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CUSTOMS MODERNIZATION HANDBOOK

POST-CLEARANCE AUDIT PROGRAMS

A BUSINESSLIKE APPROACH TO CUSTOMS CONTROL



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PREFACE

Over the past six years, USAID has developed a series of handbooks to help developing-country customs administrations modernize according to international best practices in customs reform and project management. The series provides a progressive approach to modernization. It includes the following handbooks:

- Establishing and Implementing a Program Management Process
- Establishing and Implementing a Customs Integrity Program
- Establishing Risk Management/Cargo Selectivity Capability
- Authorized Economic Operator Handbook
- Post-clearance Audit Programs—the current handbook.

Twenty-first-century customs modernization offers a new approach to compliance management and voluntary compliance: if given the proper tools and incentives and the opportunity to develop a working relationship with customs, the trading community is more likely to comply with customs rules and regulations voluntarily. This approach to compliance contrasts with the traditional approach, which relies almost exclusively on punitive measures and results in adversarial customs-business relationships. The transition from an adversarial relationship to a voluntary compliance-based relationship is not easy, but it is worthwhile.

Experience has shown that applying internationally recognized program management principles to customs modernization yields the best success rates. Recognizing this, in 2005, USAID sponsored the development of the handbook *Establishing and Implementing a Program Management Process* to help developing-country customs administrations establish a change management framework for their modernization efforts.

The effectiveness of any customs modernization program depends on the political will of customs at the highest levels and on an overall atmosphere of integrity. USAID therefore also sponsored *Establishing and Implementing a Customs Integrity Program Handbook*, which provides practical guidance to any customs administration desiring to establish a program to combat corruption and instill integrity in its workforce. The handbook sets forth a comprehensive, step-by-step strategy for adapting and implementing an integrity program with minimal outside assistance. Bringing about meaningful change requires

that customs managers have reasonable confidence that the workforce will implement new policies and practices responsibly and ethically.

As the World Customs Organization (WCO) emphasizes in the Revised Kyoto Convention, risk management–based cargo selectivity is a key element of customs modernization. Risk management allows customs administrations to allocate resources efficiently by focusing inspections on cargo that poses the highest risk while admitting low-risk cargo more quickly. Using risk management, customs managers can establish goals for examination rates and monitor workforce productivity. They can also tailor the type and intensity of controls to mitigate the risks facing the customs administration. The third handbook in the USAID series, *Establishing Risk Management/Cargo Selectivity Capability*, provides a plan of action for developing-country customs administrations to follow in order to establish risk management staff who can identify, analyze, prioritize, and design responses to the risks associated with particular kinds of cargo shipments.

The fourth handbook in the USAID series, *Authorized Economic Operator Handbook*, written in cooperation with the WCO, is based on the WCO *Framework of Standards to Secure and Facilitate Global Trade* (SAFE Framework of Standards). It presents a prototype implementation plan for authorized economic operator (AEO) programs that can be adapted to address local issues and priorities. AEO programs emphasize voluntary compliance and improve supply chain security through customs-to-customs and customs-to-business partnerships. The handbook presents case studies that detail the experiences of countries that have already implemented AEO programs. It includes a CD with reference materials on best practices and sample forms and documents from customs administrations implementing AEO programs throughout the world.

Post-clearance audit, which is the subject of this handbook, is a modern control approach that strengthens customs administrations' ability to validate risk assumptions and address technical issues in a sophisticated manner. This handbook provides a step-by-step guide for customs administrations to follow to strengthen their capacity to implement post-clearance audits in complement to their risk management programs. It gives guidance on examining the legal, institutional, organizational, and capacity building requirements for establishing post-clearance audit capability. An effective PCA system also helps pave the way for trusted trader—or AEO—programs, as well as more-intensive compliance measurement programs.

Customs managers and employees are most likely to accept a reform initiative if they participate in its design and implementation, and managers often prefer to lead initiatives without relying too heavily on technical advisers. Customs administrations in developing countries should be able to follow these handbooks and institute reform measures with minimal technical assistance. This do-it-yourself approach, however, does not preclude the use of short-term technical assistance when needed.

This handbook also provides reference materials on a CD included with the document.

I. INTRODUCTION

Customs administrations, especially those in the developing world, confront significant challenges in balancing their responsibilities for collecting revenue, protecting national borders, and facilitating trade. Consequently, developing-country customs administrations increasingly look to risk management as a means of implementing customs controls and allocating scarce resources more effectively. Post-clearance audit, according to UNCTAD and WCO, means “audit-based Customs control performed subsequent to the release of the cargo from Customs’ custody. The purpose of such audits is to verify the accuracy and authenticity of declarations and includes a detailed analysis of traders’ commercial data, customs systems, records and books.”

The introduction of post-clearance audit techniques benefits both customs and the trading community. For customs, post-clearance audits can help protect revenue, improve traders’ compliance, detect and prevent fraud, and increase the efficiency of customs control. For the trading community, post-clearance audits can expedite the clearance of goods by reducing the frequency of customs interventions at the border, seaport, airport, or inland terminal. Rather than resolving all issues before release (which often generates costly delays), customs conducts audit-based controls on the trader or broker’s premises after releasing goods to the importer.

In July 1996, the Korea Customs Service (KCS) introduced the Post-Clearance Audit to deal with the rapid increase in the volume of imports and exports, and to expedite customs clearance procedures. Within 90 days after acceptance of import declaration, KCS examines, on case-by-case basis, correctness of payment of duties and taxes on selected import cases, which are

electronically selected by risk management methods. This is mainly a paper-based audit. As a consequence, there was a sharp decline in the time taken for customs clearance, which has also contributed to cost savings for businesses as well as for the government.

—July 2005 Communication from Korea to WTO Negotiating Group on Trade Facilitation

Because customs conducts post-clearance audits on the trader’s premises, designing a PCA program requires involving the private sector early and often. customs and the private sector must have a clear understanding of each party’s roles, responsibilities, rights, and obligations. Customs and traders must approach the post-clearance audit

as a mutually beneficial process. Traders must understand that a post-clearance audit *is not a fiscal audit*. Instead, a post-clearance audit checks customs' risk assumptions by determining the trader's compliance in specific areas of concern, such as reporting of value, classification, rate of duty, country of origin, and other factors relevant to a particular importer, commodity, or declaration. Public-private dialogue is essential in the design, implementation, monitoring, and evaluation of a post-clearance audit program to establish and maintain the trust required for the program to succeed.

In this handbook, we recommend a phased approach to establishing a post-clearance audit program. The UNCTAD Trust Fund for Trade Facilitation Negotiations Technical Note 5, "Post-Clearance Audit" (2011 revision) states that customs, in conducting a post-clearance audit, can examine individual transactions (a "transaction-based audit") or imports and/or exports made over a period of time (a "company-based audit"). In a phased approach, for Phase 1, a customs administration establishes a transaction-based audit program. In Phase 2, it develops a company-based and commodity-based audit capacity and a broader compliance assessment system that might feature trader self-assessments and systems-based reviews of a company's internal controls and capacity to self-regulate. This handbook addresses only Phase 1. Phase 2 will be covered in a handbook on compliance management.

The phased approach is grounded in the authors' extensive experience working with developing-country customs administrations whose desire to reform is strong but whose capacity to implement reform is not fully developed. Starting with transaction-based audits allows developing-country customs administrations—and the trading community—to "start small"—learn from several small audits—and build capacity gradually. A collateral benefit of this approach is establishing mutual respect and trust in the working relationship between customs and the trading community. Allowing inexperienced auditors to have free reign to dig into traders' offices too early may erode trust and undermine the program.

In chapter 2, we detail the prerequisites for designing and implementing a PCA program, focusing on risk management, change management, and integrity. Chapter 3 presents the steps for program implementation, which are based on international customs modernization and project management best practices and can be adapted to local circumstances. Chapter 4 addresses measuring the success of a PCA program. The enclosed CD provides the latest best practice reference materials, a model operations policy that can be adapted to local circumstances, and sample forms and documents from customs administrations that have implemented PCA programs.

2. PREREQUISITES FOR POST-CLEARANCE AUDIT

Before designing and implementing a post-clearance audit program, a developing-country customs administration must have certain prerequisites: the infrastructure for risk management, the political will to change, and a commitment to integrity.

RISK MANAGEMENT

Risk management, a proven technique recommended by the WCO, is essential to all modern trade-processing decisions and programs, including post-clearance audits. Risk management not only identifies high-risk activities but also strives to reduce risk by encouraging voluntary compliance with customs regulations. Customs administrations implementing a post-clearance audit program must shift from a unilateral approach of detecting and penalizing acts of noncompliance to a shared-responsibility approach that promotes working relationships, transparent and cost-effective risk-based processes, and voluntary compliance. Before initiating a PCA program, customs administrations should have a strong foundation for risk management and cargo selectivity in place.

Risk-based cargo selectivity replaces examination of 100 percent of cargo with selective controls based on both specific risk indicators and random selection. Risk-based selectivity enables speedier clearance of compliant cargo and enables customs to devote fewer resources to low-risk imports and more resources to high-risk imports—those that the risk management system has determined are more likely to be noncompliant.

Customs administrations using ASYCUDA, SYDONEA, or another declaration processing system generally have a database they can use for establishing risk-based and random selection criteria. Customs risk analysts can download data from the database to conduct analysis, create risk profiles and criteria, and compile reports, and officers and managers can use the data to detect anomalies and take immediate corrective action.

There are four basic types of customs intervention in a cargo selectivity system: (1) system review, (2) document review, (3) physical examination, and (4) post-clearance audit. These types of intervention correspond to four risk-based intervention channels: green, yellow, red, and blue (see box).

Risk-based Intervention Channels

Green channel means immediate release through the automated vetting process built into the automated declaration processing system; the customs officer does not review documents or examine cargo.

Yellow channel means a detailed document review, either because of anomalies requiring further review detected in declaration elements or on the basis of random selection. After the document check, the declaration is released or rerouted for red channel intervention. Document reviews generally focus on the presence and validity of supporting documents.

Red channel means mandatory physical examination for high-risk or randomly designated shipments and is

usually preceded by a full document review. Physical examination focuses on physical attributes of the cargo such as quantity, classification, and presence of undeclared goods. Red channel does not always mean examination of the entire shipment.

Blue channel also provides immediate release without a customs officer's reviewing documents or examining cargo. In blue channel, however, the declaration is automatically referred for PCA, during which specialized customs officers can review a wider variety of documentation. Post-clearance controls are effective for addressing valuation concerns and for validating preferred trader compliance.

When a declaration is flagged for post-clearance audit, the goods are initially treated in the same manner as goods flagged for the green channel: they are released without intervention. But customs officers retrieve the declarations—written or automated—later to determine if further review is warranted. PCA allows customs officers to resolve concerns about correct reporting of value, classification, rate of duty, and country of origin in flagged declarations.

If PCA processes are not implemented, declarations that generate these kinds of concerns generally are routed to the red or yellow channel and require a customs officer's intervention before the cargo is released. Because of the complexity of the issues and the need to reduce the number of supporting documents, however, the customs officer working at a cargo terminal often does not have sufficient documentation to resolve issues conclusively. By moving the customs intervention to the importer's or broker's place of business, customs officers can obtain a clearer understanding of the transaction than they can at the point of entry.

Customs may audit declarations selected for PCA review as soon as possible (in the case of significant concern) or after a reasonable period of time, determined by legislation or regulations (See Chapter 3, Step 4). In the interim, the PCA unit sorts blue channel declarations by importer and may plan to audit several declarations during one visit to the company's premises. At the company's premises the auditor or audit team reviews commercial documents associated with the declarations, such as purchase orders, contracts, payment records, insurance documents, and correspondence relating to the goods in question.

COMMITMENT TO CHANGE AND PUBLIC-PRIVATE DIALOGUE

Instituting post-clearance audits demands not only adopting new technology and processes but also adjusting mind-sets, methods, and relationships with the trading community. Change management requires strong senior leadership in the customs

administration, a willingness to change at all levels, and extensive outreach. Outreach must extend within customs, to other agencies involved in import, export, and border management, and to the trading community. Customs administrations that give reform high priority will find the process more rewarding and successful.

Establishing or improving public-private dialogue is also critical to making the change required by a PCA program. Both customs and the trading community may enter the process with suspicions. Customs may see every declaration irregularity as the trader's attempt to avoid paying revenue; the trade community may suspect that PCA will legitimize customs officers' interference in business for their own personal gain. But irregularities on customs declarations have many possible reasons, including simple human error, and customs administrations must recognize that every irregularity should not be a punishable offense. The trading community, for its part, must recognize its own role in helping the PCA program succeed. If both embrace voluntary compliance they can move from an adversarial to a cooperative relationship.

COMMITMENT TO INTEGRITY

Corruption erodes the effectiveness of public agencies in many developing countries, and customs administrations are especially vulnerable to the influence of corruption. If a post-clearance audit program is to succeed, customs managers and the trading community must be able to trust that customs officers and employees will perform their duties ethically.

Integrity—from both customs and traders—should be emphasized throughout PCA program design, implementation, and outreach. Collusion requires two parties: an unethical customs officer and an unethical trader. Both must be addressed. The WCO Arusha Declaration (Declaration of the Customs Co-operation Council Concerning Integrity in Customs) provides customs administrations with valuable tools and guidance for implementing integrity programs. There is no reason that customs cannot encourage the trading community to undertake similar integrity initiatives.

The USAID Customs Modernization Handbook "Establishing and Implementing a Customs Integrity Program" provides best-practice examples and guidance and is provided on the CD accompanying this handbook.



3. TEN STEPS OF POST-CLEARANCE AUDIT PROGRAM IMPLEMENTATION

Designing and implementing a PCA program can be rewarding but challenging. PCA demands a range of responses from a modernizing customs administration—in legislation, organizational structure and incentives, procedures, information technology, and in relations with other customs administrations, agencies involved in border management, and the private sector. In addition, implementing PCA not only requires the appropriate infrastructure, but also the proper sequencing of key actions and milestones throughout the process. In this chapter, we present the basic steps in establishing a post-clearance audit program—from inception to outreach to launch.

STEP 1: ASSEMBLE THE PROJECT IMPLEMENTATION TEAM

The speed and success of PCA program implementation depend on assembling the right team with the firm commitment of leaders at the appropriate ministries and at customs or the revenue authority (such as the director general). The director general (hereafter, the “chief executive”) must champion the program from its inception. The chief executive should personally introduce the PCA concept to other parts of government—Parliament and the various ministries and departments that have an interest—to secure support and funding for the program. The chief executive’s endorsement will underscore the PCA program’s importance to customs officers, support the project implementation team charged with the task of putting the PCA program into effect, and lend the program credibility with the trading community.

The experience of Jordan demonstrates how including multiple agencies in PCA design and implementation can make trade faster and more efficient. Jordan required all inspection agencies present at the country’s borders to be trained in risk management. During these trainings, the agencies quickly saw that they could improve their effectiveness by adopting post-clearance audit controls in lieu of pre-release document reviews. Jordan now requires all government inspection agencies to adopt risk management practices for import and export inspection

The chief executive will be the primary project sponsor, but he or she will have to balance several priorities at once and may not be able to devote the time and attention necessary to personally manage PCA program design and implementation. The chief executive therefore should appoint a trusted subordinate as full-time project manager. The project manager should be empowered to speak for the chief executive and make decisions and commitments independently (within defined parameters). The project manager should inform the chief executive regularly of progress and obstacles; the chief executive, in turn, should remain accessible to receive these progress updates. The project manager should be motivated, have excellent project management skills, and demonstrate an ability to bring together stakeholders with diverse points of view. The project manager and the implementation team should have a good command of English or French, the official languages of the WCO. The ability to research WCO references and other best practices without having to call on a translator will be invaluable.

The project manager should assemble a project implementation team of officers and managers from a range of customs departments and divisions. The project implementation team can have full-time members, as well as part-time members who participate as needed. This can work as long as team members' supervisors recognize the importance of the project and give the team members enough time to participate. Again, the strong support and involvement of the chief executive facilitates the participation of all project implementation team members. The chief executive and project manager should hold informational forums at headquarters and field offices. Field officers can share their valuable experience, becoming champions of PCA in the field and helping implement the PCA program.

Ideally, full-time team members will remain with the PCA program for the long term. Team members will acquire a wealth of knowledge on the program's design and implementation, including firsthand experience of how businesses operate. To lose this knowledge when PCA is institutionalized would be unfortunate.

Other government institutions with import, export, and/or border management roles and responsibilities must also understand how PCA affects them. Their processes must be taken into consideration, their concerns addressed, and their issues resolved to everyone's satisfaction. Consideration should be given to including representatives from these government agencies on the PCA program implementation team.

PCA is a multidisciplinary function that must draw on a wide range of customs expertise. The project implementation team should include expertise in the following fields:

- AEO programs
- Audits
- Human resources management
- Information technology
- Intelligence
- Investigations
- Legal and policy advice
- Policy and procedures development
- Public information
- Revenue collection
- Risk management
- Valuation.

STEP 2: DEFINE THE PROJECT

When the project implementation team is assembled, it first must define the project.

This is done in two documents: (1) a formal project charter and (2) a project scope of work. These two documents set the tone for the implementation of the entire project; the more explicit and clear these documents are, the easier the program will be to manage. Significant time and thought are required to produce a charter and a scope of work.

PROJECT CHARTER

The project charter defines the project by

- Explaining the importance of the project to the customs administration and its stakeholders;
- Naming the project manager and establishing the manager's decision-making authority;
- Naming the project implementation team members and establishing their roles; and
- Emphasizing senior management's support for the project and the project manager.

The project manager should submit the draft charter to the chief executive and incorporate the chief executive's feedback into the final document. When the chief executive approves the charter, the team will begin the more challenging task of developing a scope of work.

SCOPE OF WORK

The project scope of work should cover

- Date of the charter and expected dates of implementation (i.e., duration);
- Project objectives and rationale;
- Project sponsor and major stakeholders;
- Project parameters (what work will or will not be performed), assumptions, constraints, and risks;
- Initial project organization and work breakdown structure;
- Project deliverables, timelines, and milestones; and
- Cost estimates and resource requirements.

Drafting a statement of work for a post-clearance audit program requires thorough examination of the project requirements—technical, organizational, and operational. Technical questions such as the legal and regulatory basis for post-clearance audits and the development of procedures and manuals are addressed in greater detail in Steps 4 and 6, respectively. In this step, the project implementation team determines the appropriate organizational structure for the new PCA unit and estimates the number of post-clearance audits that the unit will carry out in the first year. This estimate is only for planning the workflow of the unit and the human and physical resources the unit will need to carry out the work. The estimate should *not* be expressed in terms of a revenue target for the unit.

ORGANIZATIONAL STRUCTURE

In developing the statement of work, the project implementation team must determine which office or department will manage post-clearance audits. Post-clearance audits are an extension of risk management, so housing the program in the risk management department may make the most sense. The risk management department of a customs administration is generally responsible for identifying high-risk shipments; implementing post-clearance audits would require that it also identify low-risk, compliant traders for expedited clearance of goods. Alternatively, the PCA function might be located in a trade-related department or a new department tasked specifically with managing compliance.

The team must also decide how centralized the PCA program should be: will audits be conducted primarily from customs headquarters, or will field offices be involved? In some countries, customs administrations split responsibilities between a central division and field teams. The central unit determines audit priorities and resource allocation, ensures consistency and coordination, provides a national risk assessment, and provides training and functional guidance; field teams carry out audits on declarations filed by importers in their geographical proximity or responsibility. The size of the country, number of customs offices, and geographical distribution of traders—all of which affect travel expenses—should be taken into account when deciding whether PCA specialists should be concentrated in customs headquarters or dispersed to regional offices. Whatever the case, the management structure affects the resources (and the budget) available for the project and should be considered up front.

The organizational structure for PCA will vary according to a country's geographic size, distribution of traders, and other factors. For example,

In Pakistan, the Federal Bureau of Revenue Customs has laid plans to develop a PCA system with elements at the central and field levels. The PCA Directorate General, based in the capital, has been established and is run by a director general. The director general is assisted by three directors—one in the capital

(Islamabad), one in the north (Lahore), and one in the south (Karachi).

In Georgia, the PCA team is composed of seven PCA experts, all of whom are located in Tbilisi and work with the Risk Management Department.

In Guatemala, post-clearance audits involve the joint participation of three customs departments—Customs, Investigations, and Control and Legal Affairs.

NUMBER OF AUDITS OR ACTIONS PER YEAR

Another key variable in determining the resources required for a PCA program is the number of actions that customs can reasonably support in its first year.

The PCA unit will have to work with the risk management department to develop parameters for routing declarations to the blue channel for audit. Risk parameters are important for generating a reasonable and manageable number of blue channel actions for the PCA unit to handle in its first year. (See also Step 5, Develop Year One PCA Program Strategy.)

The blue channel may be the primary trigger for an audit, but it is not the only one. Declarations may also be selected on the basis of intelligence (e.g., the sudden influx of

a certain commodity in the market at a low price), random selection, or government priority. This will require the risk management department to have accurate statistics on the number of declarations found to have had classification or valuation issues over the past year. This information may be easier to come by in some customs administrations than in others.

Customs should *not* set revenue-based targets for the PCA unit because doing so would create a perverse incentive for customs to conduct excessive audits, and in the worst-case scenario, generate opportunities to raise revenue arbitrarily. Because a PCA aims to confirm assumptions about the risk of specific transactions, the measure of success should be expressed in terms of traders' improvements in compliance resulting from more effective control processes, not on the amount of additional revenue collected. (See also Step 10, Monitor PCA Program Progress.)

RESOURCES

With estimated numbers for post-clearance audits to be conducted per year, the team can estimate the human and physical resources required for the PCA program. The team should consider how many personnel will be required to manage the program, where they will come from, and what training they will receive. The unit will also require office space, furniture, computers, and other equipment. The unit will have to make auditing information quickly available (e.g., risk profiles, intelligence, business information), so it must be equipped with a file storage system for printed and/or electronic copies, depending on the resources available to the customs administration. The PCA unit will also need vehicles because it will conduct audits on traders' premises.

When the project implementation team has defined the project, the chief executive will distribute the charter and preliminary scope of work throughout the organization. The chief executive will also approve organizational and resource recommendations that allow customs to begin implementing the recommendations.

STEP 3: DRAFT PROJECT IMPLEMENTATION PLAN

The project implementation team will next draft a project implementation plan, or work plan. The plan should lay out each task (see Steps 4–10) and subtask, designate the person or persons responsible for each task and subtask and a deadline for each. When drafting the plan, team members must consider each other's point of view and constraints and be willing to compromise. It does not make sense to hold team members to unrealistic deadlines they cannot achieve, but the plan must be ambitious enough that project goals can be achieved in a timely fashion. The sequencing of tasks will also be important. All of this will depend on the ability of the project manager and the chief executive to balance the schedules, expectations, and requirements of team members.

The project manager will present the draft plan to the chief executive, who will review it and circulate it within customs, soliciting comments. The project implementation team can expect to revise and resubmit the plan several times in presentations to the chief executive and other senior managers before receiving approval to proceed. The team should also share the draft plan with private sector representatives (e.g., chambers

of commerce, business associations). This will set the stage for establishing a more formal public-private consultation mechanism as the program rolls out. When the implementation plan is approved, the project implementation team will distribute the plan within customs and to other relevant ministries and agencies and make the plan public (e.g., by posting it on the customs website).

The team can then begin executing the project implementation plan:

- Review legislation and regulations (Step 4)
- Develop year 1 strategy (Step 5)
- Develop step-by-step procedures (audit manual) for PCA (Step 6)
- Institutionalize the PCA unit (Step 7)
- Recruit and train PCA specialists (Step 8)
- Announce and promote PCA (Step 9)
- Monitor and evaluate PCA program progress (Step 10).

At this point, the project manager should begin submitting written progress reports to the chief executive. The reports could be submitted weekly, monthly, or quarterly, depending on the preference of the chief executive. Reports should provide details on work accomplished, tasks completed, unexpected obstacles or delays, adjustments made to the plan, and other relevant information. The chief executive should meet with the project implementation team at least once per reporting period to discuss progress.

The WCO and the East African Community have developed a logical framework, or “logframe” for developing a regional program on post-clearance audit. The logframe presents strategies, monitoring and evaluation indicators, expected results, means of verification and key success factors for the program. The logframe might serve as a useful model for other developing-country customs administrations designing and implementing PCA programs. It has been included in the CD-ROM accompanying this handbook.

STEP 4: REVIEW LEGISLATION AND REGULATIONS FOR POTENTIAL CHANGES

The first major task in developing a national PCA program is ensuring that customs officers have the legal authority to implement post-clearance audits. Regulations for the program will probably have to be drafted. The customs code must provide that customs officers have authority to ensure compliance with the laws and regulations they are responsible for enforcing, including authority to impose controls after goods are released from custody. In addition, the code should ensure transparency and predictability by providing information on rules, decisions, a penal scheme, and an appeal process. The code must

- Support the use of risk management practices,
- Grant customs the legal authority to conduct post-clearance audits,
- Define how long after the release of goods customs can conduct a post-clearance audit and demand payment of additional duties and taxes, and

- Grant specific powers to customs to conduct audits at an importer's premises and at the premises of other parties relevant to an import transaction (e.g., customs brokers, buyers, banks).

The project manager should assemble a working group to develop legislation for PCA. The working group should include representatives from the legal department of customs or the revenue authority and the public sector. Because audits will be conducted on the premises of traders and/or customs brokers, the private sector must be represented in the working group.

ALIGNMENT WITH INTERNATIONAL GUIDELINES

The working group should ensure that PCA framework laws, implementing regulations, and other government guidelines are consistent with the objectives of risk management and post-clearance control established in (1) the control standards in the WCO Revised Kyoto Convention, General Annex Chapter 6; and (2) the regulatory compliance, business record management, financial viability, and security standards established in the SAFE Framework of Standards, Chapter 5.

The Revised Kyoto Convention provides the legal framework and a range of standards for improving customs operations by standardizing and harmonizing policies and procedures throughout the world. The Revised Kyoto Convention strongly recommends that countries institute fast-track clearance for traders with good records of compliance. A PCA program is one means of implementing this international best practice. General Annex Chapter 6 of the convention contains the standards for risk management and post-clearance audit.

Chapter 5 of the SAFE Framework of Standards establishes international standards for regulatory compliance, business record management, financial viability, and security. The Revised Convention and SAFE Framework of Standards are guidelines flexible enough to allow national legislation to reflect local legal, political, cultural, and economic requirements. Nonetheless, the legislative basis for national PCA programs must be comprehensive enough to address the rights, duties, and obligations of both customs and the trading community.

LEGAL SCOPE OF POST-CLEARANCE AUDIT

Legislation should ensure that the legal framework facilitates the application of PCA-based controls, stipulate the timeframe allowed for conducting an audit, and define fraudulent practices, rights and duties regarding the seizure of documentation, the confiscation of goods, and penalties.

The legal basis must be clear and comprehensive in defining post-clearance audit scope and function. Legislation, including administrative regulations and accounting laws and regulations, must make the obligations and rights of both customs and traders clear. Because PCAs are not governed by the same standards as fiscal audits, they must be supported by recordkeeping requirements for imports, exports, and value.

In May 2008, the Ministry of Economy and Finance of Cambodia issued a proclamation establishing PCA in that country. The proclamation defines PCA, PCA objectives, the roles and responsibilities of the actors involved in PCA, and the requirements for audit. This demonstrates how PCA can be mandated in a developing country. Implementing regulations provide more detail on procedures, penalty schemes, and the like. The proclamation can be found on the CD-ROM that accompanies this handbook.

RIGHTS, DUTIES, AND OBLIGATIONS OF CUSTOMS

The USAID-funded Central Asian Republics Regional Trade Liberalization and customs project summarized the rights, duties, and obligations of customs as follows:

- Adequate powers to exercise controls on import, export, and other transactions belonging to the customs administration
- Inspection and controls of records, books, documents, and commercial records, including those held on computers
- Entry, visit, inspection, and control of any place subject to customs supervision
- Examination of goods and sampling
- Responsibility for keeping all information and documents of traders private and confidential
- Necessary agreements and conventions ratified to ensure national and international interagency cooperation and exchange of information, including mutual administrative assistance.

In addition, customs requires the authority to implement a penalty scheme and corrective actions.

In 2010, USAID worked with Kazakhstan Customs to review the customs code and determine the legal basis for conducting post-clearance audits. It found that Kazakhstan has a strong legal infrastructure that allows customs to conduct full audits post-clearance but is still determining the level of specificity necessary for legal coverage of PCA. Although risk analysis is foundational to PCA, detailed risk criteria should not be part of a customs code because modifying the criteria as risk selection parameters are updated is difficult. Furthermore, specifying detailed criteria provides the trading community with undue insight into risk selection.

PENALTY SCHEME

The PCA and legal team must ensure that legislation provides sanctions and monetary penalties for trade fraud. A wide range of errors can occur in the declaration process, and penalties should be in keeping with the severity, impact, and intent of a misdeclaration. Penalties may range from warnings, to nominal fines, to serious sanctions. When a declaration has been accepted, it is considered a legally binding document and can be modified only according to specific guidelines. Customs must have a means to treat errors and track irregularities to determine compliance. The process for penalizing trade fraud must be governed by statutes and regulations and be consistent, predictable, and uniformly applied.

CORRECTIVE ACTIONS

Customs legislation and/or regulations should also recognize that not all discrepancies constitute fraud. When a PCA reveals discrepancies, customs should be able to take corrective action in keeping with the intent behind the discrepancy. For example, when a discrepancy is clearly unintentional and the trader commits to correcting procedures,

customs officers should be able to help the trader do so without imposing a penalty or other sanction.

RIGHTS, DUTIES, AND OBLIGATIONS OF TRADERS

National legislation, including administrative regulations and accounting laws and regulations, must make the obligations of traders clear. Traders should be required by law to provide customs with documentation relating to import and export declarations requested in the period of time determined by law and regulation and should allow the officer to remove or take copies of such documents with appropriate receipts. Obligations include providing access to books, records, databases and personnel; meeting recordkeeping requirements; and instituting and documenting internal controls. The USAID-funded RTLC project has succinctly presented the rights, duties, and obligations of traders as follows:

- Keeping records for the period stated in regulations
- Presenting all supporting documents and commercial books and records (including electronic version) to customs auditors
- Right to confidentiality of information provided to the authorities.

In a modern customs administration, all matters are treated in a transparent and fair manner. Traders, for example, may seek redress with regard to the application of customs rules, regulations, and procedures and can file an appeal when aggrieved by a decision. Customs administrations should introduce legislative changes necessary to establish a simple and clear appeal process. In general, national legal frameworks provide for both administrative and judicial appeal processes. Customs officers should be able to explain the appeal procedure. Chapter 10 of the Revised Kyoto Convention outlines standards for the right to appeal, the form and grounds of an appeal, and the consideration of appeals for customs matters.

STEP 5: DEVELOP YEAR ONE PCA PROGRAM STRATEGY

The next step the project implementation team should take is to develop an audit strategy. The development of the strategy will be influenced by decisions taken during Step 2 on resources: how many audits are feasible, given customs' capacity?

The audit strategy should define the overall approach of the PCA program, including roles, responsibilities, goals, and performance standards for PCA unit staff. The approach should incorporate international best practices and lessons learned from other PCA programs:

- PCA is not only an examination of errors in past transactions, but also a means for discovering the underlying reasons for errors and preventing them in the future.
- PCA should not be a reverification or duplication of determinations made at the border.
- PCA is not limited to punitive action. When a declaration-specific error is found that does not appear intentional, auditors can ask to review the company's internal instructions that may have led to the error and/or the internal controls that should

have prevented the error but did not. If these documents show a good faith intent, auditors should have the flexibility to recommend a compliance intervention (see Corrective Actions, p. 14).

- PCA, like other customs modernization efforts, is based on voluntary compliance and a fruitful partnership between customs and the private sector—the overall goal is to establish a mutually beneficial system to help customs better allocate resources and to help traders accelerate clearance.

The audit strategy should also establish links to other customs departments' strategies, in particular to risk management, compliance measurement, financial management, intelligence, investigation, and human resources. In this regard, the audit strategy can build on the project charter and scope of work, which initially defined the roles and responsibilities of the project implementation team members.

ESTABLISH RISK PARAMETERS TO ESTIMATE WORKFLOW AND ALLOCATE RESOURCES

As mentioned in Step 2, the PCA team must work with the risk management unit to develop risk parameters for routing declarations to the blue channel—that is, for audit after the release of the goods. Identifying the proper parameters can have a significant effect on workflow for the new team. If the parameters are too broad (i.e., flag too many declarations for PCA), the new team may become overextended and work quality may suffer. Establishing the appropriate parameters (and consequently, the appropriate number of estimated PCAs) will probably be an iterative process, but getting it right is worth the effort.

Declarations are routed for post-clearance audit on the basis of classification and valuation. The following factors should be considered when determining the risk level of a transaction:

- Identity of the importer
- Country of origin
- Commodity
- Prior discrepancies or violations involving that commodity
- Special regulations or programs (such as quotas) applying to a specific type of import
- Declared value , with high value and values falling outside the established range indicating higher risk

Ideally, the risk management department—through the transactions database—will know the number of declarations processed at customs clearance centers and the number of penalties issued for errors in classification and valuation during the preceding year. But this is not always the case (see text box). Customs may need to refine its risk management, IT solutions, and integrity programs; adjust procedures that deter compliance; and begin documenting and tracking amendments to declarations accurately.

These data will help determine the risk factors to flag for audit, according to the capacity of the PCA unit.

For example, if customs handled 10,000 declarations last year, and the risk management department estimates that 6 percent of the declarations were flagged for investigation of

valuation, 600 declarations per year, or about 50 per month, were flagged for valuation. For a new PCA program, these 50 declarations per month would be flagged for the blue channel and subject to post-clearance audit (see Step 7).

Estimating the number of postclearance audits based on penalty actions may not be easy if data are neither sufficient nor reliable. For example, if a customs officer does not register (officially accept) a declaration until the importer or broker agrees to change the declared value, the increase is not recorded because the declaration is changed before it is registered. Such practices foster an atmosphere of negotiation, encouraging importers to view original valuations as “opening bids,” knowing that they will not be penalized for undervaluation and hoping that the final agreed value will be lower than if they had declared the true value at the outset.

Furthermore, increasing an originally declared value does not necessarily mean that the importer or broker committed an offense, filed a false document, or attempted to defraud the government. Transaction value is problematic. What importers pay suppliers for the same or similar goods varies according to many factors. Customs officers generally do not have adequate information at the time a declaration is presented to correctly dispute the declared transaction value and arrive at an alternative value.

The project implementation team must assess whether the PCA unit will have the resources to handle this volume of work. If yes, then valuation will be established as a risk parameter for the blue channel, and other risk factors may be considered. If no, the PCA team should work with the risk management department to eliminate some valuation risk factors as PCA triggers and consequently reduce the number of blue channel declarations. When the PCA program implementation team settles on the risk parameters (and estimated number of audits), these figures should be reflected in the audit strategy for the first year of the PCA program.

SPECIFY AUDIT RESPONSIBILITIES AND REPORTING REQUIREMENTS

The audit strategy should also lay out requirements for monthly, quarterly, and annual reports that cover the basis for selection, audit methodology, and results. This will allow customs to monitor the PCA program, including suspicious patterns of auditor-to-employee activity such as too-frequent audits of a certain trader.

STEP 6: DEVELOP STEP-BY-STEP PROCEDURES

Post-clearance audits must be conducted according to clear, comprehensive written procedures compiled in a manual. The manual will provide the guidelines for post-clearance audits and will form the basis of training of PCA specialists. The manual should lay out accounting and operational principles, provide and explain standard documentation, and describe each area of PCA work. It should also reflect the legislation and regulations established under Step 4. Developing the manual can be time-intensive but customs may not need to “reinvent the wheel”: customs auditing departments or the ministry of finance may have established basic procedures and principles that can be adapted to suit post-clearance audits; the differences between the types of audit must be

explained in the manual. The WCO has also developed guidelines for PCA that may be useful to countries looking to develop comprehensive procedures.

Post-clearance audit consists of the following activities:

- Selection of traders for audit
- Preaudit survey
- Opening conference
- Tour of the business's premises
- The actual audit
- Exit conference
- Final report
- Corrective actions resulting from the audit.

The PCA manual must provide specific procedures for each activity; brief information about each activity is provided below. These descriptions come from the USAID *Establishing Risk Management/Cargo Selectivity Capability Handbook* (2005).

SELECT TRADERS FOR PCA

Traders may be selected for audit on the basis of questions about a specific declaration, concerns about certain types of transactions made by one or more importers, or randomly. When Customs has selected a trader, it advises the company or individual in writing. The letter of advice states customs' authority to conduct the audit and the anticipated date for the audit to commence. In some instances, unannounced audits will also be conducted.

CONDUCT PREAUDIT SURVEY

Preparation is essential for minimizing the time that customs spends at a trader's premises. The objectives in preparing for an audit are to gain an understanding of the business to be audited, identify the main risks, and develop a plan to address the risks during the course of the audit. If the company to be audited is large, the PCA unit may wish to conduct a preaudit survey. This is done by sending the company a written request for information with questions relevant to the planned audit. Questions may vary depending on the size, nature, and complexity of the company and records to be audited.

HOLD OPENING CONFERENCE

The audit team schedules an opening conference with the managers of the company to be audited. The objectives of this meeting are to gain general knowledge of the company's business operations and corporate structure. This enables the auditors to find out more about the importer in order to perform an effective and efficient audit, address concerns the company may have, and determine whether related or subsidiary companies should be included in the audit. The team briefs the company personnel on the purpose and objectives of the audit, the scope and methodology, the anticipated length of time the audit will take, and the sort of materials the team will examine.

More detailed information about these activities can be found in the PCA operating policies model on the enclosed CD-ROM.

TAKE TOUR OF PREMISES

The purpose of the walk-through of the trader's premises is for the audit team to become familiar with the mechanics of the trader's operations. The walk-through should be conducted by a manager or designated representative of the company and include a tour of the following areas: plant production, purchasing, receiving, accounting, and shipping. The audit team will also review the documentary control systems the trader uses to control the ordering, shipping, receipting, payment, production, and disposal of goods. During the audit, customs personnel should respect the company's security practices and procedures to the extent possible.

PERFORM PCA

The audit team reviews the documents and records they deem necessary. These include but are not limited to purchase orders, invoices, receipts, stock records, goods inward/outward, payment records, and company financial records. The trader is asked to provide an employee to assist the team during the audit process and to serve as liaison after the on-site portion of the audit has been completed.

HOLD EXIT CONFERENCE

At the conclusion of the audit, the audit team holds a closing conference with the manager(s) of the company and the designated liaison. The team reiterates the objectives, scope, and methodology used during the audit; explains any problem identified; and attempts to reach agreement on factual matters. There may be a disagreement on the conclusions. Any unresolved issues also will be discussed, and the company will be given a reasonable opportunity to refute findings by providing additional information.

SEND AUDIT REPORT

A timely written report communicating the results of the PCA should be prepared citing the trader's compliance or lack of compliance with customs laws and regulations.

TAKE CORRECTIVE ACTION

When discrepancies are discovered during a post-clearance audit, depending on their severity, a variety of corrective actions are possible. A PCA program—indeed, all customs control activities—should consider relevant questions such as the importer's intent and whether or not an irregularity appears to be a clerical error or a good-faith mistake in interpreting customs requirements. When the discrepancy does not appear to be the result of intent to defraud the government or of gross negligence, responsible customs managers should have clear guidelines allowing them to assist the trader in ensuring that the underlying problems are resolved. This is called a "compliance intervention" approach. This approach allows and encourages traders to voluntarily report discrepancies they discover after goods are released and pay any additional duty due without the obvious disincentive of automatically incurring a penalty. This concept is known as "prior disclosure."

STEP 7: INSTITUTIONALIZE PCA UNIT

With the strategy and manual drafted, the fundamentals are in place to create an independent organizational structure for post-clearance audit within customs. As discussed in Step 2, the department may be stand-alone or it may be incorporated into a risk management department; it may be highly centralized, it may rely on regional or field staff, or it may institute a combination of both. At any rate, the new unit will require a core of permanent staff to carry out PCAs.

The PCA unit will require a leader; the logical choice is the project implementation team manager because of his or her familiarity with the topic. The head of the PCA unit will be responsible for overseeing the implementation of the PCA process, ensuring it is conducted in accordance with the principles established in the strategy, liaising with other customs departments, managing communication with the private sector, and recruiting experts. When building the team, the PCA head should consider high-performing members of the project implementation team first because the institutional memory of why and how the PCA program was designed and developed can increase the chances of its success.

The PCA unit will also require infrastructure, as described in Step 2.

As the PCA unit is established, accountability measures must be built in to reduce the opportunity and incentive for corruption. Planning and procedural organizational checks and balances and internal controls will ensure that the PCA unit functions with integrity.

Recommended position descriptions and the knowledge, skills, and abilities requirements for post-clearance audit specialists can be found on the enclosed CD-ROM.

STEP 8: RECRUIT AND TRAIN SPECIALISTS

Depending on the scope of the PCA program, the PCA unit may need to recruit and train additional staff. Working with the customs human resources department, the PCA unit should establish a PCA specialist position, write descriptions of duties and qualifications, and recruit in accordance with local practices.

A PCA specialist should have the following qualifications:

- University degree
- Two or more years of experience in customs activities
- A solid background in accounting, enforcement, trade matters, and trade logistics
- Strong analytical and organizational skills
- Proven ability to perform extremely detailed and accurate work
- Record of integrity and ethical performance of duties
- Strong interpersonal, communication, and IT skills.

Additionally, training or practical experience in commonly applied audit or accounting principles, concepts, and methodologies would be beneficial.

The position descriptions for officers assigned to the PCA unit should emphasize competence, dedication, good reputation, integrity, and flexibility. Recruiting accountants can sometimes be challenging, but a post-clearance audit team does not necessarily require trained accountants or auditors. Customs technical expertise is the crucial issue. A multidisciplinary approach—in which the team includes officers with

specialized experience in valuation, classification, rules of origin, inspection, and perhaps audit—will be productive. When customs is part of a country’s revenue authority, it may consider recruiting from other parts of the department. Customs should ensure the PCA specialist position is appropriately structured and graded in the civil service; the PCA position should be graded relatively high to attract and retain strong candidates.

The PCA unit should work with customs’ training and human resources department to plan and organize training for new staff and position these staff for success on the basis of an assessment of skills. The basis for training should be the audit manual developed in Step 6. The WCO and local universities may be able to provide classroom training in relevant areas. The PCA unit may also benefit from bringing in trainers from other departments (such as risk management, audit, AEO, and customs valuation).

The training should not necessarily be limited to the PCA unit. All customs staff should understand the rationale and benefits of the post-clearance process. The chief executive should encourage staff from related departments to attend the training to give them an understanding of the new department, the critical role it will play in allocating customs resources more efficiently and facilitating trade, and how it will interact with other customs functions. Training should also be conducted on an ongoing basis (“lifelong learning”) to refresh PCA officers on amended customs procedures and trends. Training on PCA should also be open to the private sector. This allows the private sector not only to learn more about the process, but also to share their own experience of PCA with customs.

Jamaica established a PCA unit in 2000 as it acceded to the WTO, and the unit became functional in 2002. The Jamaican PCA unit has 17 permanent staff with degrees in accounting, finance, and business. Additional training has been provided to Tax Administration Revenue Agents (TARA) in basic auditing techniques, tax audit and investigation techniques. Post-clearance audits are conducted by teams of two or three depending on the size of the company and/or the complexity of the

audit, and officers from other customs departments augment the PCA unit on an ad hoc basis. Jamaican customs staff reports that hiring and retaining staff with the knowledge and skills required to conduct PCAs are challenges. Processing times and voluntary compliance have improved significantly since the implementation of PCA and AEO programs.

STEP 9: ANNOUNCE AND PROMOTE THE PCA PROCESS

Strong communications can lay the foundation for sustained support for PCA. In Step 1, we described how the importance of PCA should be conveyed within customs (in both headquarters and field offices), as well as to other government agencies. Step 9 focuses on outreach to the private sector (trade community), international donors, and the general public. The importance of doing this cannot be overstated.

OUTREACH TO THE PRIVATE SECTOR

Because a PCA is conducted primarily on a trader’s premises, the trading community must understand the benefits that a PCA program offers, as well as their own responsibilities, rights, and obligations. The trading community must be able to trust

that customs has its best interests at heart and that officials will not attempt to exploit PCA for their own personal gain.

Traders want the simplest, quickest, cheapest, and most reliable way of getting goods into and out of a country. They seek certainty, clarity, flexibility, and timeliness in dealing with government. Driven by commercial imperatives, they also seek the most cost-effective ways of doing business. A PCA program helps them achieve these things by reducing the number of physical examinations; expediting cargo release with minimum documentation; incurring lower costs for inventory, moving goods in transit, and staffing; decreasing pilferage and damage; and increasing acceptance rates at ports of destination.

These benefits to a PCA program must be reflected in communications materials such as brochures and newsletters. Outreach should emphasize a trust-based partnership between traders and customs reflecting a mutual commitment to accountability and voluntary compliance. If PCA and AEO programs are running concurrently, customs should emphasize the relationship between the two. Audits help to verify that a company is sufficiently compliant to participate in an AEO program and ensure that a company continues to be compliant. Customs should develop clear informational materials that explain what PCAs are, why they are carried out, what happens during an audit, what documents will be examined, what happens after an audit, what is required of the trader, and what the trader can expect.

Public information materials on PCA should clearly lay out the program, the benefits to Customs and the private sector, and what is required of all actors. The Australian Customs Service two-page "Guide to Customs Compliance Audits" is an excellent example of this type of material and is included on the enclosed CD-ROM.

OUTREACH TO DONORS AND THE GENERAL PUBLIC

International organizations (e.g., WCO) and donors should be kept apprised of project progress from the earliest stages of planning. When the value of a PCA program is generally understood, financial or technical support may be forthcoming.

The outreach program should also describe the PCA program to the general public, and the press, emphasizing trade facilitation as well as supply chain security and voluntary compliance.

STEP 10: MONITOR PCA PROGRAM PROGRESS

When the PCA program has begun, systems will be needed to monitor program success. Customs managers must constantly evaluate employees' performance, allocate human and material resources in keeping with workload, implement and monitor procedures, and adjust staffing and work focus in accordance with the data-driven decisions made possible by a PCA program. Customs must also check in periodically with the private sector in assessing performance. As UNCTAD points out in the Trust Fund for Trade Facilitation Negotiations Technical Note no. 5, "Post-Clearance Audit" (2011 revision), this will add credibility to the evaluation and strengthen cooperation between customs and the trading community. Rigorous monitoring and evaluation will allow customs to identify the strong areas of the program, as well as areas where capacity is not as strong.

MEASURE COMPLIANCE

The first thing customs must do in monitoring and evaluation is to establish a compliance baseline. This may be easier said than done. Customs must have comprehensive, reliable data to establish this baseline, and these data are not always easy to find. If a customs officer does not register (officially accept) a declaration until the importer or broker agrees to change the declared value, the increase is not recorded because the declaration is changed before it is registered.

The PCA unit should work with the risk management department to

- Analyze declarations received in the preceding 12 months to identify the importers, exporters, transporters, and brokers with the most declarations, the highest declared value, and greatest revenue contribution.
- Review declaration amendments and penalty cases to determine whether a past level of compliance can be reliably determined for those companies.
- Review declaration processing at customs clearance centers and all penalty cases issued for undervaluation during the preceding 12 months to determine if procedures have inadvertently created a lack of documented amendments, inappropriately identified legitimate customs valuation disagreements as violations, or encouraged undervaluation as a negotiating ploy.

Customs must refine its risk management, IT solutions, and integrity programs, and adjust procedures that deter compliance and begin documenting and tracking amendments to declarations accurately. Customs must also record all violations accurately (including drug findings and counterfeit smuggling) and enter both positive and negative examination findings into its systems. These data must be searchable by importer, exporter, declaration number, and commodity classification.

In the context of a PCA program, customs must

- Encourage traders to comply with laws and requirements and reward them when they do;
- Improve its capacity to identify noncompliant traders; and
- Remain an effective enforcer that deals appropriately with willful or repetitive noncompliance.

MEASURE SUCCESS

PCA validates risk assumptions. With that perspective in mind, the ultimate measure of success should not be limited to an accounting of how much additional revenue has been collected. This may seem counterintuitive to customs officers who believe that their primary responsibility is to boost revenue by finding discrepancies and who therefore treat every trader as a potential violator. These officers concentrate on proving violations or, worse, view the assumed dishonesty of traders as a fertile source of supplementary income. The usual approach to compliance management from this perspective is to (1) audit a company, (2) find an error, (3) penalize the company or negotiate an unofficial resolution, and (4) leave. This fosters an adversarial relationship between customs and traders, narrowing communication and providing little incentive for customs to determine the cause of an error or for the trader to improve. This undermines

the principles of voluntary compliance and partnership that should be the cornerstone of the PCA program. More appropriate measures of success can be found in the text box.

PCA Measures of Success	Measurement Tools
<ul style="list-style-type: none">• Improved compliance in the application of value methodology• Consistent and verifiable revenue collection• Reduced clearance time• Lower rate of physical inspection• More efficient customs and effective allocation of human and material resources• Greater customer satisfaction• Validated risk assumptions	<ul style="list-style-type: none">• Compliance measurement• Monitoring of risk profile productivity• Monitoring of examination productivity• WCO's Guide to Measure the Time Required for the Release of Goods (TRS Guide)• Periodic client service satisfaction surveys

Regardless of customs' approach to compliance management, some traders will attempt to circumvent requirements. They understand customs processes, including how to conceal goods so that they will be undetected by cursory examination, and know when shifts change and officers may be distracted. They know which officers can be bribed to overlook requirements and which are simply not motivated to enforce the law. In these cases, some form of sanction—from administrative penalty to prosecution—will be necessary. In all cases, customs seeks a balance between incentives for compliance and sanctions for noncompliance because its ultimate objective is to improve future compliance.

MEASURE CLEARANCE TIME

Customs may also wish to track reduction in clearance time as a measure of PCA program success. One way of doing this is by conducting a time-release study to establish a basis for calculating clearance time. As defined by the WCO's Guide to Measure the Time Required for the Release of Goods, a time-release study offers a standard, systematic way to measure the average time between the arrival of goods and the release of goods at each step in a clearance process. It provides baseline data on chokepoints in the process and aids evaluation of reform and modernization initiatives such as PCA. A time-release study measures the duration of the clearance process, provides a basis for gauging reductions in clearance times and costs, and helps clarify requirements to the budgeting authority and the donor community.

4. CONCLUSION

In today's trading environment, customs administrations are expected to meet exacting goals for efficiency and effectiveness: for collecting revenue, for expediting shipment processing, for transparently and consistently applying rules and regulations, for maintaining trade statistics, and for reducing the threat of terrorism by making international supply chains secure. Risk management and post-clearance audits are proven means of balancing the need for public protection and customs compliance with the private sector's demand for rapid clearance of imports and exports. When combined with other international standards and best practices, the post-clearance audit equips customs administrations to make what the WCO describes as "the philosophical and operational transition" from 100 percent inspection to risk-based audits that free resources while improving traders' compliance with export and import requirements.

Post-clearance audit programs will have the greatest chance for success if they are rooted in partnership with the private sector (voluntary compliance). This may require a fundamental shift in mind-set for customs administrations that have traditionally viewed the private sector as adversaries rather than partners. It also requires commitment to integrity from both customs and the trading community. Bringing about this change may not be easy: it requires strategic planning and political commitment.

Effective program design and implementation demand a range of responses—in legislation, in institutional reform, in building the capacity of customs and other relevant actors, and in monitoring project progress. The program may also face financial and human resource challenges that may dictate the initial scope of the program; developing-country customs administrations should scale their efforts appropriately.

This handbook has aimed to lessen these challenges by presenting clear, step-by-step guidelines for PCA program design and implementation. These steps are based on project management methodology that has proven successful on hundreds of customs modernization programs throughout the world. The handbook has also provided best practices and lessons learned from industrialized and developing-country customs administrations as guidelines. Relevant materials are included in the CD-ROM enclosed with the handbook.

As mentioned in the preface, the guidance presented in the PCA handbook represents only the first phase in the development of a compliance measurement system. The second phase will be covered in a handbook that covers compliance management. In the meantime, through its Customs Modernization Handbook Series, USAID has provided developing-country customs administrations with the tools to manage risk intelligently (risk management handbook), encourage voluntary compliance through AEO programs (AEO handbook) and transfer customs controls from the time of arrival to after arrival (PCA handbook).

Every customs administration will bring its own experience, culture, and approach to PCA program design and implementation—and to modernization in general. This handbook was designed to provide commonsense advice—translatable across cultures—that can help position customs reform for success. Successful PCA programs are win-win situations for customs and traders. The authors of this handbook wish success for all PCA programs and welcome stories of PCA implementation experience, as well as feedback on the handbook itself.



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