



Voluntary Compliance Framework



World Customs Organization
Organisation Mondiale des Douanes

VOLUNTARY COMPLIANCE FRAMEWORK

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1. Background

At the 201st/202nd Sessions (4 to 8 November 2013) of the Permanent Technical Committee (PTC), the strategic importance of voluntary disclosure in a compliance strategy was discussed and the Members agreed to develop a tool which provides both general principles and guidelines, as well as an insight about voluntary disclosure. A delegate remarked that voluntary disclosure had to be seen in the context of a voluntary compliance framework.

At the 203rd/204th Sessions (March 2014) of the PTC, the first draft document regarding Customs Compliance Framework was provided by the WCO Secretariat and duly discussed. During this discussion, several members suggested adding more incentives for voluntary compliance and adding more practices about the voluntary disclosure, to the document. The PTC welcomed this document and decided to develop it. The Second draft document was presented at the 205th/206th Sessions (October 2014).

The WTO's Bali Ministerial Conference (5 to 7 December 2013) reached an agreement. The new WTO Trade Facilitation Agreement (TFA) comprises three sections: Section I, dealing with trade facilitation measures and obligations; Section II, focusing on flexibility arrangements for developing countries and least developed countries; and Section III dealing with Institutional arrangements and final provisions. This agreement highlights the importance of decreasing trade transaction costs.

Article 12 of the WTO TFA stresses the importance of ensuring that traders are aware of their compliance obligations, encouraging voluntary compliance to allow importers to self-correct without penalty, in appropriate circumstances and applying compliance measures to initiate stronger measures for non-compliant traders. The overall objective is to lower the frequency of non-compliance and consequently reduce the need for exchange of information in pursuit of enforcement. Article 6 of the WTO TFA has provisions for voluntary disclosure in relation to penalty disciplines.

- (WTO TFA Article 12: 1.1.) Members agree on the importance of ensuring that traders are aware of their compliance obligations, encouraging voluntary compliance to allow importers to self-correct without penalty in appropriate circumstances, and applying compliance measures to initiate stronger measures for non-compliant traders.
- (WTO TFA Article 6: 3.6.) When a person voluntarily discloses to a Member's Customs administration the circumstances of a breach of a Customs law, regulation, or procedural requirement prior to the discovery of the breach by the Customs administration, the Member is encouraged to, where appropriate, consider this fact as a potential mitigating factor when establishing a penalty for that person.

Considering these TFA provisions, the Voluntary Compliance Framework will be a useful tool for Customs administrations to implement the relevant provisions of the TFA.

Increasing automation of Customs processes leads to Customs administrations' reliance on good quality data to perform their tasks correctly. Revenue collection, risk management, security controls, admissibility checks, coordinated border management

decisions are based on the data received from traders. The compliance strategy will also support Customs administrations' efforts to improve data quality.

2. Voluntary Compliance Framework (VCF)

2.1. The objective and effect of the VCF

The VCF aims to improve the level of voluntary compliance of traders and create the conditions necessary to facilitate voluntary compliance as the most cost effective and efficient approach.

The VCF will help traders comply voluntarily and correctly with Customs law, regulations or requirements. This will also reduce Customs' burdens like inspection and efforts for improving data quality. As a result of this, all Customs procedures will be more effective, more efficient and more transparent. In addition, the VCF can increase revenue collection.

2.2. Clients Segmentation and Compliance Framework

Customs authorities should strive to continually monitor and assess how clients respond and comply with requirements, related to all Customs procedures. In the process of assessing the level of compliance, Customs authorities are in essence going to encounter two situations – either compliance or non-compliance. In relation to non-compliance, the instances of non-compliance will range from entirely innocent mistakes to blatant fraud or other intentional illegality.

For the framework to be effective, it should be tailored to different categories of clients. Therefore, the method of client segmentation has to be included in the framework.

Conceptually, Customs clients can be divided into four broad-based categories indicated below [(1) to (4)]. This segmentation is being used in "WCO Risk Management Compendium" and in some countries' Compliance Frameworks.

- (1) those who are voluntarily compliant;
- (2) those who try to be compliant but do not necessarily always succeed;
- (3) those who will avoid complying if possible; and
- (4) those who deliberately do not comply

[Diagram 1] Compliance Management Model

(WCO Risk Management Compendium, Volume 1, Page 6)

An effective risk-based compliance management strategy, acknowledges that the client categories outlined, require different responses.

Incentives and simplified procedures should be applied to those who are voluntarily compliant, assisted compliance to those who try to be compliant but do not necessarily always succeed, directed compliance to those who try to avoid following the letter of law, and enforced compliance to those who are deliberately non-compliant.

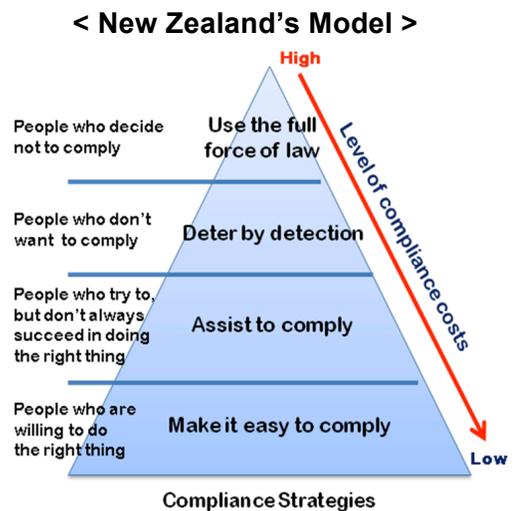
The key in relation to risk-based compliance management is to actively "steer" the client population towards the low-risk category. This can be achieved both by providing incentives to traders for their good compliance, and by operating a credible enforcement regime which effectively and efficiently detects and punishes non-compliance.

	← RISK LEVEL →			
	LOW			HIGH
Client Categories	Voluntary compliance People who want to comply	Assisted compliance People who try to comply, but don't always succeed	Directed compliance People who will avoid complying if they can	Enforced compliance People who deliberately do not comply
Client Behaviours	<ul style="list-style-type: none"> Voluntary compliance Informed clients 	<ul style="list-style-type: none"> Attempting to comply Uninformed clients 	<ul style="list-style-type: none"> Resistance to compliance Will avoid if possible 	<ul style="list-style-type: none"> Criminal intent Illegal activity
Customs' Competencies	Interventions			
Information High quality, timely, and accurate information about the arrival and departure of all persons, goods and craft	<ul style="list-style-type: none"> Advanced cargo/passenger/craft information (in and out). Monitoring of physical movement of all people, goods and craft across (in and out) the border 	Patterns of non-compliance by: <ul style="list-style-type: none"> Industry, product, location, ethnicity, destination or port of origin Type of non compliance (e.g., incorrect documentation) 	<ul style="list-style-type: none"> Profile of individual non-compliant traders/travellers Identification of specific compliance problem (e.g., bad systems, poor data entry etc) 	<ul style="list-style-type: none"> Profile and ongoing intelligence (on and offshore) about offenders/potential offenders and their associates
Assessment Assessment of the level of risk posed by arriving and departing people, goods and craft	<ul style="list-style-type: none"> FrontLine Pax/Goods staff intuition Intelligence profiles Statistically valid random checks 	<ul style="list-style-type: none"> Compile information on client behaviours Identify and monitor compliance trends/patterns 	<ul style="list-style-type: none"> Problem solving approach to specific compliance problems Investigation 	<ul style="list-style-type: none"> Assess risk and information needs in relation to seriousness of offence Investigation
Action Actions required to mitigate identified risk(s) without unduly disrupting legitimate trade and travel	<ul style="list-style-type: none"> Compliance programmes (e.g., FrontLine, Call Centre) Education and advice Visible deterrence Cargo and baggage screening 	<ul style="list-style-type: none"> Targeted compliance guidance Punitive sanctions Rolling audit programme Increased attention 	<ul style="list-style-type: none"> Deter by detection and surveillance Comprehensive audits Prosecution 	<ul style="list-style-type: none"> Pre and post clearance interventions Comprehensive audits Passenger/cargo searches Prosecution

← Direction that Customs wants to move travellers and traders →
 ← Increasing levels of intervention by Customs →

[Diagram 2] Best Practice of Compliance Framework

Canada presented its Compliance Model at the PTC meeting (4 to 8 November 2013.) and New Zealand presented its Compliance Framework at the WTO Trade Facilitation Symposium in July 2012. The two approaches are compared side by side below and both could be useful approaches for Customs Administrations to create a Voluntary Compliance Framework.

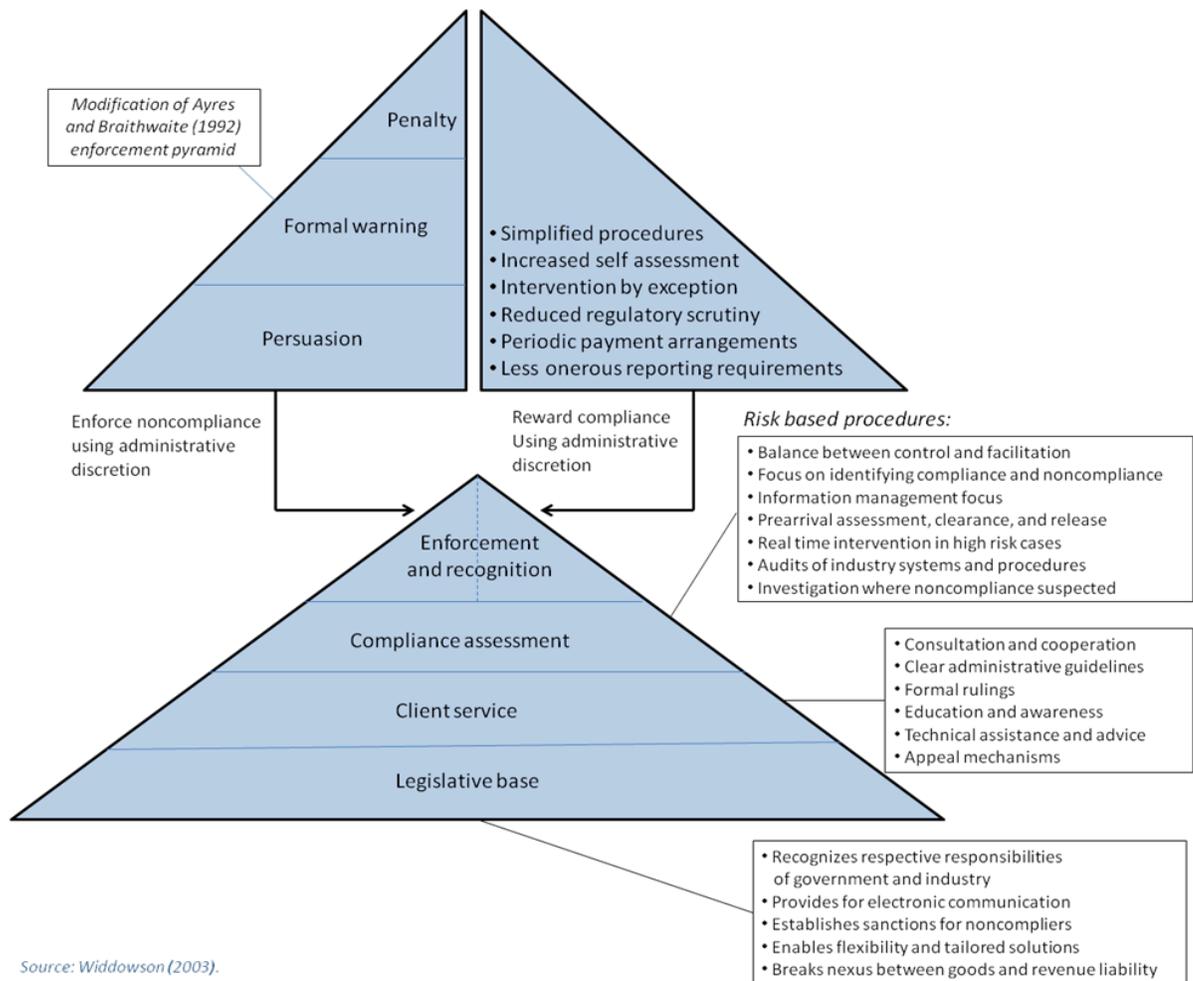


[Diagram 3] Risk based Compliance Management Pyramid
 (“Border Management Modernization” 107-109p, 2011 The World Bank,
 David Widdowson and Stephen Holloway)

The risk based compliance management pyramid, illustrates a structured approach to the management of compliance at the border. It provides a logical framework for demonstrating the way in which various types of risk based strategies, including non-enforcement strategies such as self assessment, can be used to effectively manage compliance.

The best practice in compliance management in the border context, or any other regulatory context, requires both carrots and sticks. The risk based compliance management pyramid is designed to address identified non-compliance and good compliance.

This approach is reflective of what is described as a compliance improvement approach, the principal focus of which is the achievement of future compliance and ensuring that an appropriate balance exists between incentives for compliance and sanctions for non-compliance.



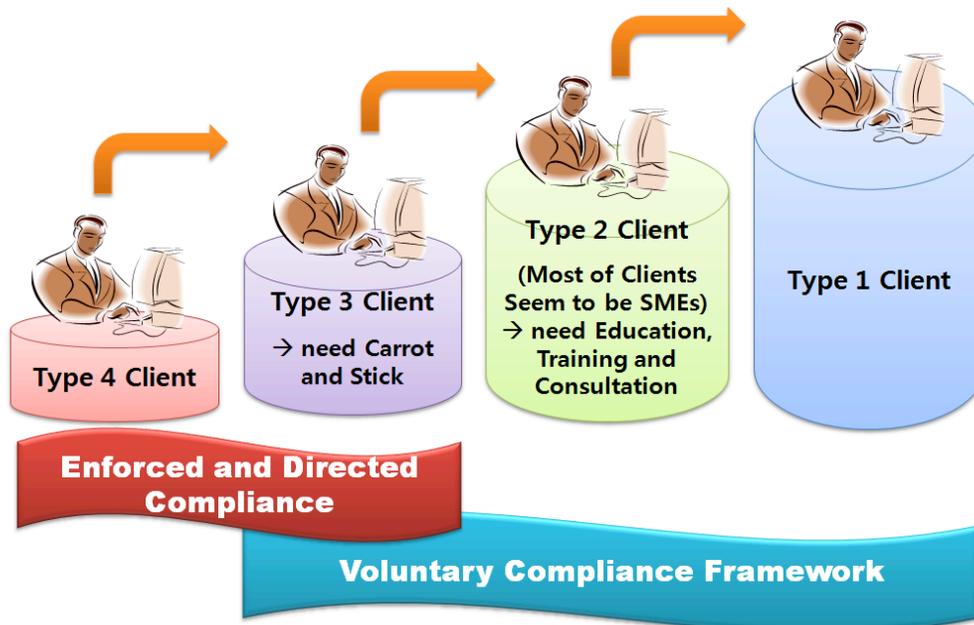
2.3. The clients whom the VCF focuses on

The VCF focuses on the clients of types 1 and 2. But it could be applied to type 3 clients as well, if they show the necessary improvement to be changed into the higher level clients like type 1 or 2 clients. Most of type 2 clients seem to be SMEs and lack professional manpower and experiences, in relation to border regulation of international trade. Therefore, strategies like education, training and consultation will be useful tools for this type of client. From a risk-management point of view, type 3 clients are in a grey area and a “carrot and stick” approach for compliance is needed.

High risk clients (type 3, 4 clients) should be continuously managed by enforced compliance. More precisely, for those clients that are intent on breaking or circumventing the law, some form of sanction will be needed to apply, such as administrative penalties or, in the more severe cases, criminal prosecution and fines or imprisonment.

Under the VCF, the strategy is to create a trend away from enforced compliance, towards informed compliance.

[Diagram 4] Client segmentation and strategy

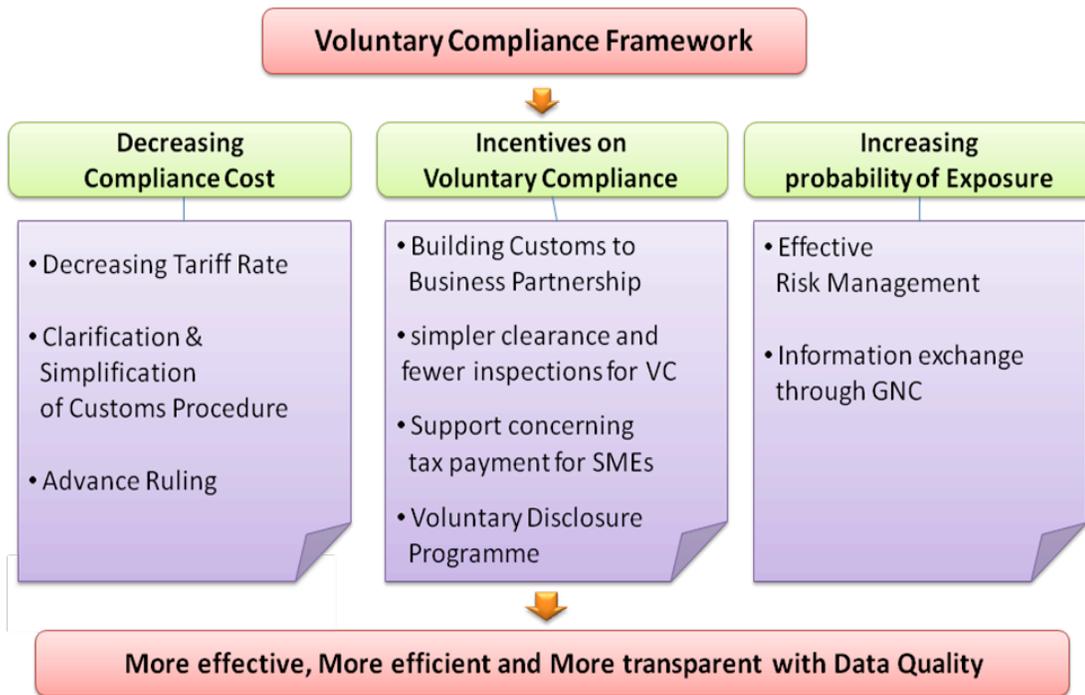


2.4. The structure of the VCF

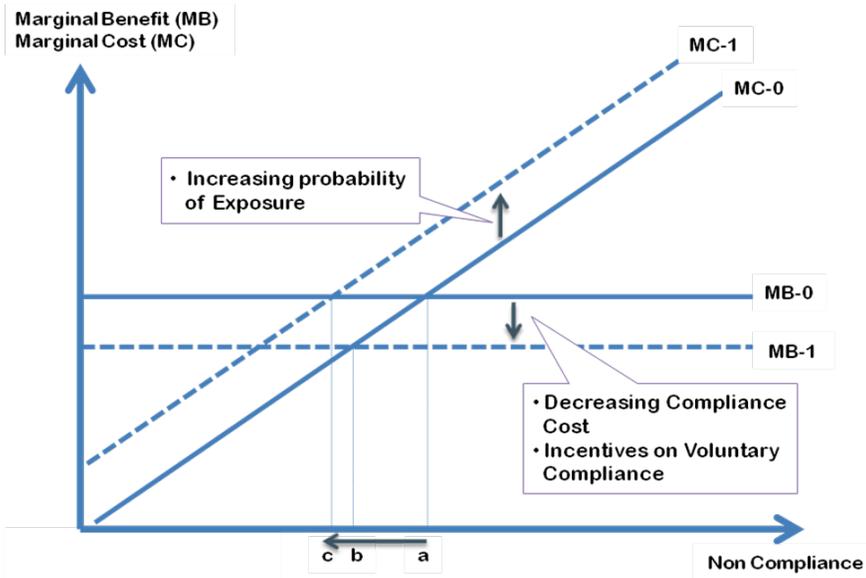
Voluntary compliance can be achieved through three broad ways.

- 1) Decreasing compliance cost;
- 2) Increasing incentives on compliance; and
- 3) Increasing probability of exposure

[Diagram 5] The structure of the VCF



[Diagram 6] The economic analysis of the VCF



Regardless of the level of non-compliance increasing, a marginal benefit of a trader will be kept constant, because the tax rate is fixed at every level of non-compliance. On the other hand, the marginal cost will be increased according to the level of non-compliance increasing, because higher levels of penalties will be applied to the higher levels of non-compliance.

Basically, a trader will make a decision to take <a> level of non-compliance where MC-0 line and MB-0 line meet each other. Decreasing compliance cost strategy or incentives on voluntary compliance strategy will move MB-0 line down to MB-1 line and it will change the trader's decision of the non-compliance level from <a> to . When it comes to "Increasing probability of exposure strategy", it will move MC-0 line up to MC-1 line. It will also make the trader's non compliance level change from <a> to <c>.

3. Decreasing compliance cost

Decreasing compliance cost can reduce the client's intention of non-compliance.

3.1. Decreasing tariff rate

Basically, low tariff rates can reduce intention of circumventing Customs requirements.

The Doha Round is the latest round of trade negotiations among the WTO membership. Its aim is to achieve major reform of the international trading system through the introduction of lower trade barriers and revised trade rules.

3.2. Clarification and Simplification of Customs procedure

Ambiguous regulations and complicated Customs procedures can create loopholes and lead traders to attempt tax evasion. In the event of significant non-compliance, Customs authorities should consider whether this was a result of unclear policies or programmes directives. In this event, Customs authorities should make an effort to clarify and simplify Customs procedures.

Raising traders' awareness and understanding of their obligations is very important for achieving Customs compliance. In this regard, making Customs procedure simpler through electronic procedures, simpler forms and fewer administrative formalities will prove to be good measures to improve compliance. On top of that, Customs administrations should constantly communicate with traders as well as provide relevant and detail information regarding their Customs obligations to help traders increase their understanding.

3.3. Advance rulings

Advance rulings are binding decisions by Customs, at the request of the person concerned, on specific aspects of goods, in particular the taxable value, classification and origin of the goods in preparation for importation or exportation. Advance rulings facilitate the declaration, and consequently ease the release and clearance process, i.e., the classification of the goods has already been determined in the advance ruling. In addition to clarification and simplification, advance rulings can reduce clients' compliance cost.

4. Incentives on voluntary compliance

In the VCF, customs authorities should offer some incentives such as providing relevant information, simpler and quicker Customs clearance, fewer Customs inspections, support concerning duty and tax payment for SMEs and voluntary disclosure programmes for voluntarily compliant traders. These incentives can facilitate their voluntary compliance and will help Customs authorities to concentrate their limited capacity on non-compliant clients.

4.1. Building a Customs-to-Business Partnership

Considering that the trade environment is changing very fast, the cooperation between Customs administration and private stakeholders is required more than ever. A good relationship between Customs and Business can build the trust required, to create the conditions for a successful voluntary compliance strategy.

The private sector plays a major role in border management.

In particular, private sector involvement can be beneficial through:

- **(Consultation)** Customs authorities can develop tools and mechanisms to consult with private sector stakeholders about reform needs and initiatives.
- **(Collaboration)** Customs authorities can be partner with the private sector to encourage compliance with trade controls and procedures, through collaborative arrangements which motivate clients to internalise border control objectives.

4.1.1. Publication and availability of information

When Customs authorities promptly publish a wide range of specific information, all traders will get a better understanding of the Customs requirements and procedures for clearing goods for import or export. This includes procedures, forms and documents; rates of duty and taxes; rules for the classification and valuation of goods for Customs purposes; rules of origin; transit restrictions and procedures; penalties; appeal procedures; trade agreements; and tariff quota administration arrangements.

4.1.2. Education, Training and Consultation

The compliance strategy should include an educational component designed to assist clients in complying. Examples of compliant and non-compliant behaviour could be explained to clients.

Education, training and consultation are very important measures in the area of building a Customs-to-Business Partnership to facilitate voluntary compliance. Many SMEs are short of professional manpower and experience related to Customs procedures, therefore education, training and consultation will be an effective and efficient strategy for many SMEs traders. In that regard providing Customs officers with education and training on compliance management (including such issues as client satisfaction, problem solving and public speaking) is essential to successfully conduct the role of education, training and consultation of traders.

For effective consultation, Customs authorities have to build an adequate communication mechanism with clients, including declaring agents or Customs brokers. When it comes to communication mechanism, Customs authorities can consider establishing a committee at local Customs level, where the private sector including traders, declaring agents or Customs brokers participate in, and they can also consider restructuring Customs to build up the functions of education, training and consultation in response to clients' request e.g. designating some officers as consultants for the SMEs traders.

4.1.3. Creating compliance friendly climate

The sociological aspects, behaviour among social groups and individual's own values and morals are also very important to influence compliance (e.g. opinion leaders, how the society looks at non-compliant behaviour, treatment by Customs administration).

The economy of esteem refers to incentives provided not by material rewards and deprivations, or rewards and punishments administered by the state, but by the attitudes that other people form in response to the actions of protagonists. Individuals seek honor and respect as well as money and power, and this reality can be taken into account in designing compliance framework.

From the sociological perspective, a Customs administration has to seek the way to create a compliance friendly climate. A Customs administration can consider several means as shown below:

- Using the mass media as marketing tools for facilitating compliance
- Cooperation with opinion leaders
- Creating the atmosphere to admire the voluntary compliant traders and criticize the non-compliant behaviour
- Work on a trustworthy Administration (being responsible, reliable, accurate)

4.2. Simpler clearance and fewer inspections

We need to segregate clients, in accordance with their previous behaviour related to compliance and to make it easy for voluntary compliant traders to comply with Customs requirements. Ways to facilitate voluntary compliance can be considered as shown below:

- First, we simplify Customs procedures for voluntary compliant clients. It could include e.g. simplified and quick Customs declarations, pre-arrival clearance and support in duty and tax payment.

When it comes to pre-arrival clearance, the process allows a trader to submit data to Customs authorities early during the transport of goods, for advance processing by the Customs authorities and immediate release of the goods once they arrive at the destination port. This release may take place prior to the arrival of the goods if such an action is deemed appropriate by the Customs authorities.

Regarding support of duty and tax payment, the Customs authorities can give voluntary compliant traders some incentives e.g. releasing goods with an unsecured line of credit before their payment.

- We can then ease and reduce inspection for voluntarily compliant clients. It will help Customs authorities concentrate their limited capacity on non-compliant clients.

4.3. Support in tax payment for SMEs

Many SMEs have difficulties paying duty and taxes. Therefore supporting programmes such as deferment of duty payment and payment in installments can help them pay duty and comply with Customs requirements.

When SMEs pay duty, they must also pay other taxes e.g. sales tax or value added tax related to Customs clearance. In this regard, the cooperation with other tax departments may be required.

4.4. Voluntary Disclosure Programmes

4.4.1. Definition and Effect

The Voluntary Disclosure Programmes (VDP) give clients a chance to correct inaccurate or incomplete information or to disclose information that clients have not reported during previous dealings with Customs authorities, without penalties in the appropriate circumstances.

The VDP can decrease the burden of Customs' inspections and increase the revenue from duty and other indirect taxes. In this regard, the VDP will be a very useful measure in the VCF.

A short-term boost of revenues from the settlement of previously undisclosed revenues (assuming it exceeds the costs of the programme) should not be at the expense of long-term compliance.

4.4.2. Key Elements of VDP

- **(Process for making voluntary disclosure)** The VDP should outline the process, the person to contact and the documentation required. The information pack could also include a contact point where answers regarding procedural questions could be given on a no-name basis. This information (a how to guide) could be made available e.g. on the Customs authorities' website, in a way made easy to find for both advisers and clients concerned.
- **(Future compliance activities)** Clients may have concerns that a disclosure will give rise to further investigation of their affairs, either as an immediate response to the disclosure or that it will affect their risk profile and thus, future compliance monitoring and audits. Where possible, these broad principles could be made public. Where information obtained from the disclosure is only made available to certain designated officials outside the assessment and audit function, further compliance activity is unlikely to be affected.
- **(Penalties and Interest)** The VDP should include the circumstances in which penalties and interest will be sought and the basis on which they are calculated. It should also detail the circumstances in which these will be mitigated or not imposed.
- **(Criminal Prosecution)** The VDP should set out the circumstances under which no criminal charges will be brought. This should also include both statements of principles and examples.

4.4.3. Basic Design for VDP

- **(Coverage)** The programme can cover not only Customs duty but also all regulations related to Customs procedures and other taxes administered by the tax department such as sales tax or value added tax. It does not affect the payment of duty and taxes. Its application is limited to penalty and interest charges resulting from infractions of the provisions, governing accounting and payment. In some countries, the VDP does not apply to penalties associated with legislation administered by Customs on behalf of other government departments and agencies.
- **(Basic Design)** The participants should not be under audit by the Customs authority or another government agency. Clients should initiate the disclosure voluntarily and not as a result of knowledge of current enforcement or verification activities.

Eligible clients who “come clean” and agree to comply with the programme must:

- ✓ report the information they did not previously disclose,
- ✓ enter an agreement to pay Customs duties and other taxes owed, and
- ✓ agree to pay them on time in the future.

In return, the Customs authority agrees to waive penalties and interest charges otherwise payable and waive prosecution of cases which were criminal offences.

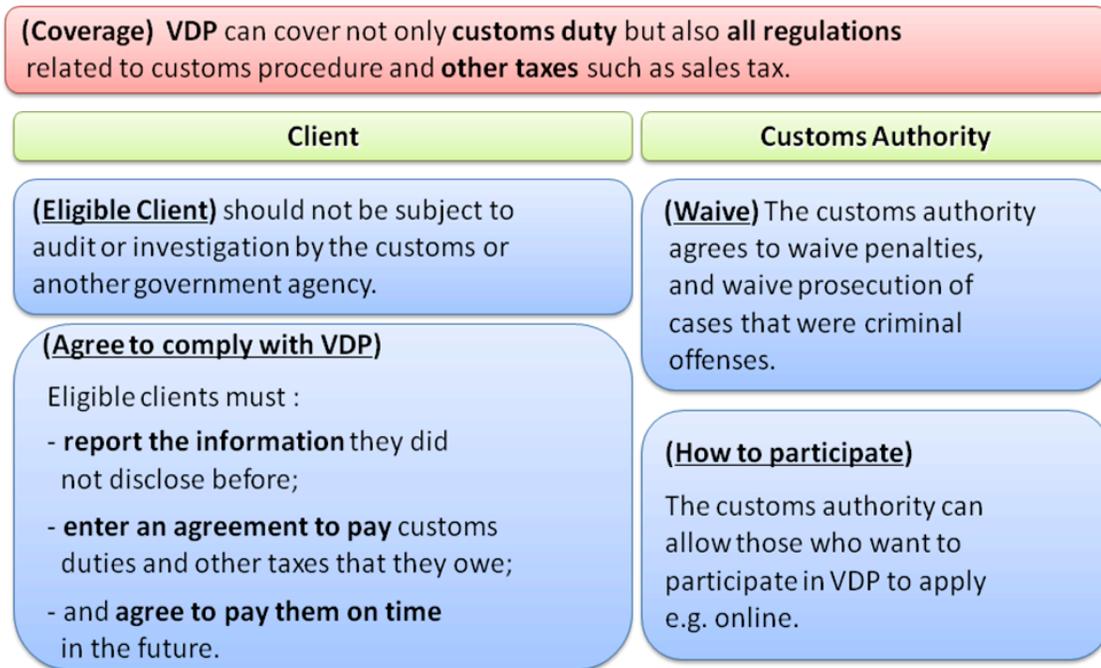
When it comes to the above enforcement or verification activities, these can include the following activities:

- ✓ ascertained forfeitures,
- ✓ audit and/or compliance verification,
- ✓ investigation,
- ✓ collection of overdue amounts,
- ✓ seizures, and
- ✓ any Customs verification activity for enforcement/compliance purposes.

- **(How to Participate)** Customs’ clients may request access to the VDP and may receive a certain relief from the punitive elements associated with non-compliance. To qualify, clients must come forward in “good faith” to voluntarily disclose past omissions and errors. In qualifying cases, clients will be required to pay the duty and taxes owed, plus interest charges. In these cases, the interest charge payable can be calculated at the lowest rate of interest as opposed to the higher specified rate.

The Customs authority can allow those who want to participate in the VDP to contact them by telephone, mail, email or online. Once the Customs authority receives the information, it will contact the client to arrange the most convenient method of continuing the disclosure process. All the participants have to do is provide information, fill out a voluntary disclosure agreement and return it to the Customs authority and pay duty and taxes, plus interest charges.

[Diagram 7] Basic Design of Voluntary Disclosure Programmes



4.4.4. Two types of VDP

The VDP can be designed in two broad ways. The first is a permanent programme and the second is a temporary programme.

- **(Permanent programmes)** This programme can allow clients to correct inaccurate or incomplete information or to disclose information within the proper period (for example, within 6 months after the term of payment, but some countries such as Singapore do not have a fixed period for making a voluntary disclosure) and give incentives such as no or reduced penalties to those who participate in this programme. For instance, the Republic of Korea has such a programme, where the clients who disclose within 6 months after the term of payment, can be exempted from penalties but have to pay interest charges for the period.
- **(Temporary programmes)** When a Customs administration establishes the VDP, they set a deadline for participating in the programme e.g. within 6 months after the term of payment. In this case, the traders who have already passed the time limit will not be able to take advantage from the VDP. The temporary programme can give them an additional chance to participate in the VDP as a one-off opportunity. Regarding this, the two types of VDP are compatible. The temporary programme should be presented as a one-off opportunity for traders not to delay their decision to participate in the programme, hoping that there will be a future opportunity.

5. Increasing the probability of exposure

Increasing the probability of exposure will make it difficult for traders to try not to report or underreport, due to an increased risk of discovery. Increasing this probability of exposure can be achieved by both effective risk management and information exchange between Customs authorities e.g. through “the Globally Networked Customs”.

5.1. Effective Risk Management

Customs administrations are increasingly adopting risk management techniques such as “the WCO Customs Risk Management Compendium”, to determine where the greatest areas of exposure to risk are and how to effectively allocate scarce resources to manage these risks. Effective risk management allows Customs to concentrate on real risks. As a result of this, it will increase the probability of exposure and deter clients from attempting tax evasion.

5.2. Information exchange between Customs

5.2.1. Information exchange between Customs

At bilateral, multilateral and plurilateral levels, Customs administrations continue to work toward arrangements and agreements that fully allow for sharing of information in the most effective way possible. Customs-to-Customs information sharing, including data obtained from commercial sources can help Customs authorities to expose the mis-reporting of clients. This is helpful in preventing clients from deceiving Customs authorities. At national level, sharing information between Customs administration and other government administrations or agencies will also play an important role in increasing the probability of exposure.

5.2.2. Information exchange between Customs and Tax administration

Many SMEs of different countries are often associated with each other, belonging to the same business. This condition could drive many small companies to an artificial reduction of customs value or the price in the domestic market. This phenomenon creates many difficulties in goods evaluation at the border and in transfer pricing assessment for Tax administration. One of the most visible solutions is telematics integration between Tax and Customs data collection.

Customs activity is based on the declared value, which is compared to the sum of the costs incurred in the production, transportation and sale of goods. On the other hand, Tax procedures are based on the value of the transaction, compared where possible, to similar transactions. In this sense, the arm’s length principle¹ requires the comparison of trade between associated companies and trade between companies not associated. In

¹ This valuation principle is commonly applied to commercial and financial transactions between related companies. It says that transactions should be valued as if they had been carried out between unrelated parties, each acting in his own best interest. (Article 9 of the OECD and UN Model Tax Conventions)

this field, the exchange of information between Tax and Customs administrations is vital to properly deal with multi-national phenomena that cannot be managed with simple national tools.

6. Data Quality

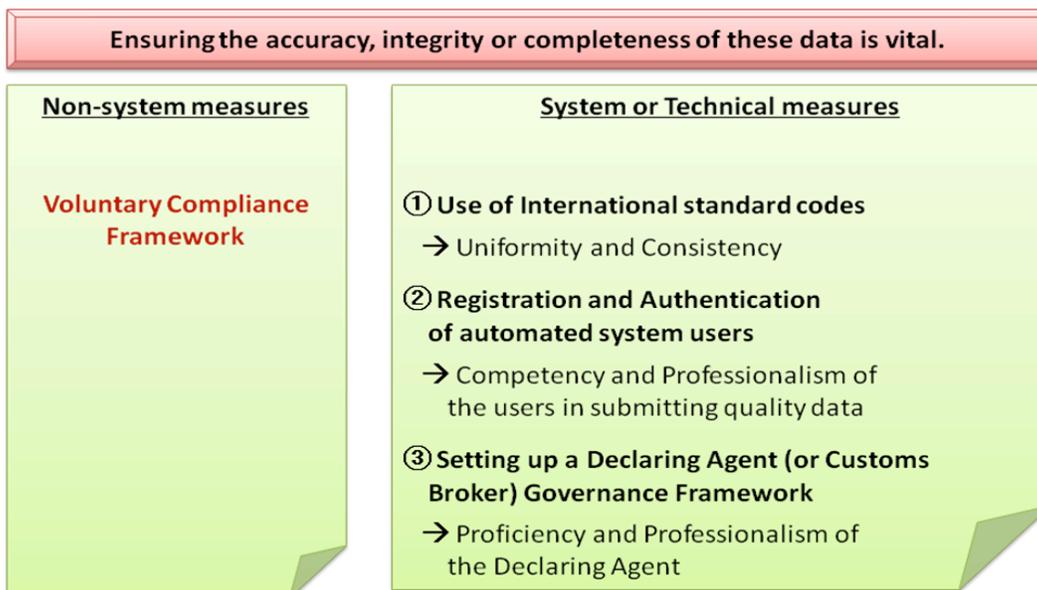
6.1. Background

Many Customs administrations have introduced automated systems to support cross-border procedures. Traders enter relevant information into these systems for further processing by Customs. These submitted data are further used downstream for many functions such as computation of Customs duties and other revenue collections, risk analysis, forecasting of trends, collation of statistics, analysis, compliance and enforcement checks, consignment targeting and pre-clearance, and other regulatory controls. Ensuring the accuracy, integrity or completeness of these data is vital, as it would expedite processing and clearance of legitimate trade. If the data submitted are not true and accurate, the re-using of these inaccurate data can lead to damaging consequences; the revenue computed and collected would be wrong, the risk of the consignment would not be properly analysed and potentially threatening the safety of the society, statistics on the country's trade would not be accurate and errant traders can get away with incorrect and fraudulent declarations on their consignments. The damaging effect is exponential when the inaccurate data are re-used internally or by other government agencies. Therefore, it is important in the setting up of an automated system to pay specific attention to ensuring data quality submitted, through the system.

6.2. Ensuring Data Quality

This can be achieved by introducing both non-system measures and system or technical measures. Non-system measures would hope to achieve integrity and accuracy on the data submitted. Technical measures and mechanisms would ensure correctness and compliance with the format of the data field.

[Diagram 8] Ensuring Data Quality



6.2.1. Non-system measures

The VCF can be useful tool, as a non-system measure for ensuring data quality.

6.2.2. System or Technical measures

Below are several recommendations on implementing technical measures to ensure data quality in automated Customs' systems:

1) Use of international standard codes

There are many international standard codes published and maintained by international bodies like UN, ISO, WTO and WCO. These standard codes aim to provide uniformity and consistency in the exchange of trade information between trading partners. Examples of such standard code are WCO Harmonized System Codes (HS Codes), ISO3166 Country Codes, ISO4217 Currency Codes and UN/LOCODE for locations like ports and airports. The use of these standard codes in the design of the single window system would ensure that the submitted information conformed to the format set out in these standard codes. Importers importing the same product would use the same HS code, thereby giving consistency in the import declarations. The HS code would also give certainty to traders, as they know the classification of their goods and the relevant duty and taxes accorded to that item. Traders can also declare correctly the origin of the goods by selecting the correct two-character Country Code from ISO3166, hence, eliminating potential data entry error, if traders are provided a free text field to enter the country's name.

2) Registration and Authentication of automated system users

All automated system users are to pre-register with the system owner, and each user should be authenticated when they are submitting information through the automated system.

The registration process would require an applicant to submit his personal details, working details and contact information. He must agree to the terms and conditions of using the automated system and all information submitted by him should be true and accurate, and he is to be made aware of the consequences and penalties for violating the terms and conditions. Upon completion, the applicant would be given a user- id and password to access the system. A user should be reminded that the user-id and password given, is confidential and for his use only, and under no circumstances allow others to use his user-id and password to gain access to the system and submit a declaration.

To further improve the security on usage of registered user-id, the system owner may consider having a secondary authentication process. One method is either all users may be issued with a token which generates a One-Time-Pin (OTP) each time they are logging into the system, or an OTP generated by the system may send to the registered mobile device of the registered user for authentication.

The registration and authentication process would ensure authorized users are the ones submitting data in the automated system and would be fully aware of the terms and conditions of using the system. This would prevent unauthorized users from trying to submit falsified or inaccurate information, knowing that they would not face the penalties for any incorrect declaration. In this way, the integrity and accuracy of the data is maintained.

The effectiveness and performance of an automated system relies on data declared by users of the system. Though technical measures may be put in place to ensure data accuracy and correctness, it will not prevent fraudulent declarations by users or human error from compromising the data quality. Therefore, in addition to implementing technical measures, there should be a governance framework to ensure the competency and professionalism of the users in submitting quality data.

3) Setting up a Declaring Agent / Customs Broker Governance Framework

One of the main users of an automated system is the Declaring agent or Customs broker (henceforth, Declaring Agent). The Declaring agent is the entity which acts as the intermediary between the Customs authority, other government authorities and the trading community, to facilitate the submission of trade declarations. They play an important role in ensuring accuracy and completeness of the trade data submitted, through the automated system. The governance framework seeks to raise the level of proficiency and professionalism of the Declaring agent by giving incentives to agents with good internal control procedures and compliance records. The Declaring agent is encouraged to improve its internal work process and keep up good compliance with Customs in order to enjoy a lower security requirement and a shorter renewal process. One area of improvement in their work process would be to screen their customer or potential customer, by ensuring they are not “fly-by-night” company looking to exploit the automated system. Another area of improvement would be to verify or validate the trade documents given by the customer for declaration, clarifying any unclear information on the documents and rejecting documents if they are ambiguous or fake.

The Declaring agent shall be assessed based on a set of criteria and categorized into different bands based on their results. The lower band would enjoy lesser facilitation, compared to the higher band. For instance, the renewal period for the lower band is one year, whilst the higher band is 3 or 5 years. The lower band would also need to lodge a security at full value, whereas the higher band agent may only need to lodge a security at a discounted value. In this way, the Declaring agent in the lower band would be encouraged to continue to improve and be promoted to the higher band, to enjoy more facilitation.

7. Conclusion

From a border agency perspective, deciding on the right mix of compliance assistance and enforcement strategies is one of the major challenges in a rapidly evolving trade environment. This is the reason why the VCF is considered as a management tool for Customs procedures.

Customs authorities should strive to continually monitor and assess how clients respond and comply with requirements related to all Customs procedures.

For the framework to be effective, it should be tailored to different categories of clients. In addition, the Customs authorities' actions at one level of compliance must work effectively with other levels. Otherwise, there is a risk of rendering the overall system dysfunctional.

- Firstly, the strategy for voluntarily compliant clients should be focused on maintaining and facilitating voluntary compliance. Decreasing compliance cost and offering incentives on voluntary compliance can be useful strategies for them.

- Secondly, the strategy for type 2 clients, who try to be compliant but do not necessarily always succeed, should be focused on assisting them to succeed in voluntary compliance. Decreasing compliance costs and increasing incentives on voluntary compliance can be also useful tools, for them.
- In the event of significant non-compliance, Customs authorities should consider whether this was a result of unclear programmes directives or clients' lack of understanding. If clients fail to comply with the requirements due to lack of understanding, providing education, training and consultation could be useful tools for them to achieve voluntary compliance.
- Most of type 2 clients seem to be SMEs and be short of professional manpower and experience, regarding Customs procedures. Therefore, providing education, training and consultation will be very useful and helpful for this type of clients.
- Finally, the strategy for type 3 clients, who will avoid complying if possible, should be focused on changing their mind towards compliance. Increasing the probability of exposure will be a useful strategy as well as decreasing compliance costs and giving incentives on voluntary compliance. This type of client may have some specific reasons to avoid compliance. Customs authorities must find the specific reasons and create tailor-made solutions regarding them. From a risk-management point of view, type 3 clients are in a grey area. Therefore, a “carrot and stick” approach is needed for compliance.

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Compliance Frameworks of Member Countries

[Canada]

1. Considerations for an Effective Compliance Framework

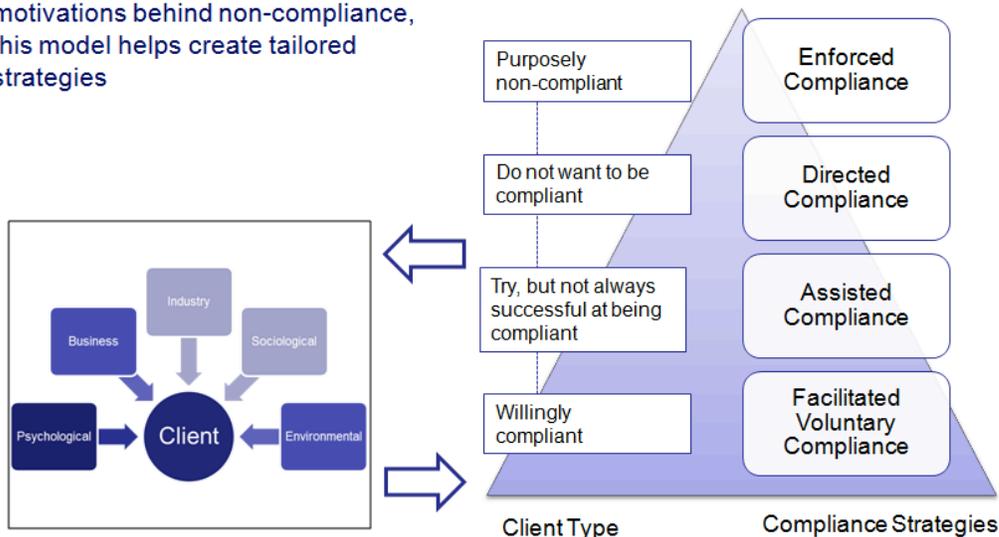
- An effective compliance framework strives to continually monitor and assess how clients respond and comply with our requirements – whether legislative requirements or the proper submission of electronic data
- The compliance framework ensures a consistent and fulsome approach to developing effective compliance strategies
- The framework establishes principles and a model upon which strategies are built
- It also provides step-by-step instructions for developing a compliance strategy

2. Compliance Framework Principles

- Through the compliance framework we ensure our compliance strategies:
 - Are flexible in an ever changing environment
 - Create the conditions necessary to facilitate voluntary compliance as the most cost effective and efficient approach
 - Differentiate responses based on client types
 - Build confidence in the fairness of our system
 - Verify compliance using a risk based approach

3. Compliance Model

- Appreciating that there are different motivations behind non-compliance, this model helps create tailored strategies



4. Essential Components in Compliance Strategy Development

1) Understand the current compliance picture

- Key questions to address in this phase are:
 - Who are the clients?
 - What are you asking them to comply with?
 - What factors are happening in the environment that may influence clients' compliance behaviour?
 - What is currently in place to encourage/support compliance?

2) Identify the compliance baseline

Steps	Activities
Conduct a risk assessment	<ul style="list-style-type: none"> – Determine the risks of non-compliance to your objectives – Prioritize areas of focus based on results
Develop appropriate metrics	<ul style="list-style-type: none"> – Establish metrics that you are able to collect sound statistics for, report on in a way that enables action, and that you can track changes in over time
Establish the baseline	<ul style="list-style-type: none"> – Capture the current state of compliance – Identify compliance gaps and establish improvement targets

3) Select the appropriate strategy

- After gaining an understanding of our clients and the current gaps in compliance
 - the next step is to determine the appropriate strategy
- Strategies should work to achieve the highest level of voluntary compliance (cheapest and most effective response) while addressing non-compliance

Client Type	Compliance Strategy	Response Examples
Willingly compliant	Facilitated Voluntary Compliance	Identify opportunities to streamline to make it easier and more cost effective to comply
Try, but not always successful	Assisted Compliance	Provide reactive or proactive client awareness and education
Do not want to comply	Directed Compliance	Conduct compliance verifications, examinations, audits, etc. Identify areas of potential risk
Purposely non-compliant	Enforced Compliance	Monetary penalties, criminal investigations, seizures, prosecutions, etc.

4) Engage stakeholders

- Stakeholder engagement should occur throughout the entire compliance process
- By including clients in the process they can:
 - Validate our understanding of the compliance environment
 - Assist in identifying ways to make voluntary compliance easier
- Being open and collaborative can also help to build trust and awareness in the process

5) Build capacity

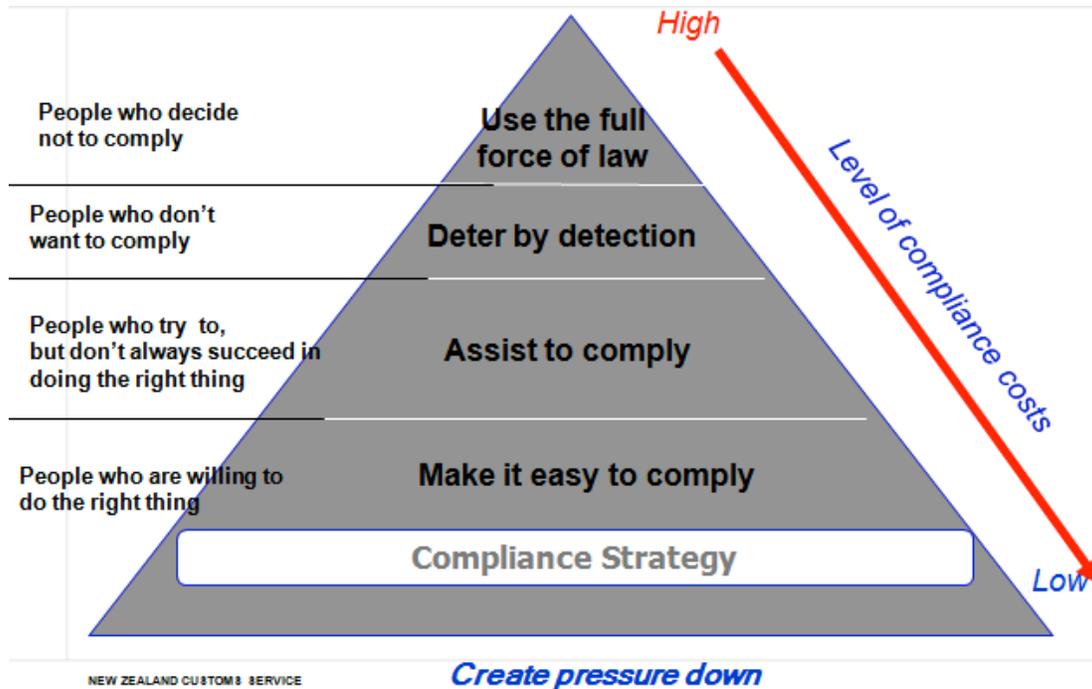
- Internal
 - Prioritize compliance strategies to effectively use limited resources to make the greatest possible impact on compliance
 - Ensure staff have the right skills and knowledge
 - Ensure policies, procedures, tools, and systems are in place to implement and monitor strategies
- External
 - Ensure systems and tools are in place to support clients
 - Ensure access to accurate and timely information on clients responsibilities

6) Monitor and report on compliance

- In order to ensure compliance strategies are effective in ensuring clients fulfill requirements, monitoring is required over time
- Monitoring and reporting enables us to:
 - Determine the effectiveness of a compliance strategy by tracking changes against improvement targets
 - Better understand the impacts of non-compliance on our outcomes/objectives
 - Take proactive steps to improve compliance and address new gaps
 - Establish and communicate our level of confidence in data (for data quality compliance)
- In addition, the analysis of compliance data can feed into:
 - Intelligence/risk assessments
 - Policy development and improvement
 - Strategic planning

[New Zealand]

1. Compliance Framework



2. New Zealand's approach to Risk Management

- **Standard Methodology:**
 - Single standard across Government;
 - Supports better decision making;
 - Flexible and adaptable;
 - Universal application; and
 - Allows for the control of impacts.
- **The Economic Benefits:**
 - Increased predictability and facilitation for business;
 - Reduced compliance costs;
 - Integrity of supply chain remains; and
 - Comprehensive risk assessment.

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Voluntary Disclosure Programmes of Member Countries

Canada	
link	http://www.cbsa-asfc.gc.ca/help-aide/vdp-pdv-eng.pdf http://www.cbsa-asfc.gc.ca/publications/dm-md/d11/d11-6-6-eng.pdf
<p>VOLUNTARY DISCLOSURES PROGRAM</p> <ul style="list-style-type: none"> • The Voluntary Disclosures Program promotes compliance with the accounting and payment provisions of the <i>Customs Act</i>, <i>Customs Tariff</i> and <i>Excise Tax Act</i> by encouraging clients to come forward and correct deficiencies in order to comply with their legal obligations. • Where the legislated 90-day time limit under section 32.2 of the Act has expired, importers who have not made the required corrections to their declarations of origin, tariff classification, and/or value for duty may request corrective measures under the Voluntary Disclosures Program. 	

Japan	
link	http://www.customs.go.jp/english/c-answer_e/imtsukan/1305_e.htm
<p>If any mistake is found in the amount of duty (tax declaration), including customs duty and excise tax, due to miscalculation or other factors, which is presented at the time of the customs declaration for imported goods, take the following correction procedures.</p> <p><u>Underpayment of Customs Duty</u></p> <p>It is necessary to file an amended return in this case.</p> <p>(a) Please file the form as soon as a mistake is found. If you make corrections after the customs inspection or after a correction for increase made by the customs office, additional tax for deficient declaration shall be levied besides the newly imposed tax.</p> <p>The amount of additional tax is 10% of the newly imposed tax. However, if the newly imposed tax exceeds the amount of the principle tax or JPY 500,000 (whichever larger), a special additional tax shall be collected at the rate of 15% of the excessive amount.</p> <p>(Note) When an importer files an amended return voluntarily after finding errors in the original declaration and before the customs inspection, the additional tax for deficient declaration is not imposed.</p> <p>(b) A newly imposed tax, which is adjusted in the amended return, shall be due on the day of filing. An overdue tax is also levied when paying the newly imposed tax. Please pay the relevant amount. The overdue tax accrues at a rate of 7.3% per annum for the period from the statutory due date (normally the day of import permit) to the date of actual payment.</p>	

(Note) For the time being, the rate of overdue tax is either 7.3% per annum or the aggregate rate of both “the rate notified in Article 93-2 of the Act on Special Measures Concerning Taxation +1%” and 1%, whichever lower.
(The rate of overdue tax in 2014 is 2.9%).

Moreover, these procedures can be conducted by a customs broker specializing in these procedures who is licensed by the director of customs office.

Singapore	
link	http://www.customs.gov.sg/leftNav/trad/Voluntary+Disclosure+Programme+(VDP).htm
<p>1. About the Programme</p> <ul style="list-style-type: none">• The Voluntary Disclosure Programme (VDP) is for individuals or companies to voluntarily come forward to disclose errors and omissions committed by them under laws and regulations administered and enforced by Singapore Customs.• The eligibility criteria for the VDP are as follows:<ul style="list-style-type: none">– Disclosure must be complete with all the relevant information pertaining to the errors and omissions; and– Disclosure must be made before notice or commencement of audit checks and investigations.• There is no fixed time period for making a voluntary disclosure. <p>2. Process for Making Voluntary Disclosure</p> <ul style="list-style-type: none">• You are required to lodge your VDP submission using the VDP form (DOC 464kb). The following supporting documents should be attached to your submission:<ul style="list-style-type: none">– Permit;– Invoice;– Packing list;– Bill of Lading or Air Waybill; and– Other documents as applicable• For voluntary disclosure relating to the following types of non-compliance, please also include the following listing:<ul style="list-style-type: none">– Non-compliance pertaining to strategic goods (DOC 40kb)– Non-compliance pertaining to rules of origin under Singapore’s free trade agreements (DOC 40kb)	

3. FAQs

Question	Answer
What is this programme about?	The Voluntary Disclosure Programme (VDP) is for individuals or companies to voluntarily come forward to disclose errors and omissions committed by them under laws and regulations administered and enforced by Singapore Customs.
Does that mean that I am granted amnesty?	No, the VDP is not an amnesty programme. It is a programme which encourages self-compliance. In return, Singapore Customs will consider the voluntary disclosure as a potential mitigating factor when deciding on the penalty to be imposed.
Who is eligible?	All traders or declaring agents are eligible for the VDP.
What kind of offences can I disclose?	All types of offences under laws administered and enforced by Singapore Customs can be disclosed under the VDP.
How far back can I disclose?	There is no fixed period for making a voluntary disclosure.
How much penalty would be imposed on me?	The penalty imposed depends on the circumstances of the case. The voluntary disclosure will be taken into consideration as a potential mitigating factor when determining the penalty quantum.
If I am currently under investigation by Singapore Customs, can I still disclose?	If investigations or audit checks have commenced or notice has been sent to inform trader of the investigation of the offences, then the offences will not be eligible for VDP.
Can I send in an anonymous disclosure?	VDP submission cannot be made on an anonymous basis.
Would Singapore Customs come and investigate me after I have disclosed?	Singapore Customs reserves the right to conduct further investigation.
How long would the processing take?	Processing time would vary depending on complexity of the case.

Switzerland

link

http://www.ezv.admin.ch/zollinfo_privat/04425/04427/04431/index.html?lang=en

1. Violations and voluntary disclosure

- When crossing the border, the so-called tax law principle of self-declaration is applicable. It stipulates that all people are obliged to spontaneously declare all goods that they are carrying with them when crossing the border, i.e. for example
 - Tobacco
 - Alcohol

- Animals and plants
- Foodstuffs involving excess quantities
- Repairs to vehicles or new tyres
- Household effects
- etc.

- If this is not done, or if the declaration is incorrect, this is deemed to be a punishable violation. Depending on the case, this may involve several laws, such as for example:

- Customs Act (customs duties)
- VAT Act
- Plant and Animal Protection Act
- etc.

- Violations can be pursued not only when detected, i.e. when crossing the border, but also subsequently. Whoever commits a violation can also be held liable by the Customs Investigation Section several years later.

2. Penalties

- In the majority of cases, the fines amount to a great deal more than the duties that would normally be due. In cases of gross negligence, the violation can be prosecuted with a so-called fine (daily rate).

3. Voluntary disclosure

- Whoever illegally imports goods into Switzerland can make a voluntary disclosure to the Customs Investigation section which is closest to their place of residence. Please contact your nearest [District Directorate of Customs](#) directly to obtain the address of the customs investigation office. If the violation merely concerns duties and if these are paid, penalties are generally waived.

United States	
link	http://www.cbp.gov/sites/default/files/documents/icp028r2_3.pdf
There is Prior Disclosure Program. As for details, please see the link.	

