

UNCTAD Trust Fund on Trade Facilitation Negotiations¹ Technical Note No. 12

Risk management in Customs procedures

The measure in the WTO context

The concept of risk management in Customs procedures can be considered under Article VIII of GATT 1994 (Fees and Formalities connected with Importation and Exportation). In particular, paragraph 1(c) recognizes “the need for minimizing the incidence and complexity of import and export formalities and for decreasing and simplifying import and export documentation requirements”. WTO members consider the introduction of risk management techniques in Customs procedures as a means to expedite clearance of goods. The WTO reference document for this topic is TN/TF/W/43 (see latest revisions under Expedited/ Simplified Release and Clearance of Goods).

Background

A common characteristic of Customs work is the high volume of transactions and the impossibility of checking all of them. Customs administrations therefore face the challenge of facilitating the movement of legitimate passengers and cargo while applying controls to detect Customs fraud and other offences. Customs services find themselves increasingly under pressure from national governments and international organizations to facilitate the clearance of legitimate passengers and cargo while also responding to increase in transactional crime and terrorism. These competing interests mean that it is necessary to find a balance between facilitation and control.

Customs controls should ensure that the movement of vessels, vehicles, aircraft, goods and persons across international borders occurs within the framework of laws, regulations and procedures that comprise the Customs clearance process. Given the high number of export, import and transit transactions many Customs administrations use risk analysis to determine which persons, goods, and means of transport should be examined and to what extent (WCO Revised Kyoto Convention, Standard 6.4.). Risk analysis and risk assessment are analytical processes that are used to determine which risks are the most serious and should have priority for being treated or having corrective action taken.

Inspection selectivity programmes make use of risk profiles, which have been established in a process of risk analysis and assessment. Risk profiles encompass various indicators, such as; type of good, know trader and compliance records of traders, value of goods and applicable duties, destination and origin countries, mode of transport and routes and are built based on characteristics displayed by unlawful consignments (or offending passengers).

The development of profiles relies heavily on the gathering, charting and analysis of intelligence and the WCO has developed various tools to assist its member countries in the establishment of profiles and the management of intelligence collection. The WCO

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Customs Enforcement Network (CEN) database can, for example, provide useful intelligence for the establishment of risk profiles.

These profiles then drive inspection selectivity programmes, through which data declared will be analysed on the basis of the identified risk parameters and consignments, and depending on the selected risk level, goods and persons are routed through different channels of Customs control.

ASYCUDA Customs Control channels using risk management	
Green Channel	= Immediate release without examination
Yellow Channel	= Documentary check
Red Channel	= Physical examination on of goods and documents
Blue Channel	= Examination at a later stage (post audit)

Benefits and costs

Risk management techniques are a useful means to ensure enforcement, security and trade facilitation at the same time. By selectively categorising goods and passengers for verification a more rapid release and clearance can be achieved. Consignments and persons considered as ‘low-risk’ based on the risk profile attract minimal attention and intervention from Customs and can be processed quickly. Furthermore it enables Customs staff to concentrate their efforts and resources on fewer consignments.

Benefits

- *Better human resource allocation* - Following implementation of risk-based clearance, Customs staff can concentrate efforts on fewer consignments, and staff can be deployed more efficiently;
- *Increased revenue* - Despite few physical inspections, the improved efficiency and professionalism in Customs control leads to an increase in duty collection in many countries;
- *Improved compliance with laws and regulations* - It is a general experience that the improved efficiency in Customs —together with the traders’ incentive to achieve faster release through the green channel— brings about better compliance on the part of the traders. This has a further positive impact on the correctness of foreign trade statistics;
- *Improved collaboration between traders and Customs* - Interaction between Customs and traders is part of the process to assess the risks related to goods carried, imported or exported by specific traders. Normally such contact and communication will lead to better understanding between both parties and improve their relationship in general terms;
- *Reduced release time* - The fact that on average only 10-20 percent of the goods are examined under efficient, risk-based clearance implies that Customs can release the vast majority of shipments immediately after the clearance document has been lodged with Customs;
- *Lower transaction costs* - The time taken to clear goods in Customs using old-fashioned procedures can amount to as much as one or two weeks. New risk management techniques will release 80-90 percent of the goods within a few hours —and thus save significant transaction costs to traders.

Costs

Risk assessment may mean significant infrastructural changes within an administration. For example, it will require a national and regional intelligence structure providing strategic and operational intelligence respectively, less officers for physical and documentary examination and more auditors and investigators.

Provided Customs use automated systems in procedures and management, risk management needs access to an 'intelligence' database and procurement of a few additional computer screens. In addition, introduction of a new methodology requires additional training of the staff involved. Comprehensive training programmes, like those offered by WCO, must be organised for both management and the officials concerned.

Implementation Requirements

Changing control procedures entails a shift in the way Customs perceive and fulfil its mandate. Traditionally 100-percent control was believed to be the only way to ensure enforcement. However, risk management, and therefore selective inspections provide a much more efficient approach. Successful operation of this technique requires preparatory activities with a view to creating awareness and understanding of the system.

Such activities should take into account that:

- It is vital to change the mentality of staff and management, so that everybody recognizes the value and effectiveness of risk management;
- Awareness courses for the entire organization can increase the understanding of the new procedures, while specialised, technical courses should be arranged for staff directly involved in the implementation and operation of the new procedures;
- A risk management policy and a strategic management plan can highlight the objectives and priorities in introducing the new system;
- The internal structure of the Customs administration has to be adapted, including through the creation of e.g. a Risk Management Committee, with representatives from various Customs offices (regional and/or local). The objective of this Committee is to discuss and agree on new risk criteria;
- A separate unit in Customs (e.g. Risk Management Unit) can be established to become responsible for the maintenance and operation of the system;
- The Risk Management Unit can gather, chart and analyse intelligence data on importers and carriers from relevant sources, including from the WCO CEN database, national seizure reports, and other administrations acting under the WCO's Nairobi Convention or bilateral agreements;
- Customs laws and regulations need to be reviewed to reflect the use of risk management techniques within legal boundaries;
- Use should be made of the electronic manifest, which is aligned to international standards, in order to provide for advance identification of high-risk shipments.

Linkage to other trade facilitation measures

Targeted controls based on risk management techniques are complemented by audit-based controls and compliance measurements, which are the basis of simplified procedures for authorised traders. These are special, or ‘fast track’, procedures requiring little intervention by Customs in the release and clearance of goods.

The concept of authorized traders relates to businesses and other participants in the supply chain, including logistics providers, sufficiently ‘known’ and trusted by the Customs authorities on account of their good compliance record of accurate declarations and timely payments to be exempted from the ordinary controls and subject to much lighter procedures and requirements.

Audits provide a clear and comprehensive picture of the customs transactions and of the compliance rate of traders and therefore feed into the risk management mechanism the compliance measurements determining the extent to which traders conform to Customs requirements.

With respect to transit traffic, criteria may be slightly different than for imports and exports, focussing for instance less on Customs value issues and more on the risk of diversion into the domestic market. Such a risk, associated with goods that are subject to special health, safety and sanitary controls, or to high rates of duties and charges, needs to be properly assessed in order to define appropriate guarantee levels in transit regulation or to devise satisfactory insurance schemes in the framework of transit agreements. Well-adapted and reliable instruments to underwrite the movement of goods—for example in the form of insurance guarantees, including surety bonds and associated security-enhancing physical devices, such as transit seals— can eliminate ordinary risks of revenue loss and account for third-party liability.

References and tools available

World Customs Organization

The relevant instrument which can be found on <http://www.wcoomd.org> include

- the International Convention on the Simplification and Harmonization of Customs Procedures (Revised Kyoto Convention of 1999)
- the Risk Management Guide;
- the Guidelines for the Immediate Release of Consignments by Customs
- The Security data elements of the SAFE Framework of Standards to Secure and Facilitate Global Trade;
- the International Convention on Mutual Administrative Assistance for the Prevention, Investigation and Repression of Customs offences (Nairobi 1977);,
- the Standardized Risk Assessments, Model Risk Indicators/ Profiles (EC0149E6) which contains specific indicators for Multilateral Environmental Agreements (MEA)-related illicit trafficking.

The World Bank

World Bank references and tools include:

- the Guidelines for Risk Management in Customs

- the Customs Modernization handbook (January 2005)
- the Customs modernization initiatives: case studies (August 2004).
- the World Bank paper *Trading on time* (December 2006).

The Global Facilitation Partnership for Transportation and Trade (GFP)

The Global Facilitation Partnership for Transportation and Trade (GFP) brings together the world's leading organizations and practitioners in trade and transport facilitation. It creates an open information and exchange platform on major new developments and all aspects of trade and transport facilitation. See www.gfptt.org.

UNCTAD

Information on UNCTAD's automated system for Customs data, ASYCUDA is available on <http://www.asycuda.org/>

Further UNCTAD Technical Notes

Further Technical Notes are available via <http://r0.unctad.org/ttl/technical-notes.htm>. See in particular:

- Technical Notes Nos. 3 (Use of Customs Automation Systems)
- Technical Note No 5 (Customs Procedures - Post Clearance Audit)
- Technical Note No 8 (Freedom of Transit and Regional Transit Arrangement)
- Technical Note No 10 (Right of Appeal against Customs and other Agency Rulings and Decisions)
- Technical Note No 15 (Pre-Arrival Customs Clearance)
- Technical Note No 16 (The Electronic Submission of Trade Documentation)
- Technical Note No 19 (Separating Release from Clearance Procedures)
- Technical Note No 21 (Automated System for Customs Data (ASYCUDA))
- Technical Note No 22 (Advance Rulings)

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