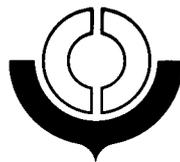# KYOTO CONVENTION

GENERAL ANNEX
GUIDELINES

Chapter 6

CUSTOMS CONTROL

WORLD CUSTOMS ORGANIZATION

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2.   Executive summary

The Guidelines on Customs Control for the Kyoto Convention contain a comprehensive overview of best practices and other issues which a modern Customs administration's control programme should address. The application of these Guidelines is highly recommended to achieve the simplification and effectiveness envisaged by the Kyoto Convention. The Guidelines contain the following principles :

1.   Customs administrations should shift from exclusive movement controls to more audit-based controls, e.g. from the introduction of simplified procedures to authorization for trader self-assessment. This will enable Customs to manage the growth in world trade, and the increasing demand to reduce resources, as well as the need for greater trade facilitation.

2.   Risk management is the key element in achieving this objective and should therefore be integral to the control programme of a modern Customs administration.

3.   Customs administrations should implement compliance or performance measurements in their control programme to keep the programme effective and efficient.

4.   Customs/Trade co-operation is essential. It creates awareness of changes in trade practices, provides important information for the evaluation and review mechanism within Customs and indicates the potential for greater voluntary compliance.

5.   A modern Customs control programme needs continuous support from senior management, staff who are sufficiently trained, motivated and paid, and good legislation, organization and procedures.

6.   Customs administrations should increasingly make use of mutual administrative assistance. This will help them to cope with the globalization of trade, markets and fraud, and form a basis for the "seamless flow of information" concept in international trade.

7.   Customs administrations should make extensive use of information technology and electronic commerce, particularly in their clearance procedures. This is critical for effective and efficient control as well as trade facilitation.

3.   Introduction

"Customs Control" is defined in the WCO Glossary of Customs terms as "Measures applied to ensure compliance with the laws and regulation which Customs are responsible for enforcing".

To ensure that Customs can appropriately apply these laws and regulations, all international movements have to be declared for a Customs-approved treatment or use.

Such laws and regulations apply to both the fiscal obligations involved in the international movement of goods and persons, and the prohibitions and restrictions applicable to goods, persons and means of transport.

Customs administrations have to apply efficient and effective controls by implementing risk management techniques, in order to simultaneously fulfil the responsibility to collect revenue, implement trade policy, safeguard the public, manage the increase in world trade and tourism, reduce Customs personnel, and offer trade facilitation to legitimate traders, travellers and carriers.

Regular review of these controls will keep Customs administrations up to date in meeting these combined objectives, despite the powerful challenges of rapid expansion in international commerce and continual shifts in trade and transport patterns and practices. Social pressures will dictate at least equally important changes and developments in control requirements. The assistance of legitimate trade in the risk management process is very important. Memoranda of Understanding with individual companies (as recommended in the WCO ACTION/DEFIS programme) can formalise this kind of Customs/Trade co-operation.

There are many ways of responding to these developments by improved facilitation and control within a set of modern Customs practices.

In order to facilitate legitimate international trade, Customs administrations are attaching increasing importance to export controls, adopting modern control and facilitation measures (e.g, risk management), and working more closely together on the basis of international standards and agreements. The introduction of innovative Authorized Economic Operator programmes (see Pillar 2 in the SAFE Framework of Standards) by many Customs administrations, and the mutual recognition of such programmes by other administrations, are perfect illustrations of this trend.

In this context, the electronic transmission of advance cargo information on exports helps Customs to make informed and timely decisions concerning their interventions, thereby constituting an essential component of these controls. Where data elements are concerned, Customs administrations are encouraged to use the WCO Data Model, SAFE Framework of Standard data sets as well as the UCR in order to facilitate the exchange of information and Customs co-operation.

One way of linking facilitation with control is by using a single competent agency to carry out a range of functions, such as phytosanitary or dangerous goods checks, which are currently performed by a range of different agencies, possibly at different locations. Customs, already present at all frontiers and with long experience of the operational requirements of international trade and transport, provide a logical, economical focus for such responsibilities (see General Annex, Transitional Standard 3.35).

The move towards electronic interchange of data will streamline the division of information previously condensed into one comprehensive declaration form. The information

can be more easily broken into two databases, one dealing with control data to be scrutinised before the goods arrive at the border, and the other composed of transactional data which would be reviewed in an audit-based control exercise.

Such simplified procedures enable Customs to provide facilitation to compliant traders while keeping a sufficient level of control.

Another way of improving control and facilitation is by the use of electronic techniques for shared operation of a control procedure by more than one Customs administration or other official agency. This is being exploited by electronic transit systems in certain economic groupings, for example the EC and NAFTA, and by data exchange, among Australian, New Zealand, Singapore and US Customs, to replace paper certificates covering, for instance, sheep meat inspection and Multifibre Arrangement quotas.

Another, probably even more significant development, is the growing interest in having bilateral or multilateral Customs agreements instead of separate export and import control functions. Such agreements would require only one submission of minimal standard data for all official control purposes.

Control of passengers and their clearance time through Customs can also be much improved by innovative procedures based on electronic advanced passenger information systems.

These Guidelines provide Customs administrations with detailed information on control methods, procedures and implementation. They are not obligatory, but since they represent current best practice for a modern Customs administration, their application is highly recommended. Control measures specific to a particular Customs procedure will be included in associated Guidelines.

4.   Definitions

To assist with the application of these Guidelines the following terms are defined :

Audit-based control : Measures by which Customs satisfy themselves as to the accuracy and authenticity of declarations through the examination of the relevant books, records, business systems and commercial data held by persons concerned (General Annex, Chapter 2, definition E3/F4).

Customs offence : Any breach or attempted breach of Customs law. (WCO Glossary of Customs Terms)

Document : Any physical or electronic medium designed to carry and actually carrying a record of data entries.

Mutual administrative assistance : Actions of a Customs administration on behalf of or in collaboration with another Customs administration for the proper application of Customs laws and for the prevention, investigation and repression of Customs offences (General Annex, Chapter 2, definition E21/F1).

Non Intrusive Inspections: Inspections with the use of electronic equipment to enable inspectors to identify the contents of transport devices without opening the transport device and without any physical contact with the contents.

Risk: The potential for non-compliance with Customs laws.

Risk analysis : Systematic use of available information to determine how often defined risks may occur and the magnitude of their likely consequences.

Risk areas: Those Customs procedures and categories of international traffic which present a risk.

Risk assessment : The systematic determination of risk management priorities by evaluating and comparing the level of risk against predetermined standards, target risk levels or other criteria.

Risk indicators: Specific criteria which, when taken together, serve as a practical tool to select and target movements for the potential for non-compliance with Customs law.

Risk management: The systematic application of management procedures and practices which provide Customs with the necessary information to address movements or consignments which present a risk.

Risk profile: A predetermined combination of risk indicators, based on information which has been gathered, analysed and categorised.

Systems-based control : Measures to ensure that a trader's system contains the checks and controls necessary for compliance with Customs laws.

5. Principle of Customs control

(Standards 3.31, 6.2 and 6.3)

The principle of Customs control is the proper application of Customs laws and compliance with other legal and regulatory requirements, with maximum facilitation of international trade and travel.

Customs controls should therefore be kept to the minimum necessary to meet the main objectives and should be carried out on a selective basis using risk management techniques to the greatest extent possible.

Application of the principle of Customs controls will allow Customs administrations to :

- focus on high-risk areas and therefore ensure more effective use of available resources,

- increase ability to detect offences and non-compliant traders and travellers,

- offer compliant traders and travellers greater facilitation and

- expedite trade and travel.

6.   Risk management in Customs

(Standards 6.3, 6.4 and 6.5)

For Customs administrations there is always an element of risk in facilitating the movement of goods and persons. The extent of controls to ensure compliance with the laws and regulations which the Customs are responsible for enforcing should be proportionate to the level of assessed risk.

Customs administrations today are required to provide extensive facilitation while maintaining control over the international movement of goods, means of transport and persons. The level of risk is determined in the context of the priorities of the Customs administrations e.g. whether the priority is collection of duties and taxes or checking prohibitions and restrictions or any other specific area that has been identified.

This section contains information on carrying out risk management, the basis for modern Customs control techniques.

6.1.   Risk Management - The basic control philosophy

Risk management is successfully applied in the private sector, where insurance, banking, trade and industry find that it creates opportunities to improve business results. The use of risk management can also help the public sector to determine where the greatest areas of exposure to risk exist, and can support management in deciding how to allocate limited resources effectively.

In managing risk a balance must be struck between costs and benefits, as clearly it will not be cost effective to address all risks equally. Criteria are needed to decide what constitutes an acceptable or unacceptable level of risk.

6.1.1. An overview

The risk management process comprises the establishment of the risk management context, risk identification, risk analysis, risk assessment, addressing the risks and monitoring and reviewing the process through compliance measurement.
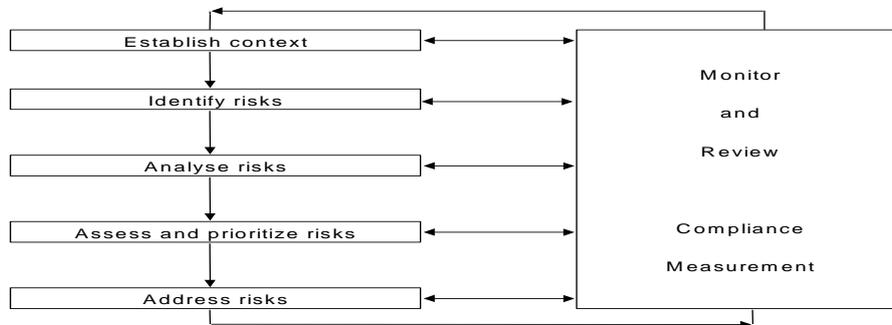
RISK MANAGEMENT OVERVIEW

6.1.2. The risk management process

(a) Establish the context

This step establishes the strategic and organizational context in which risk management will take place. Risk areas have to be identified and criteria against which risk will be assessed established and the structure of the analysis defined.

(b) Identify risks

Identify what, why and how risks can arise as the basis for further analysis. This step requires an in depth description of the current control process, to include :

participants/clients/stakeholders;

strengths and weaknesses;

where, when, how is the risk likely to be incurred and by whom;

what are the threats and their impact in case of circumvention;

why do opportunities arise for circumvention.

(c) Analyse risks

Determine controls and analyse risks in terms of likelihood and consequence. The analysis should consider :

how likely is an event to happen; and

what are the potential consequences and their magnitude.

Combine these elements to produce an estimated level of risk.

If the estimated levels are low, then risks may fall into an acceptable category and action may not be needed.

(d) Assess and prioritise risks

Compare estimated levels of risk against the pre-established criteria. Rank the risks to identify management priorities. There are different types of ranking systems. The assessment into HIGH, MEDIUM, and LOW is widespread. In complex environments a more detailed system may be needed, such as a range from 1 to 100. The latter also requires the determination of high and low risks but allows for more precision.

Risks must be continually monitored for any change in their nature, level or significance.

(e) Address risks

Accept and monitor low-priority risks. For other risks, develop and implement a specific management plan which includes consideration of resources (human, financial and technical).

(f) Monitor and review - Compliance measurement

Monitor and review the performance, effectiveness and efficiency of the risk management system and changes which might affect it.

(g) Documentation

There should be a risk register which gives the rationale behind selecting the risks, and records the assumptions on which assessments have been made, to establish an audit trail that ensures important information is not lost.

6.2. Risk management within Customs

6.2.1. The context

Risk management within Customs can be strategic, operational or tactical. It should be remembered that the risk management process can apply across all of these levels.

Strategic risk management - By studying comprehensive information, Customs administrations can identify areas of risk, sift out those of minor importance, and intervene only where experienced and practical judgement indicates it is necessary. Risk areas in the Customs context can include social issues (exclusion of drugs, pornography etc) , import/export prohibitions and restrictions (eg CITES), public health, environment, commercial policy measures (e.g. IPR, GSP), quotas, and duty and tax issues.

Operational risk management - is the determination of the level of control necessary to deal effectively with the assessed risk. An example of this is determining the audit controls applied to an importer or how to deploy limited staff and equipment effectively. Using this approach the Customs moves from being a "gatekeeper" checking every movement, to checking only selected movements which demonstrate the greatest risk.

 Tactical risk management - is used by officers at their workplace in dealing with immediate situations. Using set procedures combined with intelligence, experience and skill, they decide which movements require greater controls.

6.2.2. Selectivity, Profiling and Targeting

Selectivity, profiling and targeting are integral parts of risk management.

Selectivity criteria for dutiable goods include the history of the importer, exporter, carrier, agent, etc., the origin and routing of the goods, and prohibitions or restrictions. Further examples can be found in the WCO Manual on Risk Assessment, Profiling and Targeting as well as in the WCO Handbook on Container Control.

Risk indicators are specified selectivity criteria such as : specific commodity code, country of origin, country whence consigned, licensing indicator, value, trader, level of compliance, type of means of transport, purpose of the stay in the Customs territory, financial consequences, or financial situation of the trader/person.

Risk profiling is the means by which Customs puts risk management into practice. It replaces random examination of documents and goods with a planned and targeted working method, making maximum use of Customs resources. A risk profile is a document which can be set out in a number of ways but it should be comprehensive and relevant to the traffic throughput in a Customs office.

The risk profile should contain a description of the risk area, an assessment of the risk, the counter-measures to be taken, an action date, the results and an evaluation of the effectiveness of the action taken. A risk profile can be kept in a binder or on a local computer and it should be as accessible as possible to Customs officers.

Once established, the profiles along with other information and intelligence will provide a basis for targeting potentially high risk movements of consignments, means of transport, or travellers.

| RISK AREAS | SELECTIVITY CRITERIA

Choice of general information | RISK INDICATORS

specific details for the risk | RISK PROFILE
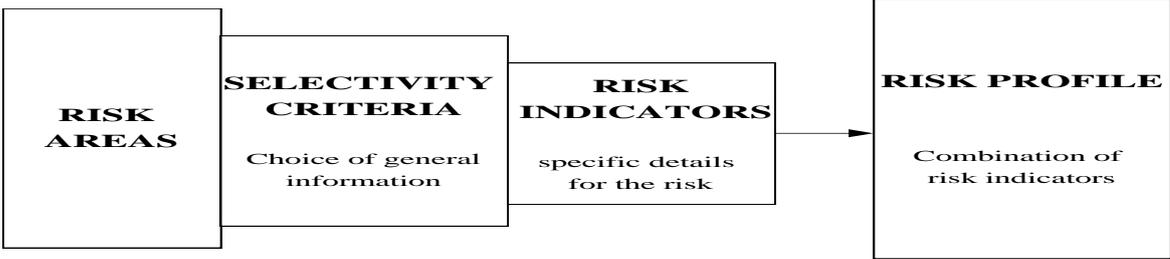
Combination of risk indicators |
|---|---|---|---|
| - Quota | - kind of goods | - textiles under quota | textiles under quota AND/OR |
| - GSP | - country of origin | - specific country of origin | specific country of origin AND/OR |
| - CITES | - transport route | - unusual transport route | unusual transport route AND/OR |
| - Trader | - principal | - specific principal | specific principal |
| - etc. | - etc. | - etc. | |

6.2.3. Evaluation and review

To remain effective any system of risk management has to test the assessment of previously identified risks and be flexible enough to reflect newly identified risks. Evaluation of the effectiveness of risk management should be undertaken regularly at all stages. The success rate is an important criterion for evaluating the effectiveness of the risk profiles.

Evaluation and review should be carried out by Customs through a regular compliance measurement process. It can also be carried out through external government audits by statutory audit authorities, such as the Comptroller or Auditor General. Although the scope and methodologies of these reviews differ, their objective is to identify weaknesses in the control programme and to make recommendations for improvement.

Risk indicators are emerging all the time. Customs should keep them up to date by accessing various information sources such as the WCO Enforcement Bulletin, international databases on trader information (e.g. Dun & Bradstreet, Lloyd's Shipping register), etc.

Risk profiles should be reviewed at regular intervals to ensure that they are always up to date, and to rid the system of information that is no longer relevant. It is important also to retain an element of surprise by carrying out random checks, because companies that are in regular contact with Customs will be aware of profiling methods or sometimes the profiles themselves. These random checks can also provide a cost effective means of identifying other types of risk and of monitoring or estimating their significance, or any changes in the risk pattern.

Review and evaluation within the risk management process should be incorporated into a regular review procedure to measure, assess and evaluate the effectiveness of the overall Customs control programme and should take into account the findings of external government audits.

Staff at all levels should be involved in these regular reviews. Feedback from staff is essential so that constant validation can take place and the necessary updating can be applied.

6.2.4. Compliance Measurement

(Standard 6.4)

Many Customs administrations have instituted a modern and philosophical approach to their mission which specifies that their ultimate goal is to achieve compliance. The measure of success is for their traders and for the imported and exported goods to be in full compliance with trade laws. Many Customs have also instituted a programme of "informed compliance" wherein their officers assist traders and industries to understand and apply the trade rules and to improve their internal company procedures to comply with import and export requirements.

"Compliance measurement" is a phrase used when statistically valid random sampling techniques are used to determine the degree to which traders, carriers, imported goods, etc conform to Customs rules and procedures. When designed in a systematic and appropriate manner, compliance measurement methodologies provide objective and statistically valid results. Compliance measurement can be used as a diagnostic tool to identify areas of non-compliance.

Compliance measurement as a diagnostic tool for Customs administrations should be used in conjunction with risk assessment, profiling and other targeting procedures. Used strategically, compliance measurement and targeting can provide the necessary balance to focus resources effectively in areas of concern to Customs. In addition, results of initial compliance measurements can provide important information to enhance the risk assessment methodologies.

The programme also provides a basis for Customs to assess its own performance for revenue protection and enforcement of laws, to improve its efficiency and effectiveness and to develop strategies to improve compliance.

6.2.4.1.   Compliance Measurement Areas

Using the risk management programme, Customs should identify the priority areas to focus their resources. One approach is to consider that in some countries or economic unions, as much as 10% of the traders account for over 80% of the imports and exports. By focusing on the top 5-10% of these highest volume manufacturers, importers, exporters and commodities, Customs can ensure that those which have the most significant impact on the national economy are being reviewed most effectively.

The areas may include :

Documentary issues :

Proper tariff classification by traders,

Proper valuation by traders,

Country of origin.

Procedural issues :

Importation and exportation (from the goods declaration through revenue collection),

Transit operations,

Warehousing, Free Trade Zones, Processing.

Revenue issues :

Timely and accurate revenue payments,

Proper posting of securities.

Transport issues :

Accurate reporting of the quantity of goods,

Accurate description of goods on the manifest and/or transport document,

Accuracy of container quantities and identification numbers,

Transporter compliance.

Specific concerns :

Compliance by tariff number or range of tariff numbers,

Public health and safety issues,

Intellectual property rights and copyright issues,

Compliance with trade agreements,

Proper country of origin marking on goods,

High revenue commodities,

Selected traders.

6.2.4.2.   The Measurement Process

Customs gathers data from a variety of sources, both internal and external, and through both manual and automated means. With the data (import and export records), the tools (statistical analysis) and the methodology (systematic analysis of large traders or commodities), Customs can make reasonable, informed conclusions about the compliance rates of many entities. These rates can be determined for each step of a transaction process, e.g. for imports, from the manifest to the goods declaration to the collection of duty and taxes. The automated systems that Customs uses to evaluate high risk shipments can support the compliance review requirements for a scientific approach to accurate data collection, analysis

and projections, although compliance rates can also be effectively measured without automation.

Customs should determine a designated universe of transactions and, using a statistically valid sampling methodology, select the specific transactions or entities from this universe for review or verification. Depending upon the results, the universe may be modified in many ways.

Customs must also determine the level of compliance which is acceptable. For example, a compliance rate of 95% of the transactions or entities reviewed in a given area may be the acceptable level for an administration. This can also be called the level of tolerance.

Some of the transaction processes for compliance verifications would be :

- Goods declaration compliance;

- Trader compliance;

- Transit compliance;

- Free zone or warehouse compliance;

- Manifest and transport document compliance;

- Transporter Compliance.

Below are a few factors that should be considered during a verification review for a selected example of these processes.

Goods Declaration Compliance

a) Is there evidence of documentation to support an accurate goods declaration?

b) Do the quantities declared match what is contained in the consignment?

c) Does the declared country of origin match the country of origin marking on the goods?

d) Does the declared description of the goods match the actual goods?

Thus, a typical Compliance Measurement review relating to Intellectual Property Rights for a selected commodity, at a tolerance level of 95%, might progress as follows :

a) Conduct a statistically valid random sampling of goods declarations for the selected HS number.

b) If the resulting compliance rate is less than 95%, conduct another measurement of the same HS number but stratified by selected countries of origin.

c) For countries of origin found to have a compliance rate of less than 95 %, conduct a measurement for each of the major importers.

d) For importers found to have a compliance rate of less than 95 %, Customs should seek to :

 - Inform the importer ("informed compliance"),

- Establish profiles/targets for the identified areas of non-compliance,

- Conduct subsequent measurements to ensure that the importer has corrected the problem,

- Conduct more reviews and/or examinations, and

- Issues fines or penalties, if appropriate, in cases of continued non-compliance.

6.2.4.3.   Use of Compliance Measurement Results within the Control Programme

As stated earlier, compliance measurement is part of an effective Customs control programme. The use of statistically valid compliance measurement procedures can be used in various ways :

- Define any revenue gap

- Prevent widespread commercial fraud

- Assess performance by major key industries

- Assess performance by major importers and exporters

- Increase commercial compliance

- Accurately measure international trade

The results of these measurements can help direct resources effectively. In determining compliance rates for individual importers, those found to have high compliance rates may have their goods examined less frequently, while those having low compliance rates might have their goods examined more frequently.

The findings of compliance reviews for commodities, traders and industries provide information to update the existing selectivity criteria used to target high-risk transactions as well as the overall effectiveness of an administration's risk management programme. In addition, they contribute significantly toward determining trends and issues relating to specific industry sectors. The result should be that focused, up-to-the-minute analytical information is available to assist Customs officers in their daily activities.

6.2.5. Use of information technology for effective implementation of Risk Management

(Transitional Standard 6.9 and Chapter 7)

The use of information technology is an effective tool for risk management. It enables a more rapid analysis of selectivity criteria than would be possible manually. Automation allows Customs administrations to establish a national database of information on all transactions and movements which can be updated and used for rapid information sharing and identification of changing risk areas. It can also provide a database of all risk profiles which would form the basis for a selectivity module within an automated clearance system.

An automated system allows Customs administrations to subject declarations to a series of selectivity filters to determine which declarations may require further examination. Such a system may direct claims to different routes.

Detailed information on application of information technology in risk management is available in the "Guidelines on Information Technology".

6.2.6. Joint targeting and screening programmes

Joint control and targeting are activities that can be carried out by cooperating Customs administrations to increase their effectiveness in ensuring the security of shipments and in combating transnational crime. Rules and conditions for such joint efforts are normally established between Customs administrations. WCO tools such as the mutual administrative assistance instruments or the SAFE Framework of Standards contain provisions that support such international co-operation, providing in particular for the exchange of information between Customs administrations.

In that context, Customs control and risk assessment for security purposes is a shared process commencing at the time when goods are being prepared for export and, through ongoing verification of consignment integrity, avoiding unnecessary duplication of controls. To enable such mutual recognition of controls, Customs should also agree on a consistent approach to control and risk management as well as the exchange of Customs data and intelligence. Such agreements may also foresee the possibility of joint monitoring or quality control procedures to oversee compliance.

7. Control methods

This section contains descriptions of the basic types of control methods. They can be applied to any size of trader from the small irregular importer and exporter to the multi-national business. They can also be applied irrespective of the value of the duties and taxes in question. The application of risk management will enable Customs to shift from exclusive movement controls to more audit-based controls. National legislation may provide that, when performing one of the following control measures, Customs administrations are entitled to every assistance by the persons/companies involved.

7.1. Movement controls

These controls are measures applicable to goods and means of transport before or upon arrival, departure or during a Customs procedure, until they are released. Commercial means of transport which stop only for a short time in the Customs territory without discharging or taking on passengers or cargo, are not normally subject to measures other than general supervision.

The selection of goods, means of transport, or documents for examination, should be based on risk profiles to target specific transactions (see Section 6.2.2). Such selectively based procedures should also permit a random selection based on statistical sampling or an officer's input based on experience or intuition. A transaction can be targeted on the basis of any of a number of risk profiles. Examples of risk profiles are contained in Section 6.2.2.

If a potential Customs offence is discovered during the movement control, there must be communication and co-ordination with the appropriate enforcement unit to start a formal investigation.

7.1.1. Documentary examination

The information gained from the examination of documents enables verification for compliance purposes and matching against risk profiles. The submission of the documents prior to the arrival/departure of the goods and means of transport allows the pre-selection of the movement for examination. It enables Customs to decide about the release of the goods and means of transport before they actually arrive in the Customs territory. Information presented in the documents when compared to information available to Customs can assist in targeting for special attention.

7.1.1.1. Documents prior to the submission of the goods declaration

In many cases Customs will receive a cargo declaration listing cargo carried by a commercial means of transport arriving in a Customs territory. Such documents do not constitute goods declarations since they do not identify the Customs procedure to which the goods will be submitted - they are simply a notification of goods arriving in the Customs territory. Nonetheless Customs may wish to use them as the first point in the audit chain for control of the goods, to ensure that all goods so reported are subsequently accounted for by receipt of a goods declaration from the importer assigning them to a Customs procedure.

In most cases, such cargo declaration information may be sufficient to allow provisional release of the goods. This means that they may move from their place of arrival and unloading

to another approved location, such as the importer's premises, pending final release after all documents have been submitted and approved, and all duties and taxes paid.

7.1.1.2.   Checking the goods declaration and accompanying documentation

(Standards 3.16 and 3.31)

Review of the goods declaration and accompanying documentation is carried out in order to ensure compliance.

Checking the goods declaration is defined in the Kyoto Convention as the action taken by Customs to satisfy themselves that the goods declaration is properly made out, that the supporting documents required are attached and that they fulfil the conditions laid down as to their authenticity and validity. It is done to confirm that all the required information relating to the goods is given and is prima facie acceptable. Necessary details include the importer, description, quantity, valuation[1], classification, supplier, origin and any licensing requirements. The goods declaration may be either a form conforming to an official model laid down by Customs or, in the case of simplified procedures, the commercial invoice.

The supporting documents include the commercial invoice, certificates of origin, preferential certificates, licenses, special permits and transport documents. For certain commodities (e.g. Chapter 39 H.S.) specific documentation may be required.

7.1.1.3.   Other documents

The documents described in Section 7.1.1.2 above are directly linked to the goods declaration. Other documents which may be readily available could provide valuable information for the risk management process; for instance those linked to means of transport, such as container packing lists, or documents related to the trade transaction, like orders, contracts or conditions of payment. Review of these other documents could clarify questions arising from the normal documentary examination.

7.1.1.4.   Simplified Procedures

Simplified procedures may be granted to economic operators. These procedures include lodging an incomplete declaration either on a commercial or administrative document, or a goods declaration containing minimal information and accompanied only by those documents which are indispensable for Customs clearance. Goods may go directly to or from the premises of economic operators, provided that they are entered into the records of the company. In all these procedures, a supplementary declaration must be lodged, which may be of a general, periodic or summary nature. Controls have to be applied when the simplified declaration is lodged or the arrival or departure of the goods takes place, to enable officers to decide if a physical inspection is necessary. Retrospective checks may also be conducted when the supplementary declaration is submitted to the Customs office.

7.1.2. Physical examination / Search

(Standards 3.33, 3.34, 3.36, 3.37 and 3.38)

The physical examination of goods and the search of commercial means of transport is undertaken to verify the nature and/or the relationship between the goods/means of transport and the documents presented. In addition Customs administrations may carry out checks to

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[1] For the purpose of Customs Valuation Control the WCO has produced a Handbook which might be of value to Members to obtain further and detailed information on this matter

ensure that commercial means of transport fulfil the technical conditions laid down by certain international agreements for the international transport of goods. Where exercised, such physical examinations or searches should be carried out as rapidly as possible.

If the document review indicates that the movement is satisfactory and no discernible risks are present a physical examination is not normally necessary. If the documents however indicate the need for a physical examination of the goods, the extent of this examination will depend on the type of goods and the suspected Customs offence.

There are two levels of physical examination. The first, summary examination, includes examining the outside of containers and of packages for marks and numbers compliance, checking the integrity of any seal, and verifying other details on the goods declaration, where possible without opening the containers or packages. A second, detailed examination, may also be carried out on occasion. This involves opening the container or packages and examining the goods themselves in order to verify their description on the goods declaration as to value, origin, classification and duty rate.

As indicated above, the level and nature of the physical examination of goods should be determined by the information available on the consignment, the Customs procedure under which the goods are declared, provisions in international agreements, and any special nature of the goods (e.g. perishable cargo, live animals, dangerous goods, jewels, antiques, works of art, etc.). Other factors which can influence the decision are urgency and location, as well as the resources available to conduct the examination. Regarding commercial means of transport, Customs should take into account the type of the means of transport and the purpose of the stay in the Customs territory.

If it is not possible during the physical examination to determine the tariff heading of the goods, samples could be drawn in order to expedite the release of the goods.

Non Intrusive Inspection (NII)

In order to increase efficiency in physical examinations, many administrations use modern technical equipment such as scanners or other specialized detection devices, so called non intrusive inspections techniques (NII). The use of this type of techniques must be effectively deployed, and must be based on selectivity and risk assessment and where appropriate based on random controls..

The adoption of technology for security enhancement in a container transport chain has become a necessity for enhancing container transport security. In many countries NII is recognised as an efficient method for inspection, which improves reliability and repeatability and can be performed relatively quickly without opening the transport device and reduces mechanical work and involved risks for the inspection staff.

This generally forms part of an alternative or additional package of measures taken with a view to enhancing physical control over a greater number of containers while minimizing disruption to legitimate trade. The introduction of such equipment does require a large capital outlay and the process of introducing it impacts on all control sectors and may entail changes to the organizational structure and Customs operational activities. Customs administrations which are already using this type of techniques emphasize that planning for its introduction at an early stage is essential.

NII in WCO instruments

In the WCO SAFE Framework of Standards to secure and facilitate global trade reference is made to NII, where Pillar 1 states:

To be effective and to ensure that the process does not slow down the movement of trade, Customs administrations should use modern technology to inspect high-risk shipments. This technology includes, but is not limited to, large-scale X-ray and gamma-ray machines and radiation detection devices. Maintaining cargo and container integrity by facilitating the use of modern technology is also a vital component of this pillar.

Standard 3 of pillar 1 links NII with the use of risk assessment and that NII is necessary to inspect high risk cargo quickly without disturbing legitimate trade.

Standard 8 of pillar 1 makes reference to the increase in the performance of the inspections with the use of NII.

To assist its Members, the WCO maintains a Data Bank on Advanced Technology and has produced detailed Guidelines on the purchase and operation of container scanning equipments in a Customs Compendium.

<u>Conventional scanning devices</u>

Different types of NII can be identified. Currently NII techniques consist primarily of X–Ray and Gamma–Ray by which can detect the usual inadmissible cargo such as narcotic substances (drug and precursors), weapons, explosives, cigarettes, currency and radioactive materials. Such scanning devices can be installed as a protected scanning tunnel in a building with a high density power of as a mobile device which allows for flexible use throughout a terminal. Separate package can be scanned by using smaller fixed scanning devices for example on airports. Passive radiation detectors are able to detect radiological materials when transport devices going through radiation portal monitors.

<u>Other NII methods</u>

The use of special trained dogs to identify certain commodities by their scent can also be considered as an NII although this is not performed by the use of electronic equipment. Today dogs are trained and able to identify a great number of substances, such as narcotics, tobacco, explosives, weapons and food.

A Portable handheld reader is a smaller electronic device able to identify a number of substances, such as chemicals. Handheld readers are also used to check quickly if concealed humans are hidden in containers and trailers, based on the level of nitrogen in the transport equipment.

They are for example also used for safety purposes to check for the presence of toxic substances before opening a containers (gassed containers).

A new development at airports is the use of millimetre wave scanners. This is a whole body imaging device for security screening. Many materials are translucent in some millimetre wave frequency bands. The millimetre wave is rotate around the body of a person. The wave energy reflected back from a body or other objects on the body is used to construct a three-dimensional image, which is displayed on a remote monitor for analysis. It shows not only metal object but also other material such as explosives (e.g. Semtex) and ceramics (e.g. knives).The use of these scanners is currently controversial in a number of countries as for the privacy concerns.

7.1.3. Identification of goods

To allow goods subject to certain Customs procedures, e.g. transit, transhipment, temporary admission, warehousing, inward processing, etc., to enter or move through the Customs territory without paying duties and taxes, specific measures are required to ensure their identification.

These measures may include affixing seals, stamps, perforations, identification marks, describing the goods, reference to samples, plans, sketches or photographs.

Any transport unit to which Customs wish to affix a seal directly, must be suitable for this purpose. The requirements for Customs seals are laid down in Standard 16 of Specific Annex E, Chapter 1 on Transit (an explanation of the use of seals as part of a seal integrity program may be found in Section 9).

Where the above is not feasible or sufficient due to specific exceptional reasons, transit procedures may prescribe an itinerary or allow transport of the goods under Customs escort. In the case of inward/outward processing it is possible to fix specific or standard rates of yield of the operation and to require specific documentation on the manufacturing.

In cases of temporary storage, warehouses or free zones, Customs may require the trader to identify the type of goods being stored as well as the location of the storage facility. It should be a supervised facility and where necessary secured by a double lock. Customs retains the right to take stock of the goods periodically.

7.1.4. Persons accompanying goods

Routine controls on persons arriving in a country are generally the responsibility of the Immigration service rather than Customs. Clearly, however, Customs' risk management will be enhanced by information on persons accompanying goods arriving in a Customs territory.

Customs may therefore seek information on eg travellers and road vehicle drivers, for assessment against risk profiles, with a view to determining the extent and rigour of control on their baggage or goods. This information could include the person's identity, journey details etc.

For checking travellers and their baggage arriving by air or sea, the control should be facilitated by the use of the dual-channel or red/green system. This system improves the flow of traffic without reducing the effectiveness of the control. Checks on travellers passing through the green channel should be carried out on a selective basis using risk management techniques. Travellers in the red channel have to fulfil all required formalities. Details of this system are contained in Specific Annex J, Chapter 1 on Travellers and the respective Guidelines.

Personal searches for Customs purposes should be carried out only in exceptional cases when the person is identified as a high risk or when there are reasonable grounds to suspect an offence. To preserve human dignity, physical searches should only be carried out by persons of the same gender as the person being searched, and medical examinations only by qualified physicians.

7.2. Audit-based controls

(Standard 6.6)

To manage the worldwide increase in trade and to provide traders with greater facilitation, Customs increasingly rely on audit based controls, using traders' commercial systems. These controls may vary from a simple post-clearance audit to trader self-assessment.

Audit-based controls do not preclude physical examination of the goods.

To ensure the reliability of the traders' commercial systems for these purposes, they must follow the generally accepted accounting principles (GAAP) within the country. These principles determine which economic resources and obligations should be recorded as assets and liabilities, which changes in assets and liabilities should be recorded, how the assets and liabilities and changes in them should be measured, what information should be disclosed and how it should be disclosed, and which financial statements should be prepared.

7.2.1. Post clearance audit

7.2.1.1. Introduction

Post-clearance audit focuses on persons involved in the international movement of goods. It is an effective tool for Customs control because it provides a clear and comprehensive picture of the transactions relevant to Customs as reflected in the books and records of international traders. At the same time it enables Customs administrations to offer the trader facilitation measures in the form of simplified procedures (e.g. periodic entry system).

7.2.1.2. Development of audit programmes

Customs administrations should identify post-clearance audit categories, e.g. importer/exporter, value, foreign trade zone, broker, and carrier manifest, and produce manuals to provide step-by-step guidance for carrying out audits.

7.2.1.3. Selection of persons/companies for audit

The selection of persons/companies for audit should be based on risk profiles (see Section 6.2.2). Audits should generally be conducted for compliance verification purposes in the areas of valuation [2], origin, tariff classification, duty relief/drawback/remission programmes, etc., but other areas should be targeted as necessary. Depending on the profile of the auditee and its business (e.g. type of business, goods, revenue involved, etc.) the audit may be conducted on a continuous, cyclical or occasional basis.

7.2.1.4. Annual audit planning

Audit planning should take place every year, taking into account the availability of the auditor or audit team, in relation to work in progress and the start of new audits. Each audit area could be assigned standard hours of completion and each available auditor or audit team hour could be calculated in order to determine how many audits can be performed by each auditor or audit team in a given year. Alternatively, each stage of the audit activity could be broken down into time blocks in order to measure productivity against time spent. Both methods allow Customs to allocate resources effectively.

7.2.1.5. Audit process

Post-clearance audit places great emphasis on professionalism in the conduct of a review and the examination of the auditees' books and records. From pre-audit planning to completion, it is essential to maintain communication and co-ordination with the auditee and with other interested parties in Customs. A report should be produced to ensure that all findings and other relevant issues are fully shared and discussed. Follow-up visits may be needed.

Audit phases

Pre-audit survey : The first step in the audit process is to assess and evaluate the strength and weaknesses within the commercial system of the auditee. Depending upon the size and location of the company to be audited, Customs may choose to perform an on-site survey or request corporate data of the auditee via a background questionnaire.

Such a survey may include gathering data regarding : corporate organization and structure, commodity information, methods of payment, value of commodities, costs associated

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[2] For the purpose of Customs Valuation Control the WCO has produced a Handbook which might be of value to Members to obtain further and detailed information on this matter.

with commodities, detailed product-cost information/submissions for analysis, related-party transactions, and record-keeping systems. This information may be commercially sensitive and should therefore, as with other information passed to Customs, be treated as confidential.

Initial importer contact : Before carrying out a routine compliance audit, Customs administrations should contact the auditee to request detailed information on the types of records and documentation needed.

These may include : commercial invoices, shipping records, purchase orders, delivery notes, accounts, records, contracts, royalty and marketing agreements, inventory records, journals, ledgers, business correspondence, records of payments.

Initial Audit conference : The initial meeting should be attended by the auditor or audit team, representatives of other Customs areas as needed, and representatives of the auditee (e.g. consultants, accountants, controllers, lawyers). The auditor or audit team will discuss the scope and objectives of the audit.

The auditee has a vested interest in acquiring and maintaining Customs facilitation, and therefore has a responsibility to ensure that the audit is carried out in a professional manner. Representation by a senior member of the company is invaluable to ensure a high level of co-operation. It is at this conference that the auditee should designate a representative to whom all requests for the production of documents (books, records, etc.) should be directed.

Audit questionnaire : Companies may be asked to fill out a questionnaire to obtain information about their structure, related-party transactions, commodities, methods of payment, valuation, manufacturing costs, sourcing and supply. In related-party transactions, the foreign parent company may also be asked to complete a questionnaire focusing on information regarding the relationship between the auditee and its parent company. Completion of such a questionnaire by the foreign parent company would be purely voluntary.

Internal corporate review : Customs administrations should encourage the auditee, where practical, to carry out a preliminary self-evaluation, review and analysis of its operations in relation to the audit.

Audit co-ordination : The auditee should be kept fully informed of any potential findings or other relevant Customs matters throughout the audit.

However, if a significant misrepresentation or potential Customs offence is discovered during the course of the audit, the audit team should communicate and co-ordinate with the appropriate enforcement unit who will decide whether to start a formal investigation.

The Customs administration may make information available to other revenue/tax agencies, in accordance with national laws on confidentiality.

Exit conference : A formal meeting should be held with the auditee to present the findings, and to provide an opportunity for the auditee to give any explanations needed, to assist preparation of the final report.

Final report : Customs administrations should prepare a final report and let the auditee have a copy, provided that national law provides for this. A copy should also be sent to the appropriate Customs office for resolution of any issue which has arisen.

Follow-up Visit : To conclude the audit process, Customs may carry out a follow-up desk audit to ensure that any findings and recommendations for changes are carried out by the trader.

7.2.2. Traders' systems audit

(Transitional Standard 3.32 and Standard 6.10)

7.2.2.1.   Introduction

Customs must carry out traders' systems audit for control purposes, as a quid pro quo for greater facilitation, which can include a trader's use of his computer systems for preparation and submission of single or periodic declarations, and for self-assessment.

The audit of traders' systems aims to provide assurance that a particular activity or process is being carried out properly. Systems audit, as the name implies, means looking at the entire processing cycle rather than just the transactions themselves. It does not rely on a fully visible audit trail and substantive testing of all or a significant number of transactions, as in a manual system. Instead, systems audit uses the inherent properties of computer processing to provide user confidence.

If it can be established that the process itself is reliable and accurate and the controls which govern it are sound and complied with, then safe assumptions can be made regarding the quality of the output and facilitation measures can be granted.

The traditional method of checking the accuracy of the "books" on a transaction basis is not only inappropriate in a computer environment, but also probably impossible. Even advanced methods using file interrogation methodology are of little use unless the auditor or audit team understands how the computer and its associated manual procedures combine to produce the required information. This is where a systems audit is most effective**.**

The principal steps in a systems audit are as follows :

7.2.2.2.   Planning

This initial phase, which is critical to the success and credibility of an audit, will define the direction, scope and ultimate goal against which to measure the effectiveness of the audit.

The planning stage will determine amongst other things :

the objectives;

the scope;

the risk areas;

the conduct of the audit including preliminary and exit meetings with the auditee;

the duration of the audit;

the necessary resources needed to undertake the audit;

the availability of key personnel for interview purposes; and

the extent to which changes to the system or the organization operating it have affected

previous audit knowledge.

When Customs is considering allowing self-assessment, the planning stage will include the establishment of criteria against which a trader's systems should be judged. These will include his financial soundness and his capacity to :

- distinguish between import, export and domestic consignments, allowing appropriate allocation of duty and taxes,

- allocate and identify consignments to specific Customs regimes,

- identify consignments requiring a licence or permit,

- calculate tax and duty liability on consignments,

- regularly update commodity code and duty rate files,

- cross match commercial part numbers against commodity codes,

- use valuation calculation methods appropriate to the traders business transactions,

- issue management reports providing assurance of completeness of accounting,

- identify outstanding, unreported consignments,

- perform quality cross-matching of commercial transport and accounting information with statistical and accounting information declared to Customs,

- exercise quality control and management checking procedures to ensure the system is functioning correctly,

- retain historical data for long enough to comply with national legal requirements and

- use satisfactory back-up procedures in the event of a system breakdown.

7.2.2.3.   Enquiry or fact gathering

By interviewing personnel at all levels in the management chain, both the application users and the data processors, the auditor or audit team can discover how the system actually works. The auditor or audit team will also refer to any material such as user guides, system specifications, which is available. The controls, or lack of them, both internal and operational can then be identified. Often the way the system works is at variance with how it was designed and implemented and how individuals, especially senior managers, perceive it to be working. The auditor or audit team can also deduce much from the state of system documentation, or the lack of it. For example, it may be out of date or incomplete.

7.2.2.4.   Recording the system

The auditor or audit team will record the findings either by means of a narrative text or pictorially, by the use of flow diagrams, or both. The diagrams can be at different levels of detail, from a broad overview to actual stages in computer processing. They can cover the document flows before and after computer processing. At this stage the auditee will normally confirm the auditor's or audit team's understanding of the system, before moving on to the next phase.

7.2.2.5.   Evaluation

By reviewing and evaluating the evidence gathered, the auditor or audit team will begin to discover actual or perceived weaknesses in the internal controls. They can then plan tests to measure the effectiveness of the controls and the credibility of the output.

7.2.2.6.   Testing

Testing is carried out to some extent at various stages of the audit, for instance at the fact-gathering stage, by observation and as a result of evaluation. It can be by inspection of records, output reports, etc. or even re-enactment of the processing cycle. Using advanced techniques, i.e. file interrogation software, it is possible to test for unusual combinations of data which could lead to incorrect processing as well as for straightforward situations.

7.2.2.7.   Report

The outcome of the audit will usually be a report to senior management which will make recommendations as to how identified weaknesses can be eliminated or controls tailored to be more effective. Controls can even be discarded if they are seen to be irrelevant in a particular situation.

7.2.2.8.   Conclusion

Once a system has been recorded and evaluated and any amendments to improve control have been implemented, it can be expected to perform reliably until the next significant change is undertaken. However periodic audits need to be carried out to confirm that nothing has changed and that the controls which have been built in to the system continue to be administered and adhered to. The use of audit packs (a set of pre-programmed audit tests) can be used to automate this process.

7.2.2.9.   Development Audit

Traders' systems audit can also be of great benefit in the development stage of a new application. In the past the need to implement a new application as soon as possible has meant that suitability for audit has been overlooked or only partially addressed. The consequence of poor suitability means at best inadequate or at worst non-existent controls.

Part of the planning cycle of any new application should ensure the inclusion of controls and audit trails. This will enable the auditor or audit team to confirm the processing of data from inception to final recording. It will also enable the auditor or audit team to trace transactions in the reverse direction. If audit considerations are taken into account at the outset of a new system, the subsequent audit and control of that system will be much more effective and trustworthy.

8. Supporting infrastructure

This section contains information on the basic requirements for establishing modern Customs control methods.

The introduction of these methods may need changes to the existing legal, administrative and organizational framework of Customs administrations. The WCO "Customs Reform and Modernisation Programme" gives useful advice in this area.

8.1. Legal Authority

Besides the legal obligations laid down in the Kyoto Convention for companies/persons involved in international trade transactions, Customs administrations need legislation which will allow their officers powers to carry out the controls deemed necessary to ensure compliance with the laws and regulations which they are responsible for enforcing.

The adequacy of powers available to Customs administrations under national law needs to be kept under review and powers should be strengthened where necessary to deal with new threats or facilitation requirements.

As a general guide, national legislation should confer the following powers on Customs for the purposes of controls, although many such powers will only actually be invoked selectively in accordance with risk management :

(a) Examination

(Standard 3.33)

− to examine goods, means of transport and persons in a manner to be decided by the Customs administration with a view to using the most appropriate control methods,

(b) Right of access

− to access premises, vehicles, vessels or aircraft of companies/persons involved in international trade transactions, and

− to access all business records, including computer systems, relating to international trade transactions. The right of access includes the right to stop a person or vehicle to conduct a search.

(c) Sampling

(Standard 3.38)

− to take representative samples of goods at importation, post-importation and at export.

(d) Detention

− to detain goods imported or intended for export to establish their compliance with Customs laws and regulations.

(e) Post-clearance audit

−   to conduct a retrospective audit of the business records, including bank records and computer systems, of any person or company involved in an international trade transaction.

(f) Exchange of information

(Standards 6.7 and 7.4)

−   to exchange and share information on international movements with other Customs administrations for Customs control purposes.

(g) Information retention and submission

−   to require the person/company involved in an international trade transaction to submit the information necessary, as previously defined and publicised by Customs, for the completion of Customs formalities according to the stipulated procedure and control method.

−   to require that this information be kept by the person/company involved in the international trade transaction according to the generally accepted accounting principles within the country concerned,

−   to allow for the periodic lodgement of declarations and to set up systems-based controls.

(h) Facilitation

−   to ascertain the admissibility of movements in advance of their arrival or departure, e.g. pre-classification, pre-valuation or advance passenger information, and any exemption from the general obligation to produce the goods to Customs, e.g. provisional pre-arrival release of cargo.

(i) Authorisation to assist

(Standard 3.37)

−   to authorise persons or third parties to assist Customs in performing certain Customs control functions.

If there are reasonable grounds for establishing a Customs offence, the Customs investigation unit should be brought in, since it has the powers necessary to carry out a formal investigation.

8.2.   Organisation

Effective Customs control is a major feature of a modern Customs administration. It depends on a well-established control organization based on good co-operation and a comprehensive information flow between the various Customs units, as well as on having a risk management strategy to make the best use of available resources.

8.2.1. Resources

Customs should identify human, technical and financial resource needs for implementing control programmes by assessing and analysing current and potential international trading activities in their respective countries or regions.

8.2.2. Management Philosophy

Customs should develop an organizational risk management philosophy with the support of senior management. This could be done by training, education, and briefing of senior Customs management. The designation of a senior manager to sponsor the risk management initiative would be helpful. Building on the organizational philosophy, Customs should develop and document a corporate policy and framework for managing risks, which should receive endorsement by the senior management and be implemented throughout the organization.

The corporate policy may include the objectives and rationale for managing risk, the links between the policy and the management/strategic plan, the extent or range of issues to which the policy applies, guidance on what may be regarded as acceptable risk, who is responsible for managing risks, the support/expertise available to assist those responsible for managing risks, the level of documentation required and the plan for reviewing organizational performance.

8.2.3. Degree of Centralisation

Differences in countries' traditions, legal procedures, volumes of trade, national priorities, geography and aims make it impractical to prescribe a uniform organizational structure for all Customs administrations. The deployment of resources devoted to risk management should be determined by the kind of controls to be employed and by the location of the control procedure. Such locations need not necessarily be at the frontiers.

The main difference in Customs administrations' organization lies in their degree of centralisation. Centralisation may result from the need to limit dispersal of resources and to ensure the integration of risk management in the overall planning and management process. Decentralisation may result from the need to motivate local Customs staff by increasing their responsibility.

The optimal organization is balanced between centralisation, where Customs sets up a central office responsible for the risk management process and the Customs control programme, and decentralisation, where individual Customs officers have responsibility for the testing of risks, identification of targets and building of expertise in areas which require additional focus.

8.2.4. Headquarters

In all countries, the Customs Headquarters necessarily assumes overall responsibility for the risk management process.

The size and composition of the central risk management unit will vary from country to country depending on the national requirements and the degree of centralisation, but should always be staffed by officers with a variety of backgrounds, [e.g. inspectors, auditors, investigators, program analysts, etc.]. They should return periodically to their respective local offices to update themselves on any recent developments which may not have been brought to the attention of Headquarters.

Once the policy and framework for the risk management process have been established, the Headquarters should develop and implement an infrastructure to ensure that risk management becomes an integral part of the planning and management process of the entire Customs organization.

This may involve establishing a team of senior management personnel to be responsible for internal communications, raising awareness about managing risks, acquiring risk

management skills, and developing the skills of staff through education and training, ensuring appropriate recognition, rewards and sanctions and establishing performance management processes.

The central risk management unit will carry out high-level risk assessment for the entire Customs territory, produce strategic information reports for local Customs offices and audit units; act as a point of contact with other agencies and international bodies; and interface with local Customs risk management teams and audit units.

The existence of a centralised intelligence unit would enable the collection and analysis of information which can be used to develop risk assessments on commodities, importers, industries, sources, etc. This would allow for more efficient targeting of shipments for examination at importation. This unit would also be responsible for developing information sharing networks with other Customs administrations and throughout the entire law enforcement community.

The establishment of properly trained audit units would enable officers to visit the premises of the auditee to verify declarations.

8.2.5. Local Customs offices

The main functions of the local offices are to ensure the effective operation of the risk management process by carrying out local risk assessment, producing operational information for local Customs officers responsible for import/export clearance, and for inspection teams, audit units and investigation units, interfacing with the central risk management unit.

Teams of Customs officers at local offices/ports specialising in the analysis of goods declarations and commercial documents such as invoices and transport documents, can target high risk consignments on which a physical examination should be made.

8.3. Procedures

Customs administrations should develop procedures to implement control methods to ensure uniform application throughout the Customs territory. In doing so, they should try to shift the emphasis from exclusive use of movement controls to greater use of audit-based controls, with a view to :

- reducing delays during the movement of goods/persons,

- increasing the use of periodic lodgement of declarations,

- encouraging trader self-assessment,

- enabling retention by the trader (instead of Customs) of accompanying official and commercial documents,

- increasing the use of advance information submission and submission by electronic means,

- increasing the use of the trader's commercial system and records instead of requiring the maintenance of designated Customs records,

- encouraging greater compliance with Customs laws thereby giving the trading community a greater stake in working in partnership with Customs to reduce risk levels.

In order to optimise the application of modern control methods the use of automation is recommended.

Customs administrations should put in place appropriate analysis and review mechanisms for ensuring the effectiveness of the control procedures implemented throughout the Customs territory (see Section 6.2.4 on "Compliance measurement"). Procedures must be kept under review and adjusted, if necessary, to meet evolving demands.

8.4. Human Resource Development

Customs controls should be carried out by professionally trained Customs personnel. With the increased use of electronic record-keeping and the sophistication of global trade, the need for higher standards of training becomes increasingly important. Customs administrations should be committed to providing control officers with the levels of training necessary to equip them to perform their duties. The ability to draw on the following skills is important and will improve efficiency and effectiveness :

- accounting techniques and principles, including GAAP,

- auditing standards and procedures,

- international trade/business including banking procedures,

- Customs laws, regulations and procedures (valuation codes, origin, etc.),

- electronic record-keeping and computer systems (I.T., EDI, etc.).

Customs recruitment and training should address these needs. The WCO has prepared a number of training modules which will be of value to Customs administrations in organising the training of its staff.

8.5. Juxtaposed Customs offices

(Transitional Standard 3.4 and 3.5)

The setting up of juxtaposed national Customs control offices can facilitate checks at the common frontier between two adjoining States. These offices, initially established to control road traffic, are becoming increasingly used in other circumstances too. The principle of juxtaposed controls is easily adapted to the environment of rail, inland waterways and air and sea traffic.

The establishment of juxtaposed national Customs control offices is generally provided for in bilateral agreements between adjoining States. For Customs, the advantages of juxtaposed national control offices are the following : more effective control of frontier traffic, mutual reduction of operating expenses and a better appreciation of each other's Customs priorities, all creating increased co-operation in both facilitation and control.

However, still greater benefits could be obtained if single control were introduced on a more widespread basis in juxtaposed national control offices, at least for certain Customs operations, such as the control of goods in transit.

In some countries, travellers may be checked only by the authorities of the country of entry (Police, then Customs control) in juxtaposed national control offices, usually when the

authorities of the country of exit have decided not to carry out their own controls as a matter of course.

8.6.   Mutual administrative assistance

(Standard 6.7)

The increase in international trade and the newly developed methods of Customs control have highlighted the shortcomings of a system in which controls are based solely on goods declarations and supporting documents submitted after the goods' arrival in the Customs territory. It may be desirable for Customs to receive such information at an earlier stage and to have access to further information, not available in their own territory.

To that end, Customs look to other Customs administrations to obtain pre-arrival information on goods bound for their Customs territory and for other types of assistance to ensure the proper application of Customs laws (including the collection of Customs duties) and to prevent, investigate and combat Customs offences. This is known as mutual administrative assistance.

Once the necessary basis for mutual administrative assistance is in place, the information exchanged can also assist in risk management. The information provided by other administrations either spontaneously or on request, is an extra and sometimes very specific source on which to base risk analysis.

Other provisions in mutual assistance agreements can be of direct benefit to control efforts where another Customs administration carries out certain controls on behalf of the requesting administration (e.g. verification of certificates of origin or transit documents, and cross-country audits,), or provides officials to assist in controls carried out abroad or to act as experts or witnesses. In case of juxtaposed offices Customs may even be authorised to assess and collect import duties and taxes on behalf of the other State (see Section 8.5).

The WCO has recently adopted a revised model bilateral agreement for the proper application of Customs law and for the prevention, investigation and combating of Customs offences. The Council has recently recommended this model as the basis for negotiations between Customs administrations (see Appendix I). The WCO also has a multilateral Convention on mutual administrative assistance for the prevention, investigation and repression of Customs offences (the "Nairobi Convention", June 1977).

9. Security and Facilitation of the international Supply Chain: Seals and their application for security purposes

Minimum standards for customs seals used in the application of Customs transit are laid down in Standard 16 to Specific Annex E, Chapter 1. This section of the Guidelines is intended to provide information to administrations on the various options of seals available and their use for security purposes.

9.1. Introduction

In a climate of increased focus on the security of goods moving in the international supply chain, a major concern has been the vulnerability of the goods container as a potential means of introducing high risk consignments into a country. Approximately 90% by volume of the world's trade moves by containers – many of which are sea containers. High security manual or mechanical seals can play a significant role in a comprehensive container security program. But it is important to recognize that container security starts with the stuffing[*] of the container, and that seals do not evidence or guarantee the legitimacy of the container load.

Some administrations have developed seal integrity programmes, which encourage high security seals to be applied at the point of stuffing of the container. Such programmes include procedures for recording the affixing, changing and verification of seal integrity at key points, such as a modal change, to ensure a fully secure movement. A sequential analysis of possible elements of a seal integrity programme is annexed (see Appendix III, 15.3). In keeping with a basic risk assessment principle, that of offering greater facilitation to compliant traders, such seal integrity programmes are part of wider supply chain integrity or authorised programmes that provide facilitation benefits, such as 'green lane' facilities, to the importer. Such security programmes are not restricted to goods moving under Customs transit, but apply to container movements in general, irrespective of the Customs procedure used.

9.2. Principal types of seal

9.2.1. Mechanical seals

There are three major categories of mechanical seals – indicative, security and high security, which are intended to detect tampering or entry through the container doors. Indicative seals are constructed and manufactured of material that can be broken easily by hand or simple snipping tool or shear. This type of seal is currently used in many Customs administrations.

Security seals, however, add physical protection to tamper detection and are relatively more difficult to defeat. High security seals offer greater protection against intrusion and must

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[*] In order to differentiate between the process of loading the container with shipments- a process known in the international liner industry as 'stuffing' – and the placement (or loading) of the container onto a conveyance for transportation, the term'stuffing' throughout this document describes the first situation, and the term'loading' describes the latter.

be removed by quality bolt or cable cutters. There are several types of high security seals, including bolt seals that can be either hardened or flexible, and cable seals.

The International Organization for Standardization (ISO) has developed an international standard for mechanical seals. At the time of writing (December 2003) these requirements are available as a Publicly Available Specification (PAS)[**] – reference 17712. It is expected that the PAS could be confirmed as an International Standard (IS) within the next year or so.

In the Customs context, the ISO standard lays down particular criteria for customs seals such as independent testing and appropriate identification markings. Significantly, only seals classed as security or high security according to a number of specific tests are acceptable as customs seals under this PAS.

9.2.2. Electronic seals (e-seals) and other electronic security devices

Electronic seals, or e-seals, tend to combine physical seals and radio frequency identification (RFID) components, which can be passive or active. "Passive" e-seals do not have their own energy source. They can report whether they are intact or not when interrogated by a reader. "Active" e-seals have their own energy source and can thus detect tampering when it occurs and add it to a time log of events. If equipped or interfaced with Global Positionning System (GPS), they can also log the location. Active e-seals must also be interrogated by readers.

Container Security Devices (CSDs) also use RFID technology. Affixed to the the container rather than to the door locking mechanism where seals are affixed, such devices are also intended to detect intrusion through the container doors. CSDs also have to be interrogated by either fixed or handheld readers.

At present there is no international standard for e-seals or CSDs and they not widely used by customs administrations or private industry, inter alia, because of the current lack of global frequencies and technical specifications for e-seals. ISO is working towards developing a standard for e-seals that may also apply to CSDs.

Pilot projects to determine what role, if any, e-seals and/or CSDs may play to meet identified and agreed container security requirements are in progress in a number of administrations and these Guidelines will be updated from time to time to reflect developments.

10. Customs/Trade Co-operation

(Standards 6.8, 7.3, 8.5 and Chapter 9)

In a modern Customs administration there are a wide variety of complex control tasks to undertake and, increasingly, resources are limited. The Customs response has been to apply selection, targeting and risk management to maximise the effectiveness of these resources.

[**] The ISO PAS is an agreement between technical experts in an ISO working group that has been approved by a majority of those members of the relevant ISO committee voting. It can be reviewed twice over a period of six years and must then either be confirmed as an ISO International Standard (IS) or withdrawn

The increasing use of risk management techniques coupled with demands for greater facilitation, good communication, consultation and co-operation between the trade and Customs administrations is vital to achieve a satisfactory balance between effective control and facilitation. Customs administrations see legitimate traders as partners in this process.

It is important that all interested persons should be able to obtain information from Customs about procedures and control requirements (see General Annex, Chapter 9). Sources may include the Customs tariff, official gazettes, bulletins and notices. Customs should therefore ensure that these are readily available at their offices. Additionally persons may need specific information concerning a particular operation and the Customs administration should aim to supply this as completely and accurately and as soon as possible.

Customs administrations should also consider modern techniques for the dissemination of information, like the Internet with its World-Wide-Web (WWW). As an example under http://www.gov.sg/customs/ the Singapore Customs administration provides information on duty and tax rates, documentation, valuation, clearance procedures, security requirements and addresses of Customs offices.

 Many Customs administrations now maintain formal consultative committees with traders, carriers, agents, banks, port and airport operators and their representative organisations. The role of such committees typically includes the discussion of projected changes in control requirements, identification of difficulties experienced by declarants in complying with actual or proposed procedures and arriving at mutually acceptable solutions. In addition some Customs administrations have introduced the idea of "client-co-ordinators" who keep contact with individual companies.

There should be continuous collaboration at all levels; at local/regional level between Customs officials and business and at national level between Customs administrations and business.

For the Customs administration such collaboration has the advantage of improving its knowledge of trading practices. Greater familiarity with the conditions of international trade means more effective risk management

In this spirit Customs administrations may consider inviting business representatives to spend short periods with the Customs service as a means of familiarising themselves with the regulations.

Co-operation is particularly valuable to a Customs administration in drug interdiction, CITES, dangerous goods, and hazardous waste control. It is increasingly encouraged and sustained through a range of Memoranda of Understanding in which trade organisations, nationally and internationally, sign general undertakings with the WCO and national Customs administrations, backed by detailed guidelines, specifying the practical improvements in information exchange, training and communications arrangements appropriate to each trade sector.

MOUs are also concluded in Customs-to-company memoranda and guidelines. The benefits to both Customs administration and the trade organization can be many; for Customs administrations they provide a further valuable source of information. In return, traders with a good record of co-operation may expect less Customs intervention .

11. Conclusions

Customs administrations should aim for a reasonable and equitable balance between ensuring compliance and minimising disruption and costs to legitimate trade and the public. Facilitation and control need not conflict. If managed well, facilitation can enhance the success of control procedures.

Customs administrations are encouraged to implement control procedures based on the use of risk management and profiling techniques as a means to identify reliable operators/persons who may then benefit from greater facilitation as opposed to those operators/persons which require higher levels of control.

Risk management is a basic principle of modern Customs control methods. It allows optimum exploitation of Customs' resources without threatening the effectiveness of controls, while relieving a majority of the trade/public from excessive bureaucratic constraints.

Procedures based on risk management techniques concentrate controls on areas of highest risk while leaving the bulk of goods/persons to pass relatively freely through Customs.

Customs administrations should put in place analysis and review mechanisms to ensure the effectiveness of control procedures throughout the Customs territory. Procedures must be kept under review and adjusted if necessary to meet evolving demands.

12. Example of a Customs control process

12.1. High-Level Scenario of a Customs control process

```
                    ┌─────────────────────────────────────┐
                    │  Mutual Administrative Assistance    │
Country A           └─────────────────────────────────────┘
- - - - - - - - - - - - - - - - - - - - - - - - - - - - - - - - - - - - - -

Country B    ┌──────────────────────────────────────────────────┐
             │     Mutual Administrative Assistance             │
             └──────────────────────────────────────────────────┘

   AUDIT-BASED          RISK MANAGEMENT          MOVEMENT
    CONTROLS           • Risk profiles           CONTROLS
                       • National audit plan
                       • Intelligence database

                          ENFORCEMENT
```
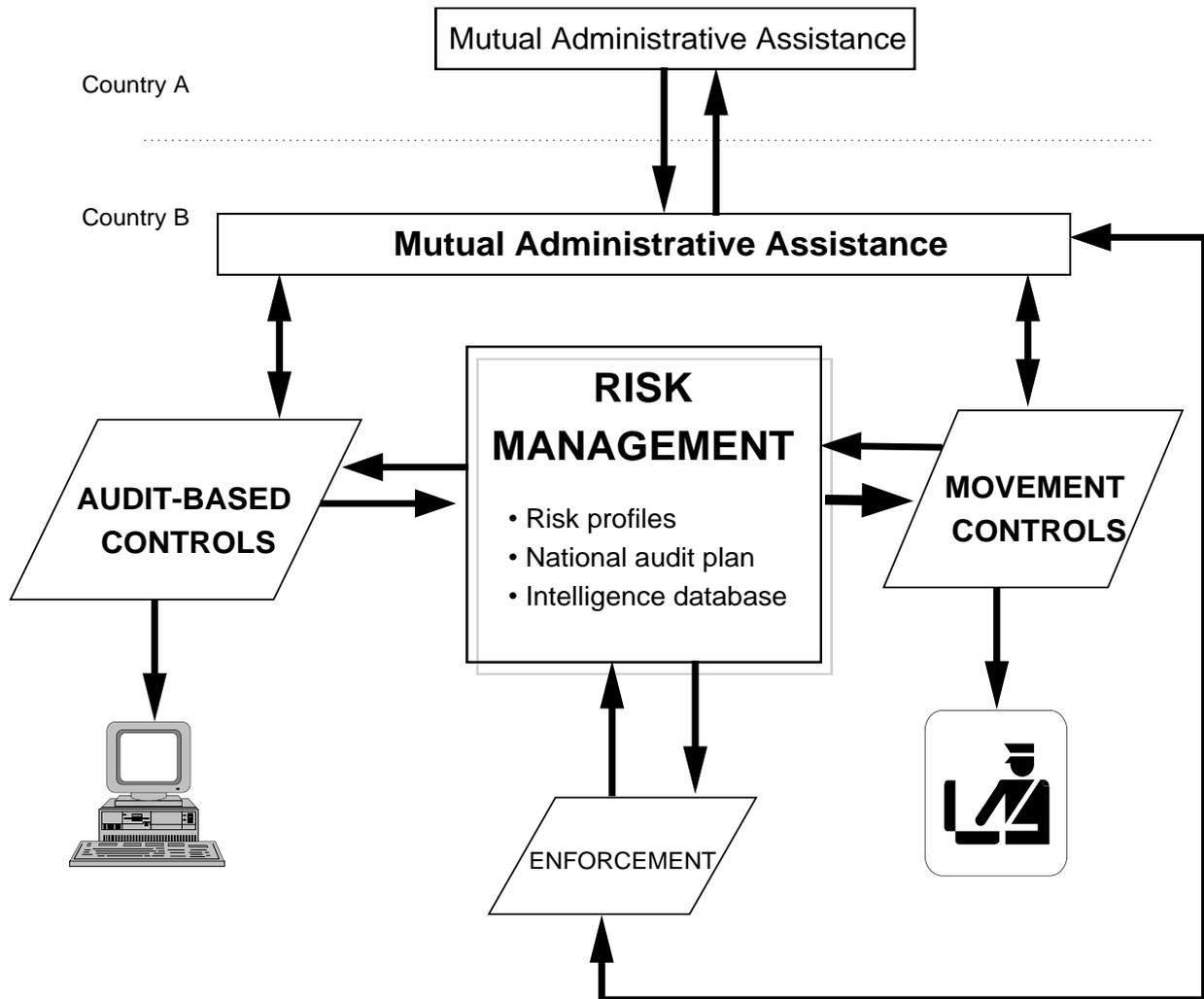
12.2.   Low-Level Scenario of a risk management process

```
                    ┌──────────────────────────────────────────┐
                    │  ESTABLISH THE CONTEXT (iv.1.2 a)         │◄──────────┐
                    ├──────────────────────────────────────────┤           │
                    │         The strategic context            │           │
                    │      The organizational context          │           │
                    │    The risk management context           │           │
                    └──────────────────────────────────────────┘           │
                                       │                                    │
  ┌──────────────────────┐            ▼                                    │
  │ Identify risk areas   │    ┌──────────────────────┐      ┌─────────────────────────┐
  │ Develop criteria      │    │ Decide the structure  │      │                         │
  │ (iv.2.1, iv.2.2)      │    └──────────────────────┘      │                         │
  └──────────────────────┘            │                      │   ┌──────────────────┐  │
            │                         ▼                      │   │                  │  │
            │           ┌──────────────────────────────┐◄───┼──►│                  │  │
            │           │  IDENTIFY RISKS (iv.1.2 b)    │    │   │                  │  │
            │           ├──────────────────────────────┤    │   │  MONITOR         │  │
            │           │     What can happen ?         │    │   │                  │  │
            │           │     How can it happen?        │    │   │  AND             │  │
            │           └──────────────────────────────┘    │   │                  │  │
            │                         │                      │   │  REVIEW          │  │
            │                         ▼                      │   │                  │  │
            │           ┌──────────────────────────────┐◄───┼──►│                  │  │
            │           │  ANALYSE RISKS (iv.1.2 c)     │    │   │                  │  │
            │           ├──────────────────────────────┤    │   │  COMPLIANCE      │  │
            │           │  Determine existing controls  │    │   │                  │  │
            │           │  ┌──────────┐  ┌───────────┐  │    │   │  MEASUREMENT     │  │
            │           │  │Determine │  │ Determine │  │    │   │  (iv.1.2 f)      │  │
            │           │  │likelihood│  │consequences│ │    │   │                  │  │
            │           │  └──────────┘  └───────────┘  │    │   │                  │  │
            │           │  ┌────────────────────────┐   │    │   │                  │  │
            │           │  │ Establish level of risk │   │    │   │                  │  │
            │           │  └────────────────────────┘   │    │   │                  │  │
            │           └──────────────────────────────┘    │   │                  │  │
            │                         │                      │   │                  │  │
            │                         ▼                      │   │                  │  │
            └──────────►┌──────────────────────────────┐◄───┼──►│                  │  │
                        │  ASSESS RISKS (iv.1.2 d)      │    │   │                  │  │
                        ├──────────────────────────────┤    │   │                  │  │
                        │  Compare against criteria     │    │   │                  │  │
                        │  Set risk priorities          │    │   │                  │  │
                        └──────────────────────────────┘    │   │                  │  │
                                      │                      │   │                  │  │
                                      ▼                      │   │                  │  │
                        ┌──────────────────────────────┐◄───┼──►│                  │  │
                        │  ADDRESS RISKS (iv.1.2 e)     │    │   │                  │  │
                        ├──────────────────────────────┤    │   │                  │  │
                        │  Identify treatment options   │    │   └──────────────────┘  │
                        │  Evaluate treatment options   │    │                         │
                        │  Prepare treatment plan       │    └─────────────────────────┘
                        │  Implement Plan               │                │
                        └──────────────────────────────┘                │
                                      └─────────────────────────────────┘
```

Reference : Based on Australian/New Zealand Standard "Risk management", AS/NZS 4360:1995 p.11

12.3. Low-Level Scenario of a post-clearance audit

```
                                    ┌─────────────────────────────┐
                                    │   DEVELOPMENT OF            │◄───────────┐
        ┌──────────────────────────►│ AUDIT PROGRAMMES (7.2.1.2)  │            │
        │                           ├─────────────────────────────┤            │
        │  ┌──────────────────┐     │ • importer/exporter audits  │            │
        │  │                  │     │ • broker audits             │            │
        │  │     RISK         │     │ • carrier manifest audits   │     ┌──────────────┐
        │  │  MANAGEMENT      │     │ • foreign-trade-zone audits │     │  STRATEGIC   │
        │  │                  │     │ • etc.                      │     │  PLANNING    │
        │  └──────────────────┘     └─────────────────────────────┘     │  (7.2.1.4)   │
```

DEVELOPMENT OF AUDIT PROGRAMMES (7.2.1.2)
- importer/exporter audits
- broker audits
- carrier manifest audits
- foreign-trade-zone audits
- etc.

RISK MANAGEMENT

STRATEGIC PLANNING (7.2.1.4)

IDENTIFY POTENTIAL AUDIT TARGETS (7.2.1.3)
- valuation
- origin
- tariff classification
- duty relief/drawback/remission programmes
- etc.

SELECT COMPANIES/ PERSONS FOR AUDIT (7.2.1.3)

PREPARE FOR AUDIT (7.2.1.5)
- assign auditor/audit team
- determine scope of audit
- contact company
- request data from company
- send questionnaire
- obtain data from company's declarations

CONTACT OTHER CUSTOMS UNITS

CONDUCT AUDIT (7.2.1.5)
- hold initial conference
- examine records
- verify company's records
- identify compliance

CLOSE AUDIT (7.2.1.5)
- prepare reports
- communicate results to company
- report results to Customs units

CONDUCT MEASUREMENT EVALUATION AND FOLLOW-UP (7.2.1.3; 7.2.1.4)

13. Index

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15. Appendices

15.1. Appendix I : CCC Recommendation on MAA

RECOMMENDATION OF THE CUSTOMS CO-OPERATION COUNCIL[*]

CONCERNING BILATERAL AGREEMENTS

ON MUTUAL ADMINISTRATIVE ASSISTANCE

THE CUSTOMS CO-OPERATION COUNCIL,

CONSIDERING that offences against Customs law are prejudicial to their economic, commercial, fiscal, social and cultural interests,

CONSIDERING the importance of accurate assessment of Customs duties and other taxes collected at importation or exportation and of ensuring proper enforcement of measures of prohibition, restriction and control,

RECOGNIZING the need for international co-operation in matters related to the application and enforcement of their Customs laws,

CONVINCED that action against Customs offences can be made more effective by close co-operation between their Customs Administrations based on clear legal provisions,

HAVING REGARD TO the relevant instruments of the Customs Co-operation Council, in particular the Recommendation on mutual administrative assistance of 5 December 1953, and Article 11 of the international Convention on mutual administrative assistance for the prevention, investigation and repression of Customs offences (Nairobi, 9 June 1977),

HAVING REGARD ALSO TO international Conventions containing prohibitions, restrictions and special measures of control in respect of specific goods,

RECOMMENDS that Members of the Council and members of the United Nations Organization or its specialized agencies, and Customs or Economic Unions should :

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[*] Customs Co-operation Council (CCC) is the official name of the World Customs Organization (WCO).

1. conclude bilateral agreements on mutual administrative assistance for the proper application of Customs law, and for the prevention, investigation and combating of Customs offences,

2. use the Customs Co-operation Council's Model Bilateral Agreement as a basis for the negotiation of any such Agreement,

3. use the Customs Co-operation Council as an intermediary, as necessary, for the conclusion of any such Agreement,

REQUESTS Members of the Council and members of the United Nations Organization or its specialised agencies, and Customs or Economic Unions which accept this Recommendation to notify the Secretary General of their acceptance, and of the date from which they will apply the Recommendation and the conditions of its application. The Secretary General will transmit this information to the Customs administrations of all Members. He will also transmit it to any Customs administrations of non-Members and any Customs or Economic Unions which have accepted this Recommendation.

15.2. Appendix II : Methods of Application

15.2.1. Risk Management (United States of America)

Risk Management

(United States of America)

15.3. Appendix III : A sequential analysis of possible elements of a seal integrity programme

Importance of specifying security relationships

Greater clarity and consensus about the relationships among the parties in the movement of secure containerized goods, coupled with consistent application and enforcement of those relationships, will provide multiple benefits to all of those parties. These benefits include:

> - Improved security against acts of terrorism that exploit the global trade in goods.
> - Reduced risk of economic hardship caused by disruptions to or closures of trade in response to terrorist acts.
> - Improved security against theft and diversion of cargo, with consequent reductions in direct losses and indirect costs, such as insurance.
> - Improved security against illegal transport of materials such as narcotics and weapons, and of persons.
> - Improved security against the illegal movement of "black market" and "gray market" trade goods.
> - Reduced risk of evasion of duties and taxes
> - Increased confidence in international trading systems by current and potential shippers of goods.
> - Facilitation dividends, such as a reduced number of examinations (reduced border times) and access to simplified procedures.

Responsibilities along the chain of custody

A. Cross-cutting responsibilities

There are responsibilities and principles that apply throughout the life cycle of a containerized shipment of goods.

The emphasis is on the relationships among parties upon changes in the custody or possession of the container. That emphasis does not reduce and should not obscure the fundamental responsibility of the shipper for the safe and secure stuffing and sealing of the container.

Each party in possession of the container has security responsibilities while cargo is entrusted to them, whether at rest at a node or while moving between nodes. Each party with data that needs to be filed with the government for customs and security screening purposes has responsibilities. Those responsibilities include:

> - Protecting the physical goods from tampering, theft, and damage
> - Providing appropriate information to government authorities in a timely and accurate manner for security screening purposes
> - Protecting the information related to the goods from tampering and unauthorized access. This responsibility applies equally to times before, during, and after having custody of the goods.

Security seals are an integral part of the chain of custody. The proper grade and application of the security seal is addressed below.

Security seals should be inspected by the receiving party at each change of custody for a cargo-laden container. Inspecting a seal requires visual check for signs of tampering, comparison of the seal's identification number with the cargo documentation, and noting the inspection in the appropriate documentation.

If the seal is missing, or shows signs of tampering, or shows a different identification number than the cargo documentation, then a number of actions are necessary:

> ➤ The receiving party must bring the discrepancy to the attention of the party tendering the container and the shipper
> ➤ The receiving party must note the discrepancy on the cargo documentation
> ➤ The receiving party should notify customs or law enforcement agencies, in accordance with national legislation.
> ➤ Where no such notification requirements exist, the receiving party shall refuse custody of the container pending communication with the party tendering the container and until such discrepancies can be resolved. Once discrepancies have been resolved, the receiving party shall affix a security seal to the container and note the particulars, including the new seal number, on all pertinent cargo documentation.

Security seals may be changed on a container for legitimate reasons. Examples include inspections by an exporting Customs administration to verify compliance with export regulations; by a carrier to ensure safe blocking and bracing of the lading; by an importing Customs administration to confirm cargo declarations; and by law enforcement officials concerned with other regulatory or criminal issues.

If public or private officials should remove a security seal to inspect the lading, they will install a replacement that meets the quality specified in paragraph 2, item B (see below), installing it in a manner that meets the requirements specified below, and note the particulars of the action, including the new seal number, on the cargo documentation.

B. Stuffing site

The shipper/consignor is responsible for securely stuffing the container and for the accurate and complete description of the cargo. The shipper is also responsible for affixing the cargo security seal immediately upon the conclusion of the stuffing process, and for preparing documentation for the shipment, including the seal number.

The cargo security seal should be compliant with the definition of high security mechanical seals in ISO Publicly Available Specification 17712. The seal should be applied to the container in a manner that avoids the vulnerability of the traditional container door handle seal location to surreptitious tampering. Among the acceptable ways to do this are alternative seal locations that prevent swivelling of an outer door locking cam or the use of equivalent tamper evident measures, such as cable seals across the door locking bars.

The land transport operator picks up the load. The transport operator receives the documentation, inspects the seal and notes the condition on the documentation, and departs with the load.

C. Intermediate terminal

If the container movement is via an intermediate terminal, then the land transport operator transfers custody of the container to the terminal operator. The terminal operator receives the documentation, inspects the seal and notes the condition on the documentation. Normally, the terminal operator sends an electronic notification of receipt (status report) to other private parties to the shipment. The terminal operator prepares or stages the container for its next movement, which could be by road, rail, or barge.

Similar verification and documentation processes take place upon pickup or departure of the container from the intermediate terminal.

It is rare that public sector agencies are involved in or informed about intermodal transfers at intermediate terminals.

D. Loading ocean terminal

Upon arrival at the loading ocean terminal, the land transport operator transfers custody of the container to the terminal operator. The terminal operator receives the documentation and normally sends an electronic notification of receipt (status report) to other private parties to the shipment. The terminal operator prepares or stages the container for loading upon the ocean vessel.

The carrier or the ocean terminal as agent for the carrier inspects the condition of the seal, and notes it accordingly; this may be done at the ocean terminal gate or after entry to the terminal but before the container is loaded on the ship.

Public agencies in the exporting nation review export documentation and undertake necessary export control and provide safety certifications.

The Customs administrations that require advance information receive that information, review it, and either approve the container for loading (explicitly or tacitly) or issue "do-not-load" messages for containers that cannot be loaded pending further screening, including possible inspection.

For those countries that have export declaration and screening requirements, the carrier should require from the shipper documentation that the shipper has complied with the relevant requirements before loading the cargo for export. (The shipper/consignor is, however, responsible for compliance with all prevailing documentation and other pertinent export requirements.) Where applicable, the ocean carrier must file its manifest information to those importing Customs agencies that require such information. Shipments for which "do-not-load" messages have been issued should not be loaded onboard the vessel pending further screening.

E. Transhipment terminal

The transhipment terminal operator shall inspect the security seal between the off-loading and re-loading of the container. This requirement may be waived for transhipment terminals which have security plans that conform to the International Ship and Port Facility Security Code (ISPS Code produced by the International Maritime Organization).

F. Off-loading ocean terminal

The receiver/consignee usually arranges for a Customs broker to facilitate clearance of the shipment in the off-loading ocean terminal. Generally, this requires that the cargo owner provide documentation to the broker in advance of arrival.

The ocean carrier provides advanced electronic cargo manifest information to the terminal operator and to the importing Customs administration as required.

Customs may select containers for different levels of inspection immediately upon offloading or later. Customs may inspect the condition of the seal and related documentation in addition to the cargo itself.

If the container is to travel under customs control to another location for clearance, then Customs at the offloading terminal must affix a Customs seal to the container and note the documentation accordingly.

The receiver/consignor or Customs broker pays any duties and taxes due to Customs and arranges the Customs release of the shipment.

Upon pickup for departure from the ocean terminal, the land transport operator inspects and notes the condition of the seal, and receives documentation from the terminal operator.

G. Intermediate terminal

The processes in intermediate terminals in the importing country are analogous to those in intermediate terminals in exporting countries.

H. Unloading site

Upon receipt of the container, the consignee or deconsolidator inspects the seal and notes any discrepancy on the documentation.

The consignee unloads the container and verifies the count and condition of the lading against the documentation. If there is a shortage, damage, or an overage discrepancy, it is noted for claims or insurance purposes, and the shipment and its documentation is subject to audit and review.

If there is an anomaly related to narcotics, contraband, stowaways, or suspicious materials, the consignee Customs or another law enforcement agency must be informed.

Technology Evolution

The above description of roles and responsibilities relies heavily on a process of checking mechanical seals that are affixed by the shipper to a container. This reflects the current state of commercially deployed technology. Some governments and private parties are exploring the suitability of new technologies that may provide enhanced container security capabilities. If such technologies are approved and deployed, then procedures and requirements based on checking traditional mechanical seals should also evolve to reflect those technologies, so as to avoid redundant seal verification requirements.

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