Guideline on Customs Responses to Industry Referral

I. Introduction and Objective

The World Customs Organization (WCO) Council adopted a Resolution of the Customs Co-operation Council on Strengthening Customs-Industry Resilience in July 2024. The Resolution responds to the growing need for collaboration between Customs administrations and industry partners to ensure global security and economic stability in the face of rapid technological advancements, environmental challenges, and other emerging threats that impact on the safe and secure flow of legitimate global trade.

The Resolution highlights the need for innovative partnerships and urges the reaffirmation of existing relationships while fostering new collaborations. The Resolution calls on the WCO to support Members in implementing these measures. Building trust is a crucial element in ensuring that customs and industry work together to prevent illicit trade.

Key to building this trust is creating the right environment to facilitate information exchange, including post-incident analysis, to be shared between Customs and industry.

The Guideline has been developed following a collaborative approach with Members, relevant international organizations, the shipping industry and other private sector entities. It is designed to be a living document that will be enhanced as WCO Members and industry gain practical experience and share information with the WCO Secretariat on referrals from industry. The Guideline was also developed in response to Members' needs and as a follow-up to discussions at the WCO Global Information and Intelligence (GIIS) Working Group.

II. Pathways to Building and Strengthening Trust

The Resolution seeks to evolve and mature the partnership between Customs and industry from one historically based on routine administration and trade facilitation to one that builds a more resilient supply chains, recognising that, to combat current, new and emerging threats, Customs must collaborate with and support the global network of industry partners to assist in deterring threats before they enter the supply chain and cross borders.

The Resolution invites WCO Members (measure 6) to "consider pathways to build and strengthen trust between Customs and industry through increased data sharing and information exchange." One such way is to encourage WCO Members to respond in a similar manner by facilitating and arranging for the submission of referrals by industry as this would help to provide consistency to both the trade community and government agencies.

III. A Shared Problem

Airports and seaports and their associated supply chains are highly complex environments from an operational, regulatory and governance perspective. Criminal organizations have demonstrated increasing levels of skill and adaptability in effectively infiltrating and exploiting weaknesses in global supply chains and within authorities to undertake illegal activities. These challenges are compounded when Customs authorities do not incorporate insider threat risk mitigation strategies.

For Customs and industry, insider threat activity is often difficult to detect. The associated risks are typically invisible and therefore more difficult to uncover than traditional border risks, which are typically identified by systematically following prescribed risk indicators at the cargo declaration and import / export processing levels.

The liner shipping industry recognises the critical role it plays in ensuring the safe and secure flow of goods through the world's maritime supply chains. As a responsible and trusted party in the supply chain, the liner shipping industry is taking dedicated actions in cooperation with law enforcement agencies, including customs authorities, is taking proactive meaures to detect and combat illicit trafficking.

Customs authorities need to closely with carriers to reduce risks and vulnerabilities in our supply chains.

Customs authorities should establish a two-way flow of information with trusted carriers, sharing information with the latter on current criminal trends, modus operandi and risks in accordance with a Member's laws and regulations. By sharing this information, industry can be better prepared to identify emerging threats, thereby increasing the resilience of the industry and the quality and frequency of its referrals to the authorities. This information flow should also include post-incident analyses and conclusions arising from them.

IV. Receiving Referrals from Industry

This Guideline is intended to encourage the development of a standardised and consistent treatment following the referral of suspicious activity from industry partners.

Industry partners, including shipping lines, their ships and crews, should be encouraged to identify and refer suspicious events without fear of punishment or unnecessary delays to global shipping operations as a result of their referral.

Customs needs to work with industry security officers as partners in this process. Seafarers and other frontline workers should be encouraged to report suspicious activities in accordance with company policies.
Industry often faces competing demands for information from different branches of government and law enforcement agencies in the same country. A single point of contact within customs should be established, and it is recommended that Customs administrations work towards a single point of contact for all relevant authorities.

Similarly, the identification of common data points between and among authorities should be encouraged.

V. Practical Ways to Apply Consistent Treatment to Industry Referrals

1. Customs should identify a single point of entry into the Customs administration for carriers to provide information on suspicious shipments or activities.
   - The point of entry will serve as a gateway for industry information related to suspicious activities.
   - This single point of entry into the Customs administration should be communicated to carriers using Customs controlled ports of entry.
   - The telephone number and/or email address should not be made available to members of the public, but it should serve as a dedicated entry point for industry.

2. Upon receipt of the information, Customs will assess the information and triage it for an appropriate response.
   - Customs should validate the information provided with the carrier.
   - Customs should identify relevant stakeholders including law enforcement and border partners both onshore and offshore.

3. Once the information has been assessed, Customs will identify the best treatment option. Customs control should be focused on high-risk consignments based on the information provided, and penalties should be imposed only on the person(s) responsible for the offence under the law of the Member.

4. Once Customs has responded, they should analyse the results and provide feedback and outcomes to the referrer (pending operational sensitivities).
   - Customs administrations should identify referral coordinators who develop and maintain relationships with industry contacts to raise awareness of the program and encourage the reporting of suspicious activities.
   - Customs administrations should also conduct post-incident analys with the parties making the referrals. Regular information exchange and assessments should also be undertaken with industry to identify whether there is a need exists to develop new and/or revise existing data points used to refer suspicious activity.

VI. Confidentiality

All information provided to the single point of entry should kept confidential and secure. Customs may be authorised to provide information received through the single point of entry to another government agency, including for law enforcement purposes.

Protecting the confidentiality of the reporting parties is essential to maintaining the integrity of the relationship between industry and Customs, and the reputation of both parties.

In case of a rip method – the threat is multifaceted. It could be an insider, or it could be anyone who has had access to the cargo along the supply chain. The source of intelligence to identify the source of the threat is likely to come from internal security checks throughout the supply chain, including physical inspections on board the ship, changes to reefer temperatures, container technology, CCTV, or other sources of information. Customs, together with other law enforcement agencies, need to work closely with industry to identify the threat is and where the offence occurred.

VII. Conclusion

With the WCO 2024 theme “Customs Engaging Traditional and New Partners with Purpose”, partnerships with industry are becoming increasingly important to address emerging threats and challenges in the global supply chain.

In order to facilitate and enhance the exchange of information with Customs administrations, this Guideline aims to foster mutual understanding and trust between Customs and industry partners.

Annex: Case Study on Collaboration with Industry [Australian Border Force]

The ABF successfully detected 626 litres of methamphetamine in December 2022, based on an industry referral from the container terminal operator (CTO) to the carrier.

How did it happen?

The CTO informed the carrier that a dry container that had arrived eight weeks earlier had not been collected. The container was incurring significant demurrage fees, and the importer could not be contacted. The carrier instructed the agent at the port of export to contact the shipper, but the shipper could not be contacted. The carrier contacted the Australian Border Force (ABF).

The carrier reported the unusual circumstances to ABF, detailing high-risk indicators of a suspicious shipment, including invalid consignee telephone number, invalid consignment address. The carrier suggested that the goods be re-examined.

Customs' response was that after analysing the risk indicators provided by the carrier, and due to the ongoing and trusted partnership, ABF analysts requested that the shipment be re-examined and unpacked for further inspection.

When the container was re-examined and unpacked, two pallets at the rear of the container were found to be inconsistent with the rest of the pallets. The cartons on these two pallets were plainly wrapped, unlike the rest, which had printed branding. This inconsistency was not visible on X-ray.

To test the liquid, a sample of the liquid in the bottles from the two 'unbranded' pallets was taken for analysis. The clear liquid tested positive for methamphetamine, with an estimated total of 626 litres.

Feedback is everything.

This work cannot be done alone. Without the support of industry partners, a significant amount of a very harmful drug could have entered the community. To support continued cooperation and encourage future referrals of this nature, the ABF provided feedback on the positive examination to the carrier as soon as operational security allowed.

The carrier continued to provide all evidence to Australian law enforcement agencies to further their enquiries and assist in the investigation. It is likely that the initial examination of the container disrupted the criminal group's efforts to collect the goods.

Recognising the significant contribution made by the carrier, ABF sought to declare the container "abandoned" as soon as practicable to expedite its release and avoid incurring significant wharf storage fees.

Lessons learned

For continued collaboration and enduring partnerships:

- Embrace the differences: Each stakeholder has different motivations for investigating supply chain anomalies, and that is fine. Leverage these differences to achieve the common goal.
- Establish trusted partnerships and clear lines of communication: The ABF is committed to developing trusted industry partners to facilitate legitimate trade and detect illicit trade. Single lines of communication will be provided for industry to make confidential referrals. The response should be appropriate and proportionate to the referral, taking into account the type of concealment and suspect.
- Feedback strengthens the supply chain: The offshore agent in this scenario is no longer used by this carrier due to its lack of due diligence before accepting the shipment.