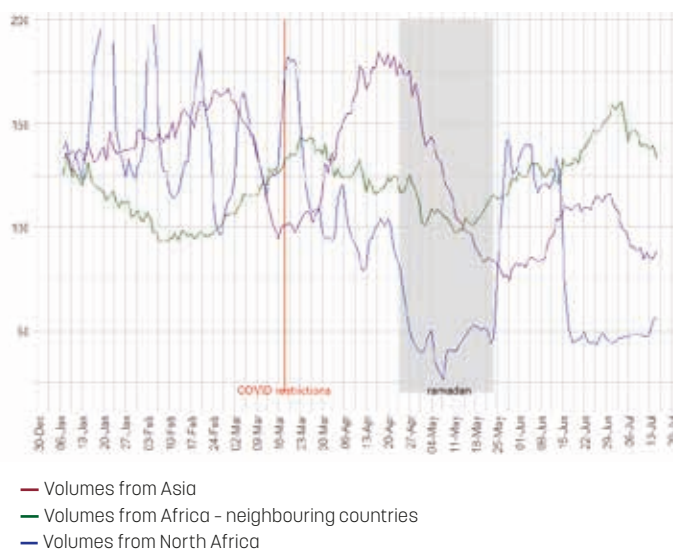
Source: data from Niger Customs, author's calculations

5 These were mainly "re-export" operations involving goods from outside ECOWAS imported into Niger to be sold on to Nigeria.

The same kind of method was used by product, by region of origin of the imported goods and by type of importer according to size. One example is shown below.

Figure 2. Daily variations in revenue and import volumes based on the regions of origin of the goods

Niger - 2020 imports
comparison between 2020 and the average for 2019 and 2018 (base 100)



Notes: imports for home use only, excluding budgetary operations, 21-day moving averages, comparisons adjusted for Ramadan (dates recalculated with the start of Ramadan as reference date 0 each year)

Source: data from Niger Customs, author's calculations

What the data reveal about the crisis

Over the weeks, the Customs data revealed a Vshaped crisis: a brutal but short-lived impact followed rapidly by a marked upswing. This outcome is less catastrophic than forecast. This finding during the crisis in Niger subsequently spread worldwide, in particular with the World Trade Organization downgrading the negative impact of the crisis on international flows of goods.⁶ The crisis caused a drop in goods flows of approximately 20% over three to four weeks, which is likely to erode the improvement in Customs performance and the normal growth in revenue of between 7% and 10% a year.

During the crisis period, trade in regional products stood up better than “long-distance” trade. The latter has not only been affected by logistical difficulties but has also diminished because the “large” traders have not been able to travel in person to Asia to place their orders.⁷ This crisis highlights the importance of regional trade to this country. As further evidence in favour of the promotion of regional trade, in particular through

facilitation measures, the impact of this worldwide crisis has been less severe than that of the closure of the border between Niger and Nigeria since September 2019.

The crisis affected “small” traders (68% of the number of importers, accounting for 41% of revenue) less seriously. The level of their imports in 2020 remained higher than the 2018 and 2019 levels. “Large” traders (1% of the number of importers, accounting for 49% of revenue) were more strongly, but still only moderately, affected: their operations primarily involve staple products (rice, cooking oils, sugar) from more distant locations, but they are sufficiently diversified in such a way as to cushion drops in imports in one sector. The category of importers most affected by the crisis is that of the “medium-sized” importers (7% of the number of importers, accounting for 4% of revenue).

As far as the goods themselves are concerned, imports of exempted sanitary products and equipment were particularly closely monitored.

⁶ See WTO press release https://www.wto.org/english/news_e/pres20_e/pr858_e.htm.

⁷ Interviews with Nigerien traders in May 2020.



© Joris-Jan van den Boom

From the budgetary viewpoint, as these imports were exceptional, they were not a source of expected revenue, and most operations were being carried out by international organizations or partner countries by way of donations. This inflow of donations and the absence of an initial market for these products meant that these exemptions had no effect at all on revenue.

As regards natural resources, there was no particular drop in exports. On the contrary, some exports saw significant increases, such as gold following the recent exploitation of new deposits.

Lastly, very early on, the data revealed risks of tension on the internal cereal market. Imports of cereals and their by-products dropped sharply. The closure of land borders to travellers and the reduction in transport probably slowed down what is essentially cross-border trade.

Lessons for Customs countermeasures

Lesson one – continuity of service meant that Customs clearance times could continue to be swift.

As before the crisis, more than 80% of duties are paid no later than the day after the declaration is filed by the operators.

Lesson two – the Customs bond,⁸ a key measure among recommended practices at times of crisis, was not greatly favoured by importers at either the start or the end of the crisis period. More than 70% of operators that had a Customs bond⁹ had taken it out in 2018. A few operators requested this facility in May 2020, but the share of revenue paid by means of Customs bonds remained low at around 5% to 7%.

There are several possible explanations for this. Customs had already sharply reduced its processing times before the crisis, and it remained active at the same level during the crisis. Moreover, as we have seen, the volumes imported dropped during the crisis, which inevitably reduced the Customs workload. Importers were not, therefore, penalized by delays in the release of goods or the associated additional costs. Moreover, the period of Ramadan probably did not cause a drop in demand (at most,

⁸ Duties and taxes on the importation of goods are payable in cash, in other words the payment has to be deposited at the same time as the import declaration. The Customs bond is an option available to taxpayers to remove their goods by filing an annual bond with the competent department of the Revenue Authority. The bond is a commitment underwritten by a banking or financial institution or an insurance company that the duties and taxes concerned will be paid by a certain date.

⁹ Excluding administrations, diplomatic missions and NGOs.

the crisis significantly reduced supply), so that operators were not faced with difficulties in finding customers and hence in paying the duties and taxes. The last plausible explanation, which is compatible with those above, is that only a few large importers have a structure that is sufficiently sophisticated to open Customs bond accounts with Customs and keep track of them, and they had already opened accounts well before the crisis. Other importers are not well trained or informed enough to take advantage of these benefits.

Lesson three – regional trade is a factor tending to mitigate the effects of the crisis, even if the associated revenue is relatively low compared with long-distance trade, in particular with Asia. Whereas many international political efforts are being expended to help low-income countries in the COVID19 crisis, it should not be forgotten that equivalent efforts are still necessary to promote trade between neighbouring countries. In Niger, the closure of the border with Nigeria had an adverse effect on revenue that was at least three times as great as that of the pandemic.

Last lesson – using its data, Customs can effectively help governments to be proactive in a crisis environment where decisions have to be taken rapidly despite the paucity of information available. This article relates only a simple example, but one that was put into practice in real-life conditions. There are other techniques that also rely on the use of transaction data, taking advantage of the “instant” nature specifically of Customs data. The participation of Customs officials in the national crisis unit is a key element of the governmental response: with their detailed knowledge of the actual data, Customs officials can make a useful contribution to the integration of foreign trade data into economic forecasting models, in particular when these models have to be rapidly reevaluated

before the statistical data are aggregated and consolidated.


There are still several questions outstanding, essentially about the support that should be given to economic operators. An initial question is how to help importers to make better use of the solutions offered by Customs when events arise in which the response time is crucial to cushioning the shock of the crisis. Mid-crisis is not the right time for operators to “learn” to use Customs facilities. A second question is how to provide better help to certain kinds of importers that are particularly vulnerable to changes in the economic environment, typically those that have built up long-distance trade, outside the region, but do not have major financial resources.

In this respect, Niger Customs has opened up a forum with the Chamber of Commerce to provide better information to importers and exporters and to obtain their opinions on how Customs could adapt its facilities to improve crisis response in future. The second action in progress, with the support of the World Bank and the WCO, is that Niger Customs is working on setting up a regional platform to share information on data analysis and, in particular, the use of data during the health crisis. It is at the very time when Customs specialists have the greatest need to meet and exchange views that the health crisis has made conventional regional meetings and workshops impossible. It is therefore important to have a platform in place so that specialists can discuss, in real time, the practices and techniques that are most capable of helping countries to respond to the crisis.

More information

dgdouanes.niger@gmail.com

Whereas many international political efforts are being expended to help low-income countries in the COVID19 crisis, it should not be forgotten that equivalent efforts are still necessary to promote trade between neighbouring countries. In Niger, the closure of the border with Nigeria had an adverse effect on revenue that was at least three times as great as that of the pandemic.



Seeing deeper into supply chains is key to overcoming disruptions such as COVID-19

By Ranna Rose, Head of Operations and Customer Success, Resilinc

Every year, procurement officers and supply chain professionals are confronted by a myriad of natural disasters, factory fires, corporate restructuring and other disruptive events that have slowed their supply chains or even brought them to a halt. But for many it took the COVID-19 pandemic, a black swan event of historic proportions, to open their eyes to the need for greater visibility into the deep sub-tiers of their supply chains.

Supplier disruptions continue to rise

With border closures occurring across many countries worldwide and increased restrictions in the United States due to rising coronavirus cases in the summer of 2020, the number of global supply chain disruptions has risen steadily throughout the year. By the start of the second quarter of 2020, more than 35,000 supplier disruptions were recorded globally and the numbers continued to climb. From February through April 2020, Resilinc data revealed an average of 400 new global supplier disruptions each month.

This disruption is especially evident in China, where 460,000 factories shut down in the first quarter of the year, according to one big data service company¹, and 4,800 Chinese companies issued force majeure notifications in early March. This

weighs heavily on the global supply chain since more than half of the world's manufacturing² emanates from Asian countries such as China, the Republic of Korea, Japan, Chinese Taipei, Singapore, Indonesia and India. The amount of trade with China alone is enormous – over 500 billion U.S. dollars.

According to a Resilinc global heat map presented in a webinar on 23 April 2020, the United States also experienced 19,000 supplier disruptions from January to April of this year. Very few countries have escaped the disruptive nature of COVID-19 and its impact on supply chains.

The need for greater visibility

Supply chain disruptions are not a new occurrence. Over the past decade, Resilinc's EventWatch service has alerted Fortune 500 companies across many industries of thousands of supply chain disruptions annually. Using artificial intelligence and machine learning, Resilinc monitors news, social media and government reports in 160 countries and across more than 100 languages to send immediate alerts about factory fires, power outages, floods and earthquakes, and human-made disruptions such as corporate restructuring, lawsuits or regulatory actions. Resilinc sent its first alerts about a pneumonia that would later

1 <https://thefinancialexpress.com.bd/world/asia/460000-chinese-companies-shut-down-in-q1-amid-covid-19-outbreak-1586948088>

2 <https://hbr.org/2020/03/coronavirus-is-proving-that-we-need-more-resilient-supply-chains>

be called COVID-19 occurring in Wuhan, China on 28 December 2019, and by 4 January 2020 Resilinc received its first supplier confirmation of a disruption. Resilinc notified its clients that same day so they could begin identifying their impacted suppliers and enact mitigation tactics.

As we now know, COVID-19 caused an unprecedented number of disruptions which impacted nearly every corner of the globe within a few months. In its wake, many companies were blindsided. They scrambled to identify their suppliers located in China, then Europe and eventually across the United States that were facing lockdowns and restrictions. Most companies reported the lack of visibility into their supply chain as their number one problem, which hindered their ability to take swift and decisive action. For many, it took several weeks to identify which suppliers were located in the affected regions. Procurement officials realized they had limited information about their suppliers' global operations and, most dramatically, learned they had little visibility into their suppliers' own suppliers. It took many companies over three months to react and get their mitigation efforts stabilized and moving forward.

While most industries were hampered, some surged ahead during this time, such as healthcare, life sciences and medical devices. This has presented increased challenges for Customs administrators in ensuring proper regulatory oversight and proper licensing in light of reports of counterfeit and substandard critical medical devices entering the supply chain, such as face masks, gowns and hand sanitizers. This is often the result of companies that do not qualify or evaluate their suppliers' own suppliers.

Beyond the COVID-19 infections, there were other reasons why suppliers became disrupted including their interdependence, the impact of the pandemic on workers and their children, continued trade wars, and suggestions of reshoring.

Suppliers are interdependent across the globe

Many companies began experiencing disruptions due to their interdependence on other suppliers across multiple countries. For example, when a factory in Malaysia that provides specific materials to factories in China shuts down, those factories in China have access to a limited amount of that material. This contributed to 1) a shortage in certain items and 2) an elevated level of allocation

or rationing of certain supplies. In many cases, the cost of goods for certain items increased as suppliers were forced to pay higher prices for specific materials in order to prevent delays in getting their products shipped to clients.

Factories stalled

While some workers returned to work around the globe after an initial first wave of coronavirus infections, the reality is that most factories are still operating at reduced capacity. Many factories are working under new COVID-19 compliance measures requiring further protections for employees which can slow productivity as compared to previous years. At the same time, schools continue to remain closed or behind schedule in some regions, preventing many parents from returning to work.

Tariffs

Although the United States/China trade disputes started before the onset of COVID-19, the disputes continue. It is unlikely that the United States will stop all imports from China, as it and many other countries are heavily reliant on Chinese manufacturers and suppliers. However, the United States could impose additional embargoes or tariffs which would further strain the global supply chain, especially as China is the epicentre of global manufacturing, including 66 billion U.S. dollars in trade between Hong Kong, China and China. To say this is an important region in the world for manufacturing is an understatement.

Reshoring

As a result of COVID-19, supply chains will experience significant shifts in the coming months and years. Many companies have publicly stated their intention to relocate or reshore their operations. This is a time-consuming and costly initiative which can take months or years and cost billions of dollars. Relocation can be a complex undertaking, especially for companies in the medical devices, life sciences, pharmaceutical and healthcare industries. These supply chain shifts can cause delays and further disruptions to the global supply chain.

Companies are learning to be better

Fortunately, companies are learning from these types of supply chain catastrophes. From the earthquake in Kobe, Japan, to hurricanes slamming into Puerto Rico, to the Great Recession, supply chain practitioners and Chief Procurement Officers (CPOs) are realizing the importance of having visibility into the second-, third- or fourth-tier

Procurement officials realized they had limited information about their suppliers' global operations and, most dramatically, learned they had little visibility into their suppliers' own suppliers.

suppliers in their supply chains. By analysing data extracted from continuous monitoring of world disruptions, supply chain experts can increase their visibility and get ahead of their competitors during major events. They need to know where their parts are made and who their suppliers and sub-tier suppliers are.

The value of mapping

While monitoring disruptions is the first step to managing risk in the supply chain, many buying organizations are realizing they only have the address of a supplier's corporate office and not where the products are made. By mapping suppliers and their parts by location and type, companies can identify the manufacturing sites and develop contingency plans based on the different types of disruptions that might threaten those locations. For example, if a devastating hurricane is headed towards a manufacturing location, such as when Hurricane Maria hit Puerto Rico in 2017, buyers and sellers can proactively identify which facilities and products may be at the greatest risk and start identifying alternate manufacturing or assembly sites should a disruption occur.

Since COVID-19, companies are moving quickly to increase their visibility into their global supply chain, knowing where suppliers are located, which items or materials originate from there, the identity, location and ranking qualifications of second- and third-tier suppliers, and which have the most critical failure points. In the digital age of machine learning and artificial intelligence, mapping suppliers is easier and more cost-effective than ever before. It is this type of data that is so important to mitigating a quick and organized response. A recent Gartner

study indicated that the number of companies looking to institute visibility and risk management into their capabilities over the next two to three years has soared from 21% to 66%. It is highly likely that companies that invest in this capability for their businesses will do so for the long term – a positive reaction to the devastation left in the wake of COVID-19.

Supporting suppliers' financial health

In light of the avalanche of supplier disruptions caused by COVID-19, companies should consider shoring up their suppliers' financial health to ensure they survive. In China, nearly half a million companies have gone out of business during the COVID-19 pandemic. This can be prevented by companies offering their suppliers loans, investments, upfront purchase of raw materials or placing future orders now. Lockheed Martin, for example, is one such company that furnished up to 50 million U.S. dollars in advances to small suppliers. In the end, helping suppliers survive through COVID-19 will pay dividends in the long run for the lenders, as they will enjoy preferential treatment during future allocations and shortages.

Navigating supply chain disruption using new data tools is similar to a pilot flying through the fog. Bad weather conditions require pilots to rely on their instrument panels to get them through safely; it is the data that guides them. The same is true for supply chain executives. Digital tools, such as artificial intelligence, machine learning and data are available – they just need to embrace them.

More information

<http://www.resilinc.com>

About the author

Ranna Rose is head of Operations and Customer Success at Resilinc, the world's leading supply chain monitoring, mapping and resiliency solution.



Training in the time of COVID-19: Ukraine's experience

The COVID-19 pandemic has transformed training delivery methods, with all training activities now being delivered exclusively through distance learning.

By Andrii Voitseshchuk, Acting Director, Department for Specialized Training and Canine Services, State Customs Service of Ukraine

Ukraine declared itself an independent country on 24 August 1991 and, shortly afterwards, established its own Customs Service. As it is the case for any new organization, the challenge was to find highly qualified specialists and focus was consequently placed on the training of newly recruited officers. A law was also adopted requiring Customs officers to improve their level of professional competence on a continuous basis.

The Department for Specialized Training and Canine Services (hereafter "the Department") was created to provide distance and face-to-face training using the latest tools and methodologies. It relies on experienced trainers to do so. Of the Department's 69 employees, six are Candidates of Science¹, one is a Doctor of Science², twelve are experienced Customs officers, ten are language specialists, eight are expert trainers certified by an international organization, one is a WCO Recognized Expert³, and three are accredited WCO Experts.

Training sessions focus on implementation of modern working techniques and WCO standards in the following areas: valuation, origin, classification, promotion and protection of IPR, revenue fraud, transit control, implementation of technology related to inspections, and combating illicit trade and smuggling.

The Department also selects and trains dogs and dog handler teams, manages the logistics and infrastructure of the Dog Training Centre (kennels, vehicles and training tools used), ensures participation by Ukrainian dog handler teams in special events, and cooperates with other agencies at international and national level to share knowledge and practices and well as to support enforcement operations.

The Department is also in charge of organizing activities under the flagship of the WCO as a WCO Regional Training Centre and a Regional Dog Training Centre.

Training needs

The schedule for training sessions is drawn up annually together with the Human Resources Management Department as part of the Annual Plan for Professional Competence Development. A number of methods are used to determine training needs:

- the results of the exit survey undertaken after each training activity are analysed. Among other things, participants must list areas of work where they need to enhance their knowledge;
- the Department's strategy is also examined, especially new priorities, objectives, and organizational changes;
- the various divisions of the State Customs Service are consulted.

A list of topics and draft curricula are then developed and submitted for approval. Participants in the planned training sessions are subsequently selected based on the needs they have expressed and their performance assessment. There is some flexibility in the process, and the list of planned training sessions may be adjusted during the year according to the prevailing circumstances.

Going fully digital

The COVID-19 pandemic has transformed training delivery methods, with all training activities now being delivered exclusively through distance learning. This change has been challenging for all educational institutions, given that it is not easy to design quality training using digital technologies. In addition, trainers have to work hard to inspire and

¹ A Candidate of Sciences degree normally requires at least three years of postgraduate study at a university-level higher education institution.

² A Doctor of Sciences degree can be earned after a period of further study following the awarding of a Candidate of Sciences degree.

³ A Recognized Expert (RE) may not have received formal WCO accreditation but should have proven experience and expertise in a particular field.



Online training has been used to train dog and handler teams. On the picture, trainers watch a video of a dog handler team conducting a search exercise.



Instructors deliver training through a web conferencing software.

motivate employees and solve technical problems encountered by participants.

The Department was able to adapt quickly to the current situation, due to the fact that it owns a distance learning platform, to the professionalism and energy of its team of trainers as well as to the experience it had already amassed in online training. After all, almost 80% of training was already being conducted through a blended form of online and face-to-face training, mixing both asynchronous courses (where designers create courses that participants can complete on their own with little or no help from an instructor) and synchronous courses (instructor-led training, requiring the instructor and students to be present at scheduled times, either in person or online, for

tuition, discussions, and activities). All the courses devised comprise practical exercises based on case materials developed by trainers, as considerable attention has been paid to practical components enabling participants to consolidate the knowledge gained during theoretical studies.

When the pandemic struck, the main task was to organize the educational process in such a way that the quality offered by new forms of training would be similar to, if not better than, traditional ones.

Today, asynchronous teaching is still being used in the same way: trainers provide trainees with links to video recordings of lectures and to various materials and the trainees complete the training on their own. As for synchronous teaching, it is now exclusively

delivered using a free web conferencing software system called BigBlueButton. The system allows for real-time sharing of presentations and screens between participants who can also collaborate and develop content through whiteboards, shared notes, drawing tools and polling.

This new online blended training has already been used in many fields, including training dog and handler teams to search for narcotics, weapons and ammunition, tobacco products, currency, amber and CITES goods.

The courses in this particular domain were split into three stages:

- Stage I - the participants worked individually using recorded theoretical courses and other instructional material, including tests.
- Stage II – the Department trainers delivered online courses covering topics such as regulations on narcotic drugs, psychotropic substances and precursors and enforcement procedures, joint use of scanning systems and canine teams to identify prohibited goods, and the composition of the veterinary service that looks after detector dogs. Dog handler teams then conducted practical search exercises involving various items and substances, based on scenarios occurring at different facilities and premises. This process was filmed and the video files sent to the Department.
- Stage III - the trainers corrected the tests, watched the video files and assessed the participants' performance based on predefined criteria.

Special focus has also been placed on training operators of small scanning systems. For the first time, the Department has delivered an online train-the-trainer course on X-ray image analysis using Simfox, an X-Ray simulator. Simfox uses real images and includes an on-screen replica of an X-ray machine's dashboard, offering the same image enhancements and zoom functions that machine operators will use during operations.

During the pandemic, the Department also continued promoting the WCO CLiK! e-learning

platform. Some 392 Ukrainian Customs officers have been using the platform since the beginning of 2020, in comparison with 106 the year before.

Video lectures have been developed on a range of new topics, including:

- adapting IPR national legislation to EU standards;
- storage of goods and vehicles under Customs control and temporary storage depots;
- human rights;
- conflict resolution skills;
- psychodiagnostic assessment of individuals predisposed to commit Customs offences;
- team management.

So far a total of 1,385 officers have been trained.

Challenges and lessons learned

According to feedback provided by participants after each online training course, 90% of them consider the educational process to be interesting, useful, informative, highly innovative and relevant to their daily work.

However, they have also highlighted some negative aspects often attributed to distance learning, such as difficulties in or limitations on interacting with the trainer and other participants. Trainers themselves have found difficult to convert workshops and lectures into online formats for topics such as cultural objects, protection of intellectual property rights, and the use of psychology to understand and predict behaviour.

Although distance learning is not a new phenomenon (indeed, correspondence courses have been around since the 1700s), the emergence of cooperative tools, the development of online pedagogy and the possibilities offered by technology to tailor learning to individual needs and explore how people learn are transforming the training process. The key task currently facing all training institutions is to harness new distance learning solutions and methodologies, and we encourage those who would like to find out more about our experience to get in touch and pay us a visit when conditions allow.

More information

ds.post@customs.gov.ua

<https://www.facebook.com/dspkz.dmsu>



How Peru boosted its modernization process during the crisis

By Marilú Llerena Aybar, Deputy National Superintendent of Customs

In Peru, the COVID-19 pandemic led to a contraction of the volume of exports and imports, which has negatively impacted tax revenues. However, the crisis did not stop the supply of goods deemed critical to deal with the pandemic, nor did it stop the imports and exports vital to supporting the country's economic activity. There was even an increase in exports of some non-traditional Peruvian products, such as fresh grapes, avocados, mangoes and ginger, among others, thanks to the efforts deployed to promote Peruvian products on international markets.

That Peru's Customs Administration (SUNAT) has been able to remain fully operational is due mainly to the progress made over the years in terms of digitalization and simplification. With the pandemic pushing all of us further into a digital world, the Administration now works to expedite and strengthen IT developments in cooperation with public agencies and private-sector

stakeholders, to consolidate itself as a digital Customs.

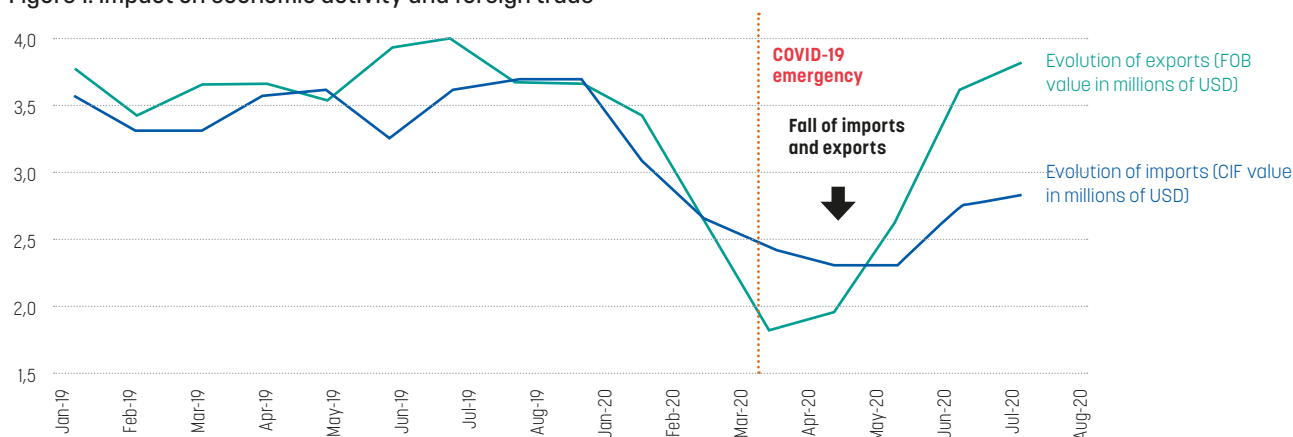
In this article, we present some of the operational and procedural changes we implemented to mitigate the impact of the crisis on economic operators, as well as the latest developments, and some future developments, that will bring us closer to the digitalization of all business processes, greater visibility of trade operations, and the development of interconnected systems capable of exchanging information.

Adjusting to a new reality

The measures aimed at supporting the continuity of foreign trade operations during the pandemic included:

- the suspension of deadlines related to the completion of Customs procedures, to preclude goods from being classed as legally abandoned,

Figure 1: Impact on economic activity and foreign trade



as well as the suspension of deadlines related to the execution of financial guarantees;

- the annulment of administrative infringements¹ and minor penalties, which reduced total infringements by 77%;
- the adjustment of 17 procedures, such as the dematerialization of all documents required in the suspensive, temporary, special and simplified regimes, which will eliminate a total of more than 1.2 million pages of paper per year;
- the establishment of a Virtual Reception Desk (VRD) to process business queries.

A legislative decree was also passed to facilitate the entry of donated goods, amending the requirements that have to be met by authorized public entities when receiving such goods from abroad. The Customs Administration provided 24/7 assistance in this domain, and proactively followed the cargo's journey from the electronic submission of the manifest (and even earlier in some cases) to the arrival of the goods. In total, this facilitated the rapid clearance of over 1,600 tonnes of cargo, enabling it to reach the most vulnerable populations promptly.

Communication

These measures had to be communicated rapidly and efficiently, and so additional telephone lines were set up to respond to clients. Social media platforms were also extensively employed to

announce new regulations and correspond directly with users.

The Administration also boosted its communication. Between June and July 2020 it organized three webinars which attracted 270,000 participants and more than 3,000 comments. A further 15 webinars were also held on specific topics such as VRD, pre-arrival clearance, Authorized Economic Operator (AEO), and the FAST Customs clearance system, attracting 2,200 people.

Videos were published on the Twitter account @SUNATOficial, which has over 670,000 followers. Last but not least, a Private Sector Consultative Group Whatsapp chat was created.

Recent and future developments

One of the challenges facing Peru's Customs Administration is completing the digitalization process. The idea is not only to use electronic documents, but also to implement simpler processes and strengthen information exchange with all foreign trade operators.

New export and import processes, eliminating all paper-based procedures, have been in use since 31 July and 31 August 2020 respectively (see figures 2 and 3). At import, the owner or consignee entrusting the Customs clearance of his/her goods to a Customs broker is able, among other things, to transmit the mandate electronically. In addition, the procedure to assign shipments to different control channels (red for physical inspection of goods, orange for documentation review and green for

¹ These include: incorrect declaration of the brand, value, model or condition of the goods, provided these errors do not lead to an increase in tax payments; failure to transmit the cargo manifest information within the established deadlines or errors in the goods description or identification of the owner; and failure to provide information or documentation in the manner and within the deadlines prescribed by the Customs Administration.

Figure 2: New digital import process

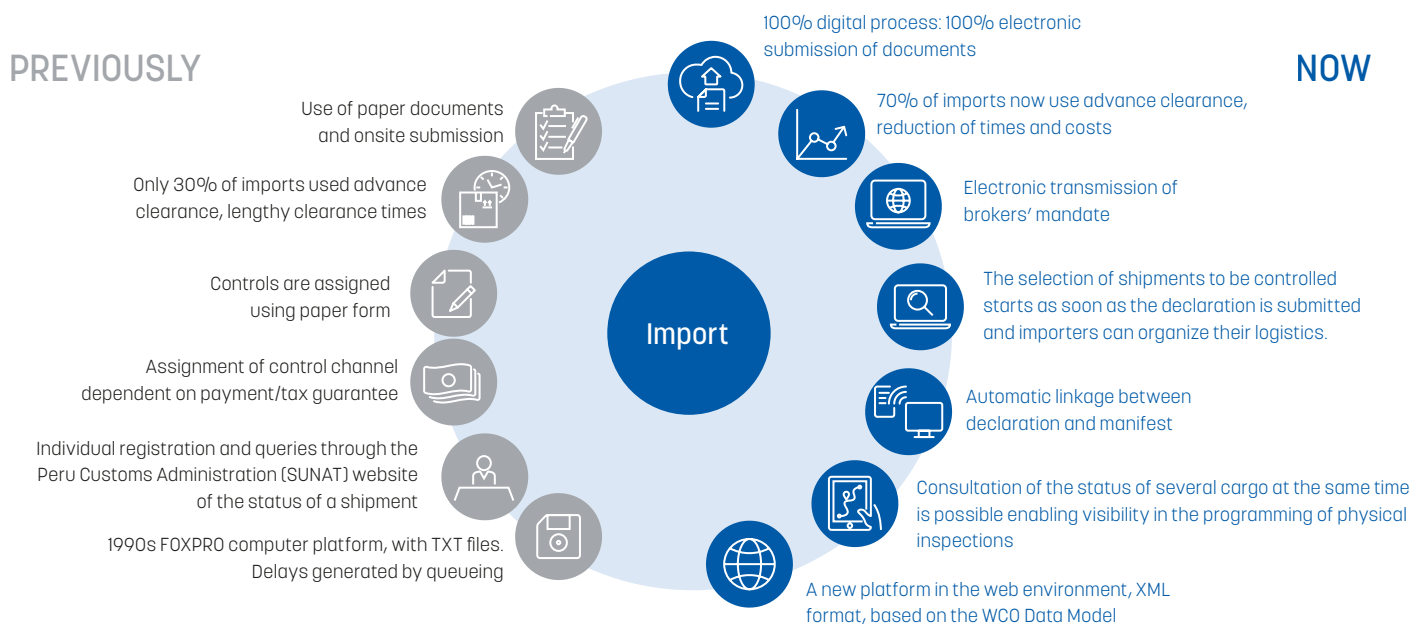


Figure 3: New digital export process



Figure 4: New express cargo shipment process



no controls), which was not previously triggered until the import taxes were guaranteed or paid, is now linked to the declaration submission process. A website for general enquiries has been developed, enabling temporary warehouse managers and Customs brokers to check the scheduling of physical inspections and release of goods under their charge. This reduces logistics times and costs related to cargo mobilization and withdrawal processes. Lastly, the Express Cargo Shipments process (see figure 4) will be launched in late November 2020 to enable electronic submission of cargo data, pre-arrival clearance, single submission of the manifest and declaration, and use of the global guarantee for payment of taxes.

At export, high-security electronic seals offer comprehensive cargo tracking. Direct shipment, from the exporter's premises to the port without the cargo being placed in temporary storage, is now possible. From now on, cargo can be transferred from a Primary Zone² to a Secondary Zone upon presentation of a QR code.

The Single Window of Foreign Trade (VUCE), an integrated system enabling the management of procedures required to allow entry, exit and transit of goods by electronic means, has also been enhanced to enable the system to interact with other IT systems. Beyond border clearance mechanisms and providing a more coordinated approach to incorporating trade processes, VUCE already enabled partner economies to exchange harmonized phytosanitary certificates

and certificates of origin with other Pacific Alliance members (Chile, Colombia and Mexico). Now the Single Window allows connectivity with the IT systems of many stakeholders, such as importers, exporters, government agencies and trade service providers, as well as with the Single Windows or similar systems of other countries.

Strengthening human capital

The Administration is investing not only in technology but also in people. The recruitment process, which was temporarily put on hold, has started up again. Knowledge, skills, psychological aptitude and integrity are assessed using online platforms and virtual interviews. Since the declaration of the state of emergency on 15 March 2020, some 86 new junior Customs officers have been hired, including 25 junior data scientists who will enhance Customs' data analysis and intelligence capacities.

The Administration is also encouraging experienced officers to follow the 24 online courses developed by its training centre. Over 2,000 officers (70% of Customs staff) have followed at least one course this year. Field officers forced to stay home during the pandemic, if they had an underlying medical condition increasing the risk of severe illness, have also been allowed to declare online training hours as working hours.

More information

milerenaa@sunat.gob.pe
cvillarruel@sunat.gob.pe

The Administration is investing not only in technology but also in people. The recruitment process, which was temporarily put on hold, has started up again.

2 A Primary Zone is an area under continuous Customs inspection and control, where goods awaiting Customs-approved treatment or which have already been assigned a Customs-approved treatment are stored under the duty suspension regime.

COVID 19: Saudi Customs' experience

By Adel Baraja, General Manager Marketing & Customer Experience

The Kingdom of Saudi Arabia was among the first countries to respond to the global COVID19 pandemic, adopting a series of measures designed to prevent the virus from spreading. Saudi Customs has followed the Government's lead by imposing strict internal and external precautionary measures while developing an action plan to ensure that work continues at all land, sea and air borders to facilitate the steady flow of imports and exports and make essential goods available to all consumers.

Safety First Strategy

At the end of February 2020, a "Safety First Strategy" was adopted. It consisted of three phases: Before, During and After. Throughout the "Before" phase, which lasted only a few days, preventive and precautionary measures were implemented in order to ensure the safety of Customs employees in all sea and land ports. Directly before the country started recording infections on 2 March 2020, the "During" phase began with employees instructed at all times to refrain from direct contact with travellers and to wear protective equipment while performing their duties. Detailed instructions on how to protect themselves and others against the virus were sent via email and text message. In the "After" phase, Saudi Customs initiated an action plan designed to reduce the number of employees present in the workplace at any given time. A minimum staffing level on the front line and in Customs offices, deemed sufficient to perform all tasks which could not be done satisfactorily remotely, was established in cooperation with the relevant government agencies. This approach also required some staff members to be physically present. The goal was to ensure that stringent sanitization protocols were implemented across all facilities and that personal protective equipment (PPE) was provided to all workers. Saudi Customs also ensured that none of its employees entered the workplace without first having their temperature taken.

Export restrictions

As a temporary measure, the Ministry of Health prohibited the export of all medical and laboratory products, medicines, supplies and equipment used in response to COVID-19. These included items



© Saudi Customs

such as protective clothing, medical equipment, full body medical coverall suits, protective glasses and face masks. To ensure transparency and traders' compliance, Saudi Customs published the new rules on its website at www.customs.gov.sa.

Delaying payment of duties

To mitigate the financial and economic impacts of the crisis on the private sector, the Saudi Customs Administration gave all importers a 30-day grace period for the payment of Customs duties. In addition, importers had the option of requesting that Customs postpone the payment of Customs duties for certain categories of goods, and only importers considered as representing a high risk were asked to submit a bank guarantee in order to be eligible under the measure. This initiative was warmly welcomed, benefiting a total of 272 companies as of July 2020.

Detector dogs

The National Dog Training Centre has achieved encouraging results with training detector dogs to identify traces of the COVID-19 virus on clothing. Jack Russell terriers were chosen for the job due to their intelligence, as well as the fact that they are small and can move easily among passengers. Saudi Customs has posted a video on its Twitter account¹ and YouTube platform, explaining how the dogs were trained. The dogs will be deployed shortly in the country's international airports.

More information

mediacenter@customs.gov.sa

1 <https://twitter.com/SaudiCustoms/status/1289969208680316929>

Customs e-learning for the private sector

Harmonized System ☒
Customs Valuation ☐
Rules of Origin ☒
Transfer Pricing ☐
Temporary Admission ☐
WCO Data Model ☐
Single Window ☐
SAFE and AEO ☒
Customs Transit ☐

about

WCO Academy, as private sector's point of access to the World Customs Organization's expertise, offers a wide range of Customs e-learning courses, real-time training via webinars and many other tools and features including Global Customs News and Forums

contact

<https://academy.wcoomd.org>
academy@wcoomd.org

how



Learners access courses, certificates and forums directly through their dashboard



Companies and Universities provide access to their staff and students respectively through customized, co-branded environments



Associations, training centers and others, cooperate with WCO Academy to distribute Customs knowledge to the private sector globally

available courses

Harmonized System courses

- HS - Industry & Construction
- HS - Chemicals
- HS - Agriculture & Agrifood
- HS - Textiles
- HS - Art & Jewelry

WCO Data Model courses

- Course 1 - Managers
- Course 2 - Practitioners

Customs Valuation courses

- Course 1 - Valuation concepts and transaction value
- Course 2 - Advanced valuation methods

Revised Kyoto Convention Courses

- General Annex
- Specific Annexes

Single Window courses

- Course 1 - Practitioners
- Course 2 - Managers

More courses

- Rules of Origin
- Transfer Pricing
- Temporary Admission
- WTO TFA
- SAFE & AEO
- Transit
- TIR System

We believe in the power of knowledge sharing.

We brought together a group of industry experts to
share ideas around COVID-19 and Customs.



Download our free white paper report
"Digitalisation of Trade and Revenue in Disaster Environments"
www.webbfontaine.com